

RESOLUTION NO. 11-25

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY FINDING THAT THE ANNEXATION OF SPECIFIED PROPERTY WILL NOT HINDER OR PREVENT THE PROPER GROWTH AND DEVELOPMENT OF THE AREA OR ANY OTHER INCORPORATED CITY WITHIN DOUGLAS COUNTY, KANSAS

WHEREAS, on July 5, 2011, the City Commission of Lawrence, Kansas (hereinafter the "City Commission"), pursuant to K.S.A. 12-520c, adopted Resolution No. 6924 (hereinafter the "City Resolution") requesting that the Board of County Commissioners of Douglas County, Kansas (hereinafter the "Board") find and determine that the annexation of the following described property into the City of Lawrence (hereinafter the "City") will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Douglas County (hereinafter the "County");

Beginning at the Northwest corner of the Northwest Quarter of Section 20, Township 12 South, Range 19 East of the Sixth principal meridian in Douglas County, Kansas, thence South along the West Section line of said Section 20, a distance of 1580.9 feet more or less to the center of the Kansas Turnpike right of way, then in an Easterly direction along the center line of said right of way to that point where the center line of said right of way intersects the center line of said Section 20, thence North along the center line of said Section 20, a distance of 1107 ft. more or less to the Northeast corner of said Northwest Quarter, thence West along the North line of said Section 20 to point of beginning; less that portion condemned for right of way by the Kansas Turnpike Authority of the State of Kansas and less the following tract condemned by the Kansas Turnpike Authority of the State of Kansas: A tract of land in the Northwest Quarter of Section 20, Township 12 South, Range 19 East, Douglas County, Kansas, lying adjacent to the North right of way line of the Kansas Turnpike as now surveyed, described as follows:

Beginning at Survey Station 13023-00 of the Kansas Turnpike; thence East along the North right of way line 450.0 feet to Survey Station 13027-50 of the Kansas Turnpike; thence North a distance of 100.00 feet; thence West 450.0 feet; thence South 100.0 feet to the point of beginning, containing 1.03 acres, more or less, the property conveyed hereunder containing 69.71 acres, more or less.

LESS AND EXCEPT:

The following described real estate in Douglas County, Kansas, described in deed recorded in Book 328, Page 1068, to-wit: Beginning at the Northwest corner of the Northwest Quarter (NW1/4) of Section Twenty (20), Township Twelve (12) South, Range Nineteen (19) East; thence South 330 feet; thence East 264 feet; thence North 330 feet; thence West

264 feet to the place of beginning, in Douglas County, Kansas, Containing 2 acres more or less;

LESS AND EXCEPT:

The following described real estate in Douglas County, Kansas, described in deed recorded in Book 358, Page 574, to-wit: Beginning at a point 330 feet South of the Northwest corner of the Northwest Quarter of Section 20, Township 12 South, Range 19 East of the 6th P.M.; thence South 82.5 feet; thence East 264 feet; thence North 82.5 feet; thence West 264 feet to the place of beginning; in Douglas County, Kansas.

(hereinafter the "Property").

WHEREAS, the City Clerk of the City certified and delivered City Resolution No. 6924 to the Board on July 6, 2011.

WHEREAS, on July 20, 2011, the Board met in regular session to consider the City Resolution, and opened a hearing, received public testimony, and closed the hearing.

WHEREAS, the members of the Board were not ready to make a decision on the City Resolution on July 20, 2011 and continued the agenda item to its next regularly scheduled meeting on July 27, 2011.

WHEREAS, each and every person desiring to provide oral testimony and provide information to the Board on July 20, 2011 were permitted to do so.

WHEREAS, the Board did vote 2-1 on July 27 to direct that a resolution be prepared in support of the finding that the annexation of the subject property would not hinder the proper growth and development of the area or that of any other incorporated city located within Douglas County.

WHEREAS, on August 4, 2011, the County Administrator's office notified the City Commission regarding its decision and that this Resolution would be forthcoming.

NOW THEREFORE, the Board of County Commissioners of Douglas County, Kansas, sitting in regular session this 10<sup>th</sup> day of August, 2011, does hereby resolve as follows:

1. After consideration of all the letters, emails, reports, plans and other written documents presented to the Board and all statements and presentations of all interested parties, the Board makes the following findings:
  - a. On December 9, 2008 and January 7, 2009, the City Commission and the Board, respectively, adopted the *K-10 & Farmer's Turnpike Plan* (hereinafter, the "Sector Plan"), which was thereafter published in accordance with law and, thereupon, became a part of *Horizon 2020*, the City and County jointly adopted comprehensive plan.

- b. On June 9, 2009 and August 5, 2009, the City Commission and the Board, respectively, adopted revisions to Chapter 7 of *Horizon 2020* that designated approximately 540 acres near the K-10 and I-70 intersection for industrial uses and zoning.
- c. On March 21, 2011, the City Commission received a request from the owner of the Property, asking that the City annex the Property pursuant to K.S.A. 12-520c and, in accordance with City policy, the City Commission referred the request to the Lawrence/Douglas County Planning Commission for consideration and to make a recommendation upon the request.
- d. In its Staff Report, prepared in advance of the May 25, 2011 Lawrence/Douglas County Planning Commission meeting, Planning Staff identified that the request was accompanied by a rezoning request to the City of Lawrence IG (General Industrial) district and concluded that the Property is appropriate for industrial uses, including Intensive Industrial uses as defined in the Land Development Code of the City of Lawrence, and that such use is compatible with *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan* and recommended that the Board find that the annexation of the Property will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the County.
- e. On May 25, 2011, the Lawrence/Douglas County Planning Commission, on a 9-0 vote and after receiving public comment, concluded that the annexation is compatible with *Horizon 2020* and the *K-10 and Farmer's Turnpike Plan* and that the Property was appropriate for industrial uses, and recommended that the Board find that the annexation of the Property will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the County, and further recommended that the City annex the Property.
- f. On July 5, 2011, the City Commission, after receiving public comment, adopted, and on July 6, 2011, the City Clerk delivered to the Board City Resolution No. 6924, requesting the Board to find and determine that the annexation of the Property will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the County.
- g. The letters, emails, reports, plans and other written documents presented to the Board and all statements and presentations of all interested parties received by the Board during its July 20, 2011 and July 27, 2011 meetings, in the aggregate, constitute sufficient information about the matter to enable the Board to adopt this Resolution.
- h. The Board makes its determination on the City Resolution in a quasi-judicial manner, based upon the facts and the law as they are, and not based upon speculation.
- i. The City and County are experiencing a shortage of available industrial space with convenient access to the Kansas Turnpike/I-70, which shortage is

causing potential new industrial businesses to locate in other communities, thereby preventing the County from realizing increases in its tax base and employment population. Because the proposed use of the Property is industrial, the City's annexation of the Property will provide additional available sites from which new and expanding businesses may choose, which may further economic growth and job creation in the City and County.

- j. The Property is within the Urban Growth Area of the City of Lawrence, as defined in *Horizon 2020*, and more than three miles from the nearest boundary of the City of Lecompton.
- k. The Property has excellent access to state and federal highways, specifically the Kansas Turnpike/I-70, K-10, U.S. 24, U.S. 40, U.S. 56, and U.S. 59, and is located on an arterial road (N 1800 Rd/County Route 438/Farmer's Turnpike), is within one mile of the terminus of the freeway that extends north beyond the terminus of K-10 (E850 Rd.), which is very near an interchange of the Kansas Turnpike/I-70 and, as a result, is positively situated for industrial use.
- l. The Development Code of the City, which will govern development if the Property is annexed, provides greater protection to the landowners and others adjacent to and near the Property than the County Zoning Regulations. For instance, the Development Code of the City provides more comprehensive regulation of items such as storm water drainage, lighting, noise, landscaping, and building setbacks.
- m. The owner of the Property cannot reasonably identify the specific industrial uses of the Property, as such uses will be dictated by the demands of future businesses that purchase or lease all or some portion of the Property, but the potential future uses of the Property may ultimately include uses permitted within the industrial zoning classifications and the Development Code of the City, including Intensive Industrial uses.
- n. The Sector Plan identifies the future land use of the Property as industrial. Although the City Commission, sitting in a legislative capacity, could decline to annex the Property, the Board concludes that the Sector Plan is important to the Board's decision, sitting in a quasi-judicial capacity, for establishing the proper growth and development of the area. If the Sector Plan is to be disregarded in determining the proper growth and development of the area, then long range planning is of very little use.
- o. The Board has considered industrial use as the proposed use of the Property and concludes it is consistent with the Sector Plan and the planned growth of the area.
- p. Annexing the property is the first step in implementing the development plan for the area and other technical studies and infrastructure improvements will be addressed with future development processes such as platting and site planning.

2. The Board finds and determines that the annexation of the Property by the City will not hinder or prevent the proper growth and development of the area, or that of any other incorporated city located within the county, all as provided by K.S.A. 12-520c.

3. This is a regular Resolution of the Board and is effective upon its adoption.

This Board of County Commissioners of Douglas County, Kansas adopts this Resolution on the 10<sup>th</sup> day of August, 2011.

BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, KANSAS:

  
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Jim Flory, Chair

  
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Nancy Theilman, Member

  
\_\_\_\_\_  
Mike Gaughan, Member

ATTEST:

  
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Jameson D. Shew, County Clerk