

**City of Leawood  
Planning Commission Work Session  
Recycling Bins  
Tuesday, June 14, 2011**

**Attendees:** Kip Strauss, Ken Roberson, Len Williams, Richard Coleman, Kelly Jackson, Jim Pateidl, Mark Klein, Sally McVey, David Ley, Franki Shearer, Debbie Brenner and Lisa Rohlf.

Mr. Klein: We want to talk about recycling bins, which we have talked about a number of times. We took an amendment to the Planning Commission after a work session, and it was recommended for denial. City Council decided to remand it back to the Planning Commission. During that process, we also held a stakeholders meeting to which we invited a number of people who provide the recycling services and also people who live adjacent to some of these recycling bins. After that, we brought another version to you in a work session. Since then, we have taken your input from those meetings and incorporated it into this, still trying to balance the residents' complaints with the desire to provide these services. Many schools and churches use these for education purposes, and the city would like to promote the green initiative, so we would like to encourage this. Currently, recycling bins are not listed in the ordinance at all. A strict interpretation would lead someone to believe these are a prohibited use. We want to make sure they are listed and that everyone is on the same footing as far as expectations for screening, location, maintenance, etc. We drew up an amendment, and this is scheduled to go to the June 28<sup>th</sup> meeting. We still have a few items we would like your input on.

Previously, we had recycling bins limited to the side and rear yards of the building. We still have that requirement; they would not be allowed in front of the building. They also would be associated primarily with schools, churches and other public facilities, such as the Parks Department. I know the commercial issue has come up a number of times. We kept it the same as last time, with a commercial recycling bin being treated like a trash enclosure. We took a look at recycling bins a number of times to see where they were and what they looked like. With regard to actual location, we still are proposing that they be restricted to the side and rear yards. We also are proposing they be located on a hard surface. The stakeholders thought the screening could be too burdensome, so we amended it to only require screening on two sides. We feel the hard surface base is important, and the providers of the service agree. We still are requiring that they be placed out of vehicular and pedestrian thoroughfares. We have clarified that to mean that they are not in the drive aisle or protected by an end cap aisle. In addition, we also have a minimum 25-foot setback with this proposal, which has changed from the 10-foot setback. In speaking to some of the people who live adjacent to these, we found they felt that ten feet seemed a little close. Often times, we had a 25-foot parking setback anyway.

Screening is the big thing that has changed. Previously, we required screening on three sides. The people who provide the service indicated that Overland Park had an option in which if you were back more than 150 feet, you didn't have to screen. They really like that option. Some sites will not have that ability, but at least to give them the ability to place it without screening would be a good option. We have reduced that to 100 feet. This requires that it will absolutely have to be screened from all residential view. The screening does not have to be adjacent to the bin, but it could be if they wanted to do that. The other time it would have to be screened is if the recycle bin were located closer than 100 feet to any property line. If it were 50 feet from the west property line, it would have to be screened somewhere between the bin and the property line. The area that would not require screening is the area that is not visible from any residential area and is more than 100 feet from a property line. This is the big change from the previous proposal.

The other big change regarding the Board of Zoning Appeals is the mechanism we used for relief to any of the regulations associated with any of this. The BZA would still serve in that function; however, previously, they were allowed to grant relief to screening only. They could now also grant a deviation for

location. This way, when we get into a situation similar to the Brookwood School, where everything is so tight, the BZA could evaluate it and do what made sense. They could not relieve it from the requirement that it be screened from residential.

We had not addressed maintenance of the facility. Some commissioners and stakeholders indicated they had seen some of these overflow. We have incorporated requirements that it is the expectation that all the material will be located inside the bin. We also addressed when they could actually be serviced because property owners adjacent to these bins expressed concern about early morning pick-up noise. We limited the hours to 7:00 a.m. – 5:00 p.m.

I have a few additional issues I have discussed with Richard. Previously, we had a number limit of bins. We drove around to look at the bins, and we found one who had five bins; most had one or two. You may want to evaluate the need to limit the numbers. I want to make sure you are all on the same page with limits or no limits. The other requirement we had was with a size limitation. The bins all seem to be fairly standard with size.

Mr. Coleman: The average is about eight cubic yards for one bin.

Comm. Williams: Is that in there?

Mr. Coleman: That is our question: do we want to put a size limit on those? We had the issue of Ripple Glass in commercial areas. They had called about placing their glass collection sites at different locations. They could approach schools or other locations. One of the issues at the time was we require bins to be in an enclosure, which is the opposite of what Ripple Glass wants. They want them out in front and completely visible with no screening. That is why they haven't pursued putting them in, I believe.

Comm. Roberson: Tell me about the five.

Mr. Coleman: I think one is the Paper Retriever, and then Deffenbaugh has a school recycling program, too. They also have mixed recyclables, which would be plastics, paper and other things you might put in your bin in front of your house. They are all approximately eight cubic yards. The roll-offs are much larger. We would need to look at the size issue and consider the eight cubic yards per container, which would preclude the roll-off containers.

Comm. Pateidl: Don't the roll-offs have different compartments for the different types of materials?

Mr. Coleman: Some of them do. The Ripple Glass does not; it is all glass. They have multiple places to put them in, but it is one giant container.

Comm. Pateidl: As I recall, at one point in time, it was discussed to have these applications come through the Planning Commission, and a group of us pretty well decided that this would be better served if it were an administrative function of the Planning Department.

Ms. Shearer: That's how this is currently drafted.

Comm. Pateidl: I saw that, and I was agreeable. This is one of those things where discretion is the greater part of valor. Are you comfortable that you have enough flexibility inside of this to point to restrictions contained in here that protect the community from the adverse impact of recycling?

Mr. Coleman: I feel comfortable with it. It allows us to help, to some extent, protect residential property. Those were basically the only complaints we had. One of the complaints was the noise factor with the service, and that has already been solved. The companies start at 4:00 a.m., so somebody is getting them

picked up then. This allows for a school to put the bins in a position where they are near the school and facing a commercial area without screening.

Comm. Roberson: Mission Trail is a good example. They've got their bin that is basically on 133<sup>rd</sup> Street, and it can be viewed from anywhere, including residents across the street. Something like that would have to be screened under this, right? They have no ability to put it anywhere else.

Mr. Klein: Yes, it would be within 100 feet of the property line, so it would have to be screened. If it was visible from any residential, it would be mandatory to screen there as well.

Comm. Williams: There is no limitation on the residential; it is only if they can see it?

Mr. Klein: Yes, it is written as being visible. We were thinking about this with Brookwood Elementary along 103<sup>rd</sup> Street with residential on the other side of the street. If it were visible, it would need to be screened.

Chair Rohlf: How would we notify and start the process?

Mr. Klein: We talked about grandfathering. The location requirements will come into play immediately, and the screening would have an 18-month grace period. The screening requirements at that point were more stringent previously. In this one, we would ask that it be phased in over 18 months total for both location and screening.

Comm. Jackson: There is no grandfather clause to let them keep it like it is?

Mr. Klein: No, the intention would be that they would come into compliance.

Chair Rohlf: I'm still concerned about these restrictions.

Mr. Klein: In talking to the stakeholders, their big concern was screening because they didn't want to spend the money. Most are using these for educational purposes or to promote the green initiative. We are trying to allow them an opportunity to place it without screening. The trade-off we ran into is we had two parties that really have no middle ground. We had to pick and choose, so we saw this as a compromise because the residents who really were not willing to let go of the fact that they could still see them. The stakeholders at these meetings said that they would have tried to work with the residents had they known. This is an effort to try to protect the residents while allowing flexibility to provide the service without screening. I realize the people providing the service will not be able to find such a place. The BZA can take a look if it's not visible from a residential and is less than 100 feet.

Chair Rohlf: Do you feel that the majority of what you have seen will have to come into compliance by moving them?

Mr. Klein: The majority of them are fairly large sites. There will be some that are tighter. Most of them that we saw had two bins; some had more.

Comm. Williams: What were the facilities that had more?

Mr. Klein: The ones I remember that had more were Cure of Ars with five and Church of the Resurrection, who had four. It seems like a few others had three. I didn't make it out to all of them.

Comm. Williams: Were these all churches?

Mr. Klein: It was both churches and schools. Most of the schools actually seemed limited to two. Prairie Star Elementary, however, had a middle school and elementary, so each had two.

Comm. Williams: Were they together?

Mr. Klein: No, they were split up.

Comm. Williams: So if we were to put a limitation, in that particular case, would they be limited to two each if it is four for a given site?

Mr. Klein: That is what we proposed before: a limit of two, and if two schools were adjacent to each other, each school would be allowed two recycle bins. This ordinance has nothing about number limitations. If you would like that in there, you need to discuss it. It seems like the mixed-use bins were about eight feet in height. The ones with paper were closer to six feet in height.

Comm. Jackson: I think we're limiting it enough to have these rules on them.

Comm. Pateidl: I would like to leave that as discretion. Does the City of Leawood have a recycling location that is sponsored, maintained and promoted by the city?

Mr. Coleman: No.

Comm. Pateidl: If we're really trying to push this, shouldn't we consider this?

Comm. Williams: Don't most homes associations have recycling as part of their trash pick-up?

Mr. Klein: I think so.

Comm. Roberson: Starting January 1<sup>st</sup>, aren't we requiring everyone to recycle?

Mr. Coleman: I think the homes associations have to provide the ability to recycle through their contract with Deffenbaugh or Town and Country.

Comm. Roberson: It's everything except glass.

Comm. Pateidl: If these restrictions prompt those recycling locations that are in place today to get out of the recycling business and somebody is using those, do we give them an alternative? Do we practice what we preach?

Comm. Williams: I totally agree with you. I see the schools and the churches as catering to their particular populations. It's not a greater part of the community. It seems to be a convenience factor for parishioners and school families, particularly if it's a fundraiser for the school. Before this came along, there has been a recycling center in Johnson County. It doesn't mean someone from Leawood is going to drive 10-15 minutes to unload their stuff. In fairness, at least in our homes association and those around us, Deffenbaugh is bringing in larger recycling containers that will hold much more. They are also taking more items. I've seen that as a boost in our neighborhood, and far more recycling is going out. Most of the containers I see are full. It's good for the community overall, but some of that is driven by changes in the laws in the county and the city. It's just getting people to do it. If they're not going to do it at their curbside, I don't see them making a trip to Public Works or Overland Park. Some will, obviously.

Comm. Jackson: You could do a study and assess the need for one by the city.

Comm. Williams: I think the one in Overland Park is operated by the city. It used to be operated by a not-for-profit organization.

Mr. Coleman: Bridging the Gap.

Comm. Jackson: I think you've done a good job balancing them. As long as the residents have some screening, I think it's fine.

Comm. Pateidl: Have you given thought to the length of time to allow shrubbery to fully screen?

Mr. Klein: This does state that it would have to be screened 80% at the time it was planted, and within two years, it would need to be filled in. That is similar to what we've used on utility boxes and things like that.

Mr. Coleman: From our standpoint, we would want to see a limitation on the size of an individual container.

Unknown Speaker: Would the pick-up of them by the truck prohibit bigger containers?

Mr. Coleman: No, they have a wench that pulls the whole thing along the ground and onto the truck. They've dumped another one and then picked up the full carrier. It could be 30 feet long.

Comm. Williams: I think limiting the size is good.

Mr. Coleman: I think ten cubic yards or so would work. I know the paper recycling ones are eight, and the mixed ones are a little taller.

*Several speakers at once*

Comm. Williams: I use glass at three different locations, all commercial. In that respect, I wouldn't think a school would want a Ripple Glass because every one of those sites had broken glass all around, and it would be a real danger to kids.

Mr. Coleman: That's why Deffenbaugh doesn't pick it up.

Chair Rohlf: This will keep Ripple Glass out.

Mr. Coleman: If we add the massing size of ten cubic yards, yes.

Ms. Shearer: At churches, schools or other public facilities – that's what this applies to. I guess if it were in a commercial area, then maybe.

Mr. Coleman: They could have one in a commercial area; they would just have to screen it.

Comm. Williams: This ordinance is not for commercial properties.

Mr. Klein: Yes.

Ms. Shearer: It applies to churches, schools and other public facilities. To the extent one of those types of buildings is in a commercial district, it would apply.

Mr. Klein: Schools have a Special Use Permit, but they can go in any district; therefore, it is possible to have a church in a commercial district with a Special Use Permit.

Comm. Williams: But we're not looking to apply this to shopping centers.

Mr. Coleman: No, but you could have an application for a La Petite Academy that is in a commercial district, and I guess it would apply to that.

Comm. Pateidl: Are you calling a daycare a school?

Ms. Shearer: We don't. We had a situation where we had to write a letter to the AG's office to get a clarification on that because we had a daycare that wanted to go out in Bi-State next to the alcohol distribution facility. According to them, a daycare is not a school.

Mr. Coleman: What about a Montessori school?

Ms. Shearer: I'd have to pull the opinion.

Mr. Coleman: We might want to look at that because we have one coming in soon on State Line.

Ms. Shearer: I don't think any facility that provides preschool education is a school for this purpose.

Mr. Coleman: They would have to do not kindergarten, but first grade?

Ms. Shearer: I think kindergarten is in most elementary schools. I think anything before that would not count as a school.

Mr. Coleman: Would it have to be a publically chartered school?

Ms. Shearer: I don't think it matters if it's public or private, just that it is K-12.

Chair Rohlf: Have the stakeholders seen this?

Mr. Klein: No, they have not. We have tried to incorporate all the work sessions and meetings into it. We came to the conclusion that some things had to favor one side, so we worked on compromising as much as we could. Even with the Planning Commission and Governing Body, there is a split as far as what is appropriate. This is an attempt to satisfy a number of divergent opinions.

Comm. Williams: I guess residents would be the ones complaining. How many have actually complained about the recycling containers, other than the noise?

Mr. Klein: It is my understanding that somebody contacted the city administrator or mayor with regard to the one at Brookwood. That, I think, put it on the radar of City Council. I have been contacted by someone who lived adjacent to St. Michaels. That resident said the bins used to be closer to the building and didn't create a problem, but then they were moved closer to the residential area, causing an issue.

Comm. Williams: I would be concerned we would be eliminating, based on some of the discussion and site limitations that we are all aware of, a program that could be used by hundreds of people for one or two people who have a problem with it.

Mr. Klein: A lot of this was initiated by Governing Body. They requested a work session on it, and staff was directed to develop an ordinance. They may have seen much more than I have. I believe Richard has talked to a few people.

Mr. Coleman: That's why we changed the landscaping and added an 18-month grace period. They don't really have to build anything. They might have to plant some bushes.

Chair Rohlf: Are they all sitting on asphalt?

Mr. Coleman: No, part of the issue with the Brookwood one was that it wasn't sitting on asphalt; it was sitting on dirt.

Mr. Klein: The Brookwood one used to be out next to 103<sup>rd</sup> Street; now it is almost behind the building.

Chair Rohlf: Was that due to your suggestion, or did they do that on their own?

Mr. Klein: I would imagine that there was a suggestion to move it farther away.

Mr. Coleman: Yes, it was suggested they move it for a number of reasons.

Comm. Pateidl: You used the term "hard surface," and yet in this ordinance, it says, "It must be placed on asphalt or concrete."

Mr. Klein: That is true. We have had discussion on this because this would include concrete pavers. I'm not sure as far as other hard surfaces.

Comm. Pateidl: I wonder if the term "hard surfaces" gives you more flexibility.

Mr. Coleman: It would be vaguer. We have talked to the people who pick these things up. Technically, they can put them on concrete pavers, but that surface would not last too long.

Comm. Pateidl: Limited language is something to evaluate.

Ms. Shearer: What other hard surface are you thinking of?

Comm. Pateidl: Pavers, or I don't know if filled rock might be a hard surface.

Mr. Coleman: We may want to allow six inches of crushed rock or something like that.

Mr. Klein: Some of the other things that came up in a number of these sessions, too, that aren't necessarily addressed in here, I'll cover briefly. Lighting is an issue. In our current ordinance, we allow lighting as long as it's no more than .5 foot candles at the property line. We could allow lighting, but they would have to meet the city's overall standard. Part of the reason that came in was safety. Another issue brought up at these meetings that seemed like a pretty good idea was to allow signage at the street indicating that the location had a recycling facility. That way, if it is hidden or screened, people would still know it is there. We don't have it in this section because we are trying to redo the sign ordinance.

Mr. Coleman: We were thinking of a standard traffic sign size with a universal recycling symbol and an arrow to direct people to the bin.

Chair Rohlf: Your two points we are discussing to put in or not put in are the size and the number.

Mr. Klein: Yes, that is something we were asking.

Mr. Coleman: Not the number, but we would have a size limitation of 10-11 cubic yards.

Comm. Pateidl: I would encourage that.

Comm. Jackson: Do you have any idea what size the one at Mission Trail is?

Mr. Coleman: It's probably 6-8 cubic yards.

Comm. Jackson: Versus Ripple Glass, which is what?

Mr. Coleman: Those are 20 or more.

Comm. Pateidl: Mission Trail is 133<sup>rd</sup> and Mission Road. That's probably a good example to look at. If it is 100 feet back from the front property line, it is fine. The only conceivable residential view of it would be across the street by the park. Why would the screening be required if it is that far away?

Mr. Klein: Let's say you have a commercial development and the school had a recycle bin closer than 100 feet from the common property line. The idea is it would also screen from the commercial if it is closer than 100 feet. In the case of Leawood Middle School along 133<sup>rd</sup> Street, it is less than 100 feet to a residential area. They would be required to screen on the property line of 133<sup>rd</sup> Street. However, that is a situation in which you could go to the BZA and look for relief. BZA could do nothing if it is within 100 feet. If people can see it across Mission Road, that part would have to be screened. That situation could go to the BZA to seek relief.

Comm. Pateidl: Even the people by the park that are well beyond 100 feet from the property line are still considered part of it? The distance does not rule in consideration if it is visible?

Mr. Klein: Correct, the ruling factor would be visibility from a residential area.

Comm. Jackson: We could take the last sentence out of Paragraph G.

Comm. Pateidl: I'm just trying to get clarity. The second point is that it is 100 feet back from the front property line, and it is supposed to be on the side or the back of the property. Does it have to be 100 feet away from the side property line as well?

Mr. Klein: Again, we were trying to create a situation in which it would be an encouragement for them to put them farther in from their property lines. What we've heard from a lot of providers is they don't want to screen them; therefore, they are willing to put them farther back to avoid it. That regulation encourages just that. Typically, we see recycle bins on the extreme perimeter of the property. This is partly an effort to try to get them to move them closer to the building and have less impact on the adjacent properties.

Comm. Pateidl: That school would either have to screen that at 133<sup>rd</sup> Street or go to the BZA?

Mr. Klein: For 133<sup>rd</sup> Street, no; as far as the residential, yes.

Comm. Pateidl: Would the school district make that application?

Mr. Klein: I would imagine. They would have to sign the application.

Chair Rohlf: I still think we'll lose some of those. I don't see how they could justify spending it.

Mr. Klein: At the BZA, a variance is a tougher standard to meet with five factors. Franki was saying that if they can meet all five factors of the variance, they could get relief from the residential screening. This refers to an exception. The BZA is able to grant exceptions much easier because of a lower standard to meet.

Comm. Jackson: I would like to see us allow the BZA to give a variance even for residential. For Mission Trails, it doesn't make sense that they would have to screen it because the residences are not looking that direction.

Ms. Shearer: The exception is for location or screening requirements.

Comm. Roberson: For Mission Trails, there is no location, other than where it is located. I'm not sure I agree that we eliminate the residential screening.

Comm. Jackson: You're not eliminating it, but you're giving the BZA the right to grant an exception for it.

Chair Rohlf: Will people be comfortable with this and ready to vote? I don't want to get into a situation like we have in the past where we revisit this whole thing after a number of work sessions. If you are not comfortable with this or would say that you are not in favor of it, we need to figure it out now.

Comm. Pateidl: Does this take the full-blown deal of a Public Hearing?

Mr. Coleman: No, this is all administrative.

Mr. Klein: At the Planning Commission meeting, it will have a Public Hearing.

Chair Rohlf: I don't want to go back over it like we've never heard of it before. Do you remember if Marc had any particular comments?

Mr. Klein: He did, and I remember one particular meeting in which Jim brought up three issues. It had to be administrative. He thought there should be a time limitation as far as servicing and maintenance, and he thought there should be a requirement as far as screening from the residential. Both Len and Marc agreed with that.

Chair Rohlf: My concern all along was that we would be too restrictive and that people just wouldn't want them anymore.

Mr. Klein: Right, and if it ever got so far as to consider eliminating, another option would be a limitation as to how far away you are from the bin. For instance, if you were more than 300 feet away, you don't have to meet the requirement because it's much lower impact than somebody who is right across the street or adjacent to it.

Comm. Jackson: If they go to the BZA, do they have to put out a notice?

Mr. Klein: BZA requires notification within 200 feet of the property.

Mr. Coleman: Our average lot is 150 feet deep.

Comm. Roberson: I would say Mission Trail is at least 150 feet wide.

Mr. Coleman: So maybe if it's more than 200 or 300 feet?

Comm. Williams: I would think 150-200 feet would be reasonable. Thinking of Mission Trails, you talk about screening. Does it have to be screening that is on the property where the recycling container is located? For example, because of the park and the screening that is put in there for the residents to the park, does that not block the view to the school?

Ms. Shearer: Then it wouldn't be visible, and they wouldn't have to do additional screening.

Mr. Klein: The intent was to screen it if it is visible. I don't think they could rely on the adjacent property owner to plant something to screen it because they could move away and the person who moves in could remove it.

Comm. Roberson: I like the distance requirement. I think it makes sense.

Mr. Coleman: Maybe more than 250 feet away?

Mr. Klein: Kelly asked about notification for the BZA, which is 200 feet. Would you want it more or less than that standard?

Comm. Williams: If it works for BZA, stick with it.

Chair Rohlf: I would ask that you email this attachment to both Marc and Bill, just so they know this was part of our work session and if they have concerns to let you know. I would like us to be united in this.

Mr. Klein: With this, I think it's better to have as much input as possible. I hope the people who actually provide the services and the public in general will be at the meeting as well. At City Council, one of the criticisms was that nobody was really showing up at the Public Hearing. Therefore, they wanted to get people's opinions.

Chair Rohlf: Do you have a comprehensive list of people you need to send this to?

Mr. Klein: We contacted a group of people for that stakeholder meeting.

Mr. Coleman: We'll send it to all those people.

Chair Rohlf: You feel like you had it covered?

Mr. Klein: Yes.

Comm. Williams: Will you send out a draft of this?

Mr. Klein: Yes, we'll change it, according to what we talked about here tonight.

*MEETING ADJOURNED*