

RESOLUTION NO. 10 - 29

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 November 9, 2010, the City Commission of Lawrence, Kansas (hereinafter the "City Commission"), pursuant to K.S.A. 12-520c, adopted Resolution No. 6910 (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");

A tract of land located in the Northeast Quarter (NE $\frac{1}{4}$ ) of Section Twenty (20), Township Twelve South (T12S), Range Nineteen East (R19E) of the 6th P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northeast corner of the Northeast Quarter (NE $\frac{1}{4}$ ); thence South 0°04'49" West a distance of 820.62 feet, said point being on the East line of the Northeast Quarter (NE $\frac{1}{4}$ ) and the Northerly right-of-way of the Kansas Turnpike; thence North 89°01'11" West a distance of 1,011.18 feet, said point being on the Northerly right-of-way of the Kansas Turnpike and the beginning of a radial curve to the left having a delta angle of 12°15'51", a radius of 7,789.49 feet and a chord bearing South 84°50'53" West a distance of 1,664.17 feet and an arc length of 1,667.34 feet, said point being on the Northerly right-of-way of the Kansas turnpike and on the West line of the Northeast Quarter (NE $\frac{1}{4}$ ); thence North 0°13'10" West a distance of 951.56 feet, said point being the Northwest corner of the Northeast Quarter (NE $\frac{1}{4}$ ); thence North 89°58'27" East a distance of 2,673.27 feet to the point of beginning, containing 51.13 acres more or less, less road right-of-way and easements of record granted to Douglas County and the Kansas Turnpike Authority,

(hereinafter the "Property").

WHEREAS, the City Clerk of the City certified and delivered the City Resolution to the Board on November 10, 2010.

WHEREAS, on November 17, 2010, the Board met in regular session to consider the City Resolution, but the members of the Board were not ready to make a decision on the City Resolution on November 17, 2010 and continued the hearing to its next regularly scheduled meeting on December 1, 2010.

WHEREAS, each and every person desiring to provide oral testimony and provide information to the Board on November 17, 2010 and December 1, 2010 were permitted to do so.

NOW THEREFORE, the Board of County Commissioners of Douglas County, Kansas, sitting in regular session this 8<sup>th</sup> day of December, 2010, 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 September 21, 2010, 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.

c. In its Staff Report, prepared in advance of the October 27, 2010 Lawrence/Douglas County Planning Commission meeting, Planning Staff concluded that the Property is appropriate for industrial uses 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.

d. On October 27, 2010, the Lawrence/Douglas County Planning Commission, on an 8-0 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.

e. On November 9, 2010, the City Commission, after receiving public comment, adopted, and on November 10, 2010, the City Clerk delivered to the Board, the City Resolution, 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 any other incorporated city located within the County.

f. 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 November 17, 2010 and December 1, 2010 meetings, in the aggregate, constitute sufficient information about the matter to enable the Board to adopt this Resolution.

g. 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.

h. 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.

i. 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.

j. 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.

k. 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.

l. 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.

m. 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.

n. 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.

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

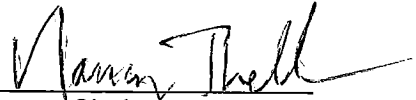
of any other incorporated city located within the county, all as provided by K.S.A. 12-520c.

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

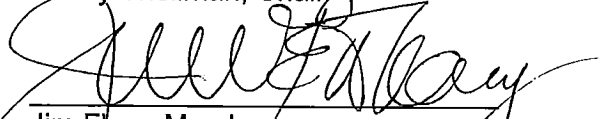
This Board of County Commissioners of Douglas County, Kansas adopts this Resolution on the 8<sup>th</sup> day of December, 2010.

BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, KANSAS:

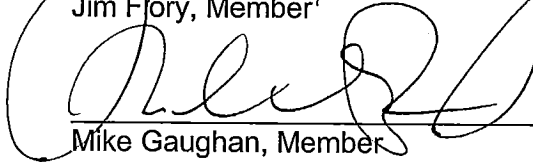
[dissenting]



Nancy Thellman, Chair



Jim Flory, Member



Mike Gaughan, Member

ATTEST:

  
Jameson D. Shew, County Clerk