

**City of Leawood
Planning Commission Work Session
Tuesday, February 15, 2011**

Planning Commission Members Present: Jim Pateidl, Lisa Rohlf, Len Williams, Marc Elkins and Bill Ramsey. **Absent:** Ken Roberson, Kelly Jackson, Jane Neff-Brain and Dan Heiman.

Planning Staff Members Present: Richard Coleman, and Joe Rexwinkle.

Other Attendees: Joe Johnson, Public Works; David Ley, City Engineer and Franki Shearer, City Attorney. Dave Hill, Executive Director of Facilities and Operations for Blue Valley Schools

Agenda:

1. Capital Improvement Program
2. Recycling Bins

Capital Improvement Program

Mr. Coleman: The Capital Improvement Program is heard by the Planning Commission to ensure it is in conformance with the city's comprehensive plan. Nothing has changed; there may be a few updates you would like to address.

Chair Rohlf: We do have a few new commissioners, so if there is a portion of the CIP that is more relevant than others for us to look at, would you make a note?

Staff Presentation:

Joe Johnson with Public Works made the following presentation:

Mr. Johnson: If you would like, you can turn to page 20 in the CIP. That has a listing of the projects between 2012 and 2016. For the most part, it really hasn't changed much from last year. We still have the city's Reconstruction Program. We used to do \$1.5 million and \$2.5 million, skipping the odd years. In 2012, it will be cut in half to \$1.275 million and '14 and '16 have been increased to \$3 million to help catch up. The biggest change between last year and this year is 143rd Street from Nall to Windsor has returned to the CIP. That phase was pushed back from 2010 to 2015. The phase that went from Windsor to Kenneth was in 2012 and will show up in 2017. Unless things really change, we anticipate utility locations in 2014 and construction of the road in 2015. A few other items added are in red. They include traffic signals in '13, '14, '15 and '16. The cost shown in the CIP is to replace signals on State Line and 103rd, 95th, 88th, 89th, 85th Terrace, 83rd and 81st. We will look at participation with Kansas City, Missouri MODOT, possibly, for 95th Street. We will also make application to the county for their CARS program and also look at the ability to get federal aid through CMAQ funds. The Public Works Committee met this morning to talk about the signal improvements. You will notice that some of the projects are highlighted in red, and that means that they are currently uncommitted. The discussion we had with the Public Works Committee was specifically for the four years for the traffic signals. The committee's recommendation to the council is to make those committed projects so that the funding is there for those years. That will allow staff to partner either with the county, state or federal to move forward with those projects.

Chair Rohlf: Joe, what is the Village of Seville?

Mr. Johnson: It is the development at the northwest corner of 133rd and State Line. They have approached the city to do a TDD to recoup some of their infrastructure cost. It is currently uncommitted mainly because

the development hasn't made a formal request to the city, but I believe they intend to do that. If you've had a chance to look through the CIP, you'll notice that in 2012, we have a traffic signal project at 133rd and Roe (Project 80404) which will go in this year. It was in last year's CIP for 2011. We just bid it out, and construction will start in 60-90 days.

Chair Rohlf: Do we have any contribution from the church? It seems that this came about when they were doing their initial expansion.

Mr. Johnson: No, the church is at 137th St.

Comm. Ramsey: This is where the dip on Roe comes down and back up.

Mr. Johnson: The city may have received developer contributions, but I can't confirm that offhand. Other than that, there are really just minor changes in our Arterial Program. We will request funding to widen 117th Street. We have two lanes eastbound about halfway, and we would like to widen it down to Town Center or Tomahawk Creek Parkway as part of the improvements for the Justice Center. We are making application to the county through the CARS program to receive funding for 50% of that cost. We anticipate constructing that in 2012, which will coincide with construction of the Justice Center. If you have any questions, I would be happy to try to answer them.

Comm. Elkins: Joe, could you refresh my memory on the Park Place parking structure? I trust we're not building a parking structure for Park Place, or are we?

Mr. Johnson: There is a TDD agreement to fund the construction of two parking structures. One has already been built. There are certain requirements they have to meet as far as percentage of the development that is built before they can enact the TDD and start receiving funds to pay off that debt. As part of the first parking structure, there is an agreement on the bed tax through the Aloft that was to pay a little over \$2 million or an extra floor of the parking structure. At this point, the developer and staff are working on making changes to that agreement to begin some of the TDDs for that parking structure.

Comm. Elkins: Have they met the threshold requirement to trigger the TDD obligation?

Mr. Coleman: I don't believe they have at this point. I believe the threshold was 35% of the square footage to be built, and they're at 30% at this time.

Comm. Elkins: Is there 5% available to them to build retail space or to get to that threshold, or are they going to have to begin developing the residential space?

Mr. Coleman: There is enough commercial space they have not built that would get them to the 35%.

Comm. Elkins: Where will this structure be located? Is it north of the current structure that backs to Nall?

Mr. Coleman: Both parking structures are already built.

Mr. Johnson: One more parking structure would be in conjunction with the second hotel.

Comm. Elkins: So this is a draw-down for funds they have already expended.

Mr. Coleman: Correct.

Chair Rohlf: Somewhere in here, I saw the Justice Center. Where are we in that? Has the architectural firm been hired?

Mr. Coleman: I'll give a brief update to that. The city hired Hoefer Wysocki Architects and Planners to design the Justice Center. They started work at the first of the year and have been meeting with the Law Department and Police Department to start the preliminary planning for the Justice Center. Not a lot has changed since we last visited that. The location is still the same. They'll be working on that over the next nine months. Sometime toward the end of the year, the project will be bid, and construction is likely to start at the end of this year or sometime early in 2012.

Comm. Elkins: Is that the same architecture firm who made the presentation to us on the site?

Mr. Coleman: Yes, it is the same firm.

Mr. Johnson: On page 69 of the CIP is where it is located.

Comm. Pateidl: As we are looking at 2012-2016, how dependent is the city on funding from either the state DOT or the federal government for the construction of these projects in our plan?

Mr. Johnson: The only project with federal aid is 143rd Street. I don't think that will increase. Currently, I believe it is at \$1.5 million. If we were to lose that, it would have an impact, but it funds very little of the project. We can get up to 80% match, and I don't think any city has done that in the last 10-15 years. We've always discussed whether federal aid provides a true benefit, given all we have to do to receive it. As far as KDOT, they've got their own funding with the new sales tax generated. It is supposed to generate \$7-\$8 billion over the next ten years. They do have a lot of projects here in Johnson County, but generally KDOT doesn't have an effect on the city's budget. We don't have any KDOT routes, so the only funds we go after are federal aid passed through KDOT to the city.

Comm. Pateidl: My concern is whether there is any prioritization that we need to be looking at on these projects if we're not going to get the funding support from those sources. It doesn't sound like we have that problem.

Mr. Johnson: No, in fact, we only have one project over the next five years in which we've requested federal aid. Because it is only \$1.5 million, we could handle it if we did not receive the aid.

Comm. Elkins: Joe, I have a question about parks. This is the Capital Plan for 2012-2016. Has there been discussion about whether there are plans for expansion of the stage area at Ironwoods Park?

Comm. Elkins: Have they presented anything to city staff requesting prioritization in any way for capital improvements on the stage area?

Comm. Ramsey: Along this line, at one point, there was an item before the council to do some studies and planning or something with the stage. Then that got withdrawn, or they decided not to go forward with it because of the cost. Is this right?

Mr. Johnson: There has been a plan that shows how the Amphitheater Committee would like to see as far as an ultimate build-out.

Comm. Ramsey: The council has not committed any funds?

Mr. Johnson: No, and there is no timing for it. It was more of a plan for people to see if they wanted it.

Comm. Ramsey: Did they hire a consultant to help them with it?

Mr. Johnson: They did.

Comm. Ramsey: I knew there was some planning process involved, but I thought it had stopped.

Mr. Johnson: They've completed their study, and right now, the only thing being moved forward is what will come to you next Tuesday night, which is a restroom facility.

Comm. Ramsey: Joe, is there any CARS money assigned to any of the projects?

Mr. Johnson: We have applied for CARS and then decided not to do it with our federal aid projects because it takes such a huge chunk of money away from us to do our Arterial Overlay Program. We have left the CARS funding request in the Arterial Program. This year, it is a very small program. In 2012, we will request funding for 117th Street widening, 127th Street and Town Center Drive. We've requested CARS funding for all three of those projects to the tune of about \$689,000.

Comm. Ramsey: Are you doing fine with the storm water funding with regard to getting your projects in?

Mr. Johnson: We've got two funded projects in 2012 and beyond 2014, and we will have our matching share. The accelerated program that we developed a couple years ago was to use \$1 million a year for five years to take care of that backlog. That has been pushed out to \$600,000 every other year. We have \$600,000 in this year's budget. There is no funding in 2012; there is in 2013 and 2014. As the economy gets better, funding will increase and most likely go on an annual basis.

Chair Rohlf: Anything else? Mr. Coleman, I understand we will discuss this next week and vote on it.

Mr. Coleman: Yes, it is on the agenda for next week with a Public Hearing.

Recycling Bins

Chair Rohlf: Could you give a bit of background about what's been discussed and where we are today? I know you've had input from the public.

Staff Presentation:

Senior Planner Joe Rexwinkle used a PowerPoint presentation to make the following presentation:

Mr. Rexwinkle: A text amendment was brought forward to the Planning Commission a few months back. Based on comments from that meeting, staff took a step back and met with the public. We had a variety of stakeholders here on January 18th to discuss potential regulation of recycling collection bins. We suggested a few potential regulations that are common in other municipalities to those in attendance, including screening, placement of the bins and location of the bins on the property, as well as signage on public streets so they can be located by the public, and lighting of recycling bin sites.

Regarding screening, I've summarized each element from the feedback of those in attendance. Some people expressed concern regarding the costs associated with the screening, including a fence or a wall that must match the building, which is common for trash enclosures. They are also concerned that if we expect something less, it will be unattractive. Balance is important here. Some of the church and school representatives say they don't really receive much revenue for this, and they might quit recycling altogether if they have to begin screening. Brookwood School had a representative who said they operate their recycling under a state-funded grant, and they indicated they must comply with city requirements because of

it. There was much opposition to full screening of the bins. You might remember that when the text amendment was proposed, screening was to be on three sides. There seemed to be much opposition to that. Many people were concerned that, if screening is required, it is safe for people who use the facility. One person also mentioned the possibility of making the bins themselves more attractive, rather than screening them. A few neighbors did want screening.

The idea of placing bins on a paved surface didn't bring much opposition; most agreed to the practicality of that request. The location discussion ranged widely. Schools, churches and recycling companies offered a strong preference that a location requirement such as a setback from residential property lines would be preferable over screening. However, as we'll show you later, there are a lot of sites where recycling is currently occurring that are very small and accessible, making a large setback impossible to accommodate. Safety and visibility concerns also came up, so locating on a site in a location that is hidden from neighbors might be good for neighbors but unsafe for the people using the facility. The residential neighbors strongly supported not allowing the bins to be located next to a residential property line.

There was general support across the board for signs along public streets identifying where these recycling facilities are located. Someone mentioned that Overland Park has signs like that for their city recycling facilities. There was recognition that aesthetics do matter regarding this, even from the folks who don't want screening. They understand the concerns of the neighbors regarding pick-up times and overflowing bins. They wanted to make the distinction between trash and recycling enclosures clear since the trash dumpsters are typically used by the property owner only and not the general public. Many of these recycling bins at schools may be intended to be used by the students and parents, but sometimes the public does come and use them. The neighbors in attendance and the host properties, such as the churches and schools, both expressed a willingness to work together to resolve the conflicts. Some of the representatives commented that if the neighbor had just approached them with a concern, they would have taken care of it at that time. Operational characteristics were a big part of the discussion as far as what time of day the facilities are used.

(Shows maps of various sites) Staff has since been around to the various churches and schools, which is the primary location for these facilities. Out of the fourteen, all but three have an unscreened recycling bin. All of the school sites contain at least one unscreened recycling bin. We visited Church of the Resurrection. At the last meeting, the ordinance proposed a 100-foot setback from the residential property line. That is very common in other cities we surveyed. All these maps on the overhead will show you the property line in yellow and the setback if we were to consider something like that. It shows you whether or not it is feasible to comply with the large setback. You can see here that since this property is so large, the bins would probably not have a problem complying with that type of setback requirement at this site. The Brookwood School, which is much smaller, shows three existing unscreened bins. One appeared to be a trash bin, and two on the south of the property are recycling bins. Both of them are within that 100-foot setback. Meeting the setback requirement, especially considering the fact that we're talking about putting these bins on a paved surface, would be difficult on a site like this. St. Michael's has four recycling bins in the northeast corner of their parking lot that are also within that 100-foot setback. This site is a lot bigger with probably more to work with when it comes to setback. Cure of Ars has five bins in the very northeast corner of the property. The parking lot goes to the property line, essentially, on both the north and east sides, so these bins are adjacent to basically three people's back yards. Prairie Star at 143rd and Mission is on a very large property. Three recycling bins are all inside the 100-foot boundaries. They have plenty of room to work with here. These are not screened. Lord of Life Lutheran Church has a clothing donation bin and an additional recycling bin within that setback. Mission Trail School has a bin located toward the street. We tended to see them toward the periphery of the property everywhere we went. Church of the Nativity is one location on which the bin was toward the interior of the property and not visible from the street. Presumably, it is not visible from the residential areas because it is on the south side of the school. Leawood Middle School and Leawood Elementary School have several recycling bins in different locations. One is on the south side of the property within the setback, and then there are three on the north side of the property within the setback and one immediately adjacent to the building. These are all unscreened. We

actually saw a member of the public using the recycling bins farthest north with their car parked in the street. Leawood United Methodist Church has a similar situation to Cure or Ars, in which the recycling bin is located in the extreme southwest corner, adjacent to residential. The 100-foot setback would be very difficult because of the shape of the property. Leawood Baptist Church has a couple unscreened bins that are on the property. We also looked at several other cities in the area that regulate recycling bins.

Lenexa requires any bin larger than 32 gallons to comply with the screening requirements for trash receptacles, which require full screening, except in cases in which the container is located behind the front building line and cannot be seen from the street or any adjacent properties. In those cases, screening is not required. Their standards require consideration for topography and character and use of adjacent properties. The bins need to be located on paved surfaces and comply with minimum building setbacks. The land owner is responsible for ensuring that the area surrounding the bin is maintained to prevent accumulation of materials. The Planning Director in Lenexa is allowed to make the determination as to whether or not screening is necessary and, if so, to what extent.

Overland Park also regulates recycling bins. All recycling bins in Overland Park are required to go before the Planning Commission and City Council for approval. They have general standards that require the Planning Commission and City Council to consider the impact of the activity on the adjacent properties. Overland Park only allows them in residential districts in conjunction with a school, church or public building.

Lawrence regulates recycling bins as well. They require administrative approval of a site plan by the Planning Director. They are never allowed to be located between the building and the street. The applicant is required to demonstrate that the bins may be safely accessed by the general public. The site area of the bins is limited to 500 square feet, and they are required to be located on a paved surface and to comply with minimum building setbacks. Screening is encouraged; however, it is only required on a case-by-case basis as determined by the Planning Director.

This covers what we discussed in our meetings with the schools, churches and citizens and also some of the research we did on other cities and existing sites. If you have any questions, I would be happy to answer them.

Chair Rohlf: Where are we going to go from here?

Mr. Rexwinkle: We would take any feedback or questions from you now and then come back in a month or two with a new text amendment.

Chair Rohlf: Do we currently have one in the LDO?

Mr. Rexwinkle: We do not regulate recycling bins.

Mr. Coleman: We have nothing specific to recycling; the closest is the trash bins. From what we've gathered, most of the cities require some form of screening and setback. We would try to come up with something that would be a balance between protecting the rights of adjacent property owners and allowing easy access to the recycling bins. We also want to look at the numbers of bins. Churches use them to earn a couple hundred dollars a month.

Chair Rohlf: Joe, based on your review and what you presented tonight, would you say that the majority of these would need to have additional screening just from the looks standpoint?

Mr. Rexwinkle: I would say that part of it is just having a requirement to control the accumulation of materials. We saw a handful with materials sitting outside the bins. We also saw some locations with the bins scattered around the parking lot, so they impacted traffic flow. Screening is not all of it. As you saw, there were several locations in which the bins were visible from the street. Much of the thinking with screening is that these are very similar to trash bins, even though they function a little differently. Like

Richard said, we are trying to find a balance between what is required for trash dumpsters and no screening at all.

Chair Rohlf: Have you seen screening outside our cities?

Mr. Coleman: In our public meeting, one of the things they wanted to see was some flexibility. They wanted it to be an administrative process rather than having to go to the Planning Commission and City Council for approval. There may be cases in which placing the dumpsters in a different location would resolve everything. Then, if our premise is to screen these from residential property, strategic placement could eliminate the need to add screening. Instead of having a hard and fast rule, it might help to be more flexible. Maybe it just needs to be not visible from X number of feet from a residential property. This would make it much easier for them to deal with the recycling bins with strategic placement. Each site would be addressed individually.

Chair Rohlf: Does the city receive notice when a church or school wants to place one?

Mr. Coleman: No, they just place them.

Comm. Ramsey: Is there any code issue if they put one in and it starts overflowing on a regular basis?

Mr. Coleman: Yes, that would then become a code issue as far as the clutter. The Brookwood School had the two bins on the right-of-way on dirt, and they were causing some issues. Not only were they unsightly, but they were potentially unsafe. They moved them from that location after some complaints. They are in a much better location from that standpoint.

Chair Rohlf: It appears we will probably have some regulation on this. How will that be implemented as far as the existing sites?

Mr. Coleman: Last year, when we started the process, there was an 18-month period of time before the ordinance would be enforced. That was to give the schools and churches an entire budget year to look at potentially screening the bins. I would assume we would want to do something similar in the future, too. If we approve something in July of 2011, we would not actually exercise enforcement until January 1, 2013. Each circumstance will be slightly different. It may be tougher on one organization than another.

Chair Rohlf: Do you feel that we have enough samples and data to start the process?

Mr. Coleman: I think we do. We wanted to get your feedback and if you thought the priority is different than what we presented. We see the priority to be screening the bins from residences because the people who came to the meeting in January complained about a bin that just appeared right next to their back yard. According to these residents in one particular case, the church had moved the bins from close to the church to close to the houses. In some circumstances, moving the bins might be enough or maybe moving the bins and planting a couple trees.

Chair Rohlf: I like the flexibility in the regulations for Lawrence. I really would hate to see us require screening. I think that discourages recycling. From what we've seen tonight, I would say that the majority of these bins are not visible from the street, or they could be moved with careful planning.

Mr. Coleman: I think part of it is the location.

Chair Rohlf: For the ones that really have no place to put them and they really are visible from someone's back yard, perhaps we would need to have some language about screening on a case-by-case basis.

Mr. Coleman: We have some responsibility to adjacent property owners to protect their property rights as well as the churches or schools that are doing the recycling.

Comm. Pateidl: From what I've heard tonight, there are at least three items that are no-brainers. I don't think a recycling bin should be adjacent to a property line of a residential property owner. Either move to a different location or screen the bin. I also think the observation about operational time as to when people can come and go and companies can pick-up is important for the community. Also, we need to be certain to enforce ordinances as far as not allowing these recycling bins to overflow. Finally, I think it is important, not only for this commission, but also for the whole process that this be something done on an administrative basis rather than an application basis to give more flexibility to the entire process. Right now, we have none, so if we're starting from a blank sheet of paper, whatever we pick up is better than what we have at the moment. If we become too restrictive on screening and obligations, we will be in direct conflict with the "going green" concept. I truly believe these churches, organizations and schools, in particular, will not have it in their budgets to be able to accommodate anything we would put forth to mandate screening. I think a lot of good came out of the public input, and I think there is a lot of good that can come into reasonable ordinance that is as focused on the operation of recycling as it is the physical location of it. Regarding the 100-foot setback, I don't know if there is support for it or if that was an arbitrary number. Once again, if this is an administrative thing, the Planning Director would have some options to deal with that kind of a circumstance. Whether or not another size setback would be more appropriate would be based on what your evaluations are of the various sites around town.

Comm. Williams: I agree largely with what Mr. Pateidl just said. In fact, I don't really disagree with anything you just said. Mr. Pateidl made comment about the hours of accessibility on this. I agree that it would be very inconvenient to neighbors if someone is dropping off recycling at midnight. How do we control that?

Mr. Coleman: We wouldn't regulate that. The hourly comment dealt with recycling companies picking up. They start at 4:00 a.m., and that was one of the complaints from the neighbors. We would restrict those hours.

Comm. Williams: Would you know if any of these locations are getting their normal trash picked up at 4:00 a.m.?

Mr. Coleman: We have had complaints before about trash pick-up.

Comm. Williams: In terms of administrative review and approval of this, how does an ordinance begin to get written to address the ability of staff to take care of this? Would we have some guidelines in the ordinance that give you and the potential property owners something to work with?

Mr. Coleman: Sure, there would be a set of parameters for placement of the recycling bins. There would be probably some kind of requirement that they provide some kind of plan including a meeting with us, and if everything goes according to plan, they are approved. It would be an LDO amendment.

Comm. Williams: As an example, would the ordinance be written such that the recycling containers would be minimum 100 feet away from the property line. If not, then it should be screened by some fashion at the review and discretion of the Planning Department.

Mr. Coleman: It would be something like that. We haven't written anything on it yet., but it would be similar.

Comm. Pateidl: Do we have any existing ordinance whereby you have the discretionary authority to do this? Also, if an applicant gets to a loggerhead in discussions with you, is there any appeal process?

Mr. Coleman: Yes and yes. There is a process that is not exercised very often.

Comm. Elkins: I find myself also in agreement with Commissioner Pateidl on his very succinct description of the issues. I think the aerial photographs were very helpful, but a large part of what we're dealing with is the aesthetics from either the curb or the property. I would like to see what staff feels is inappropriate and what staff would view as appropriate treatment. That would be helpful.

Comm. Ramsey: I would concur with an administrative option. I think for something like this, it makes a lot of sense.

Chair Rohlf: There is probably no protocol for this, but I see a few people in the audience. Is there anything you would like to add? Hopefully you were involved in the meeting in January.

Comm. Ramsey: Dave, what happens if the container is at the front of the building like it is at Leawood Middle School? It's pretty difficult to screen that one, isn't it?

Dave Hill, Executive Director of Facilities and Operations for Blue Valley Schools, 15020 Metcalf, Overland Park, Kansas, made the following comments:

Mr. Hill: Of the elementary schools, Leawood Elementary School, immediately north of 123rd Street, is probably our most challenging in terms of meeting some kind of a setback. We did our own study. Overland Park's standard is 150 feet, beyond which they do not require screening. We applied that to Leawood Elementary School, and we would literally be right up against the south face of the building at 150 feet. If you look at other alternatives on the east, west and north sides of the building, you don't have the convenient access to pull your car up to the bin. You have to walk either on a grassy area or park the car in the middle of a drive, which is not safe. In that instance, it would be very difficult to meet that standard. It would also be difficult for us to meet the hard-surface standard. If we're required to take up a parking space or two and then try to figure out how to put some kind of a screening system into asphalt, then you start getting into a really complex set of circumstances. We really do think that the administrative route is the way to go, too. We're pleased that you feel the same way because most of the sites are unique. At Prairie Star, for example, I could put those bins 400 feet from any public road and they'll be fine; it's a large campus. Leawood is the most challenging, following closely behind by Mission Trail Elementary School on 133rd and Mission. That's another very small site with just under ten acres for that total campus. We would be in the middle of the parking lot as well if we tried to be outside that 150-foot standard. Thank you.

Chair Rohlf: Does anyone have anything else for the record? Then I think our work session is complete.

MEETING ADJOURNED