Public Notice Demands Shontz, Gleason Recall !

Public Notice

FREE

Lawrence, Kansas

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See PN DEMANDS, Page Two

COMMENT

LOT 'SAFE' BUT STILL SORRY IDEA

There's no point in thrashing through all the fine, and finely made points in the danger study submitted to City Manager Buford Watson last week by a Kansas City engineering firm. We'll agree that the proposed parking lot at 600 Mass is marginally safe.

In pointing out the potential for fender-benders within the lot and rear-end type collisions at the entranceway, the consultant makes one statement we must dispute. He states there is no engineering change that can be made to prevent these types of accidents from happening at the site.

We say there is one simple alteration that would eliminate all those types of accidents there, as well as any worry over increased jaywalking and other foot traffic across a major artery: don't build the lot.

Who needs fender-benders? Who needs rear-enders? Who needs a parking lot on that site? When Maupintour cancelled their plan for an office building in the 600 block of Mass, the only perceived need for the lot vanished.

The utility of the parking lot seems to vanish a little each time its examined. Two parking spaces out of the original 20 were lost when the handicapped parking spaces were relocated.

And the two handicapped spaces are essentially worthless, as no handicapped person with good sense would elect to park there and face having to cross Sixth street.

Now, the consultant says, the two spaces in front of the Journal-World must go. As these two spaces are normally three times as busy as any space within the lot is likely to be, the net gain is about 20 spaces.

And these 20 spaces are not at all needed. The small amount of parking they provide easily can be absorbed by the under-used lot next to City Hall and the nearby on-street parking.

One factor cited by the consultant as mitigating the danger was the relatively light traffic, yet the alleged reason for continuing with the lot was to support a busier lower Mass. The conclusion must be that the better the lot fulfills its designed purpose, the more dangerous it is to use.

(cont. page 6, col. 3)

FUN & GAME

Join the staff and supporters of PUBLIC NOTICE in a celebration of its exhumation, starting about 8 p.m. Wednesday, May 6, at the Off the Wall Hall, 737 N.H.

Entirely in keeping with the spirit of PUBLIC NOTICE, the rock (and roll) group, Volunteer, has stepped forward and promised to turn our knees to jelly before midnight.

They will follow a fine folk-with-a-touch-of-bluegrass group, The Flatland String Band.

As a promotional gimmick, we are running in this issue a spot-the-phoney-ad offer. Somewhere in these pages is an advertisement for a service, business or product that does not exist.

Find this ad, rip it out and bring it to Off the Wall Hall, 737 N.H., this Wednesday night, and your first pitcher is only one buck.

On the surface, this appears to be nothing more than a cheap ploy to get you to read all of our ads carefully; but it has a much deeper purpose.

We actually aim to lure you to the Off the Wall Hall to listen and dance to some good music. Any person taking the bait should understand he could end up in Hot Springs having signed contracts and agreements he wouldn't know how to keep.

The winners in the April writing derby will receive their awards Wednesday night at intermission. The $25 second-place prize goes to Jon Blumb for his composograph on page one. The $50 Pops Award for community affairs writing goes to the PN staff for their combined effort piecing together The Mess at 600 Mass.

Fair Price or Fairy Tale?

Because he makes doll houses for a living, Bryan Anderson is accustomed to dealing with small figures. But the figure paid him for his building, which was condemned and razed by the city last year for a new parking lot, was too small for even a master of the miniature to deal with.

Anderson currently is involved in a lawsuit against the city contending that the price of $102,000 set on his 15,000-square-foot structure by court-appointed appraisers last summer was much below the price for comparable buildings nearby. In a recent interview, Anderson stressed that he was paid only slightly more per square foot for his building than the usual annual rent for downtown buildings.

Dale Kearney, who owns Pier One Imports at 738 Mass, stated that he had recently priced rental space in downtown Lawrence and that the annual rent for older buildings there ranged from $3.50 to $4.50 per square foot. At $6.80 per square foot, the sum paid by the city was less than what Anderson could have made by renting his building for two years at the minimum rate.

Robert Harrison, the president of Gill Real Estate, appraised Anderson's building for the city at $115,000 before the court-appointed appraisers lowered the value to $102,000. Harrison said that appraisers often differed by as much as five percent when assessing the worth of buildings such as Anderson's; but his evaluation is 13 percent higher than the city's.

In mid-1980, one local merchant sought to buy the former ice company building one block west of 600 Mass. The owner, Gill Real Estate, was asking $150,000 for the 8,000-square-foot structure. At $18.75 per square foot, Gill was selling its property for 275 percent of what Anderson was paid.

The merchant, who asked not to be named, said the $150,000 price tag "seemed reasonable," although the ice company building was in much worse shape than Anderson's

"Anderson would have been able to get at least $150,000 for his building if he had sold it in 1980," the merchant said. "He got ripped off. There's no doubt about it."

COURTS KILLING INITIATIVE

Judge King Junks Petition

by PN Staff

The U.S. Constitution guarantees the people's right to petition their government for redress of grievances. A Kansas law codifies this right on the local level by allowing citizens to circulate petitions to propose municipal ordinances. A recent decision by Judge Ralph M. King Jr. has left many Lawrence residents wondering whether the scope of this law is as thin as the page it is printed on in the statute books.

Judge King's decision is one of several in recent years which have found petitions inadequate under K.S.A. 12-3013, the state initiative statute passed in 1959. Under the law, if a number of qualified electors equal to 25 percent of the number who voted in the last city election submit a petition proposing an ordinance, the City shall either adopt the ordinance within 20 days, or place it on the ballot in timely fashion for the people to decide.

In December 1980, Mark Kaplan submitted a petition to the City containing over 2,400 signatures. The petition proposed an ordinance which would have restrained the City from acquisition, development, redevelopment or demolition projects downtown prior to the adoption of a Comprehensive Downtown Plan. The proposed ordinance also provided safeguards for such projects undertaken subsequent to the adoption of a Comprehensive Downtown Plan. Under the proposed ordinance, any project would have to be consistent with the downtown plan; would have to be supported by a feasibility study taking historic, aesthetic, commercial, environmental, economic and traffic factors into account in determining that benefits exceed costs; there would have to be a finding of "blight," broadly defined; public notice and public hearings would be required; relocation assistance plans to aid owners and occupants displaced by the project would be required; and a two-thirds vote of the commission would be required to proceed with the project.

According to Kaplan, the "base motivation" of the people circulating the petition was to save the building Bryan Anderson had owned, "if not for him—because the City now owned it—at least for future public use, or demolition as determined prudent through planning." Kaplan, Anderson and others contend that the City condemned Anderson's building without notice and hearing, without planning, without a cost/benefit analysis or feasibility study, without fair compensation for the building itself, nor money to relocate Anderson's toy factory facilities.

Kaplan said that the issues addressed by the petition were broader than Anderson's building, relating to the way decisions are made for all of downtown. "People had a strong reaction against a small group of business people and city officials meeting to discuss how to spend public money to radically alter the character of downtown without the press being allowed in," Kaplan said.

Many circulators of the petition felt that what happened to Anderson could happen to other small business people. They saw the petition as a means of protecting the public interest. Kaplan admitted, "Some of us wanted to demonstrate to the people the total insensitivity of the governing body close to election time," knowing the City would most likely contest the petition.

In early January, the City filed an action in Douglas County District Court seeking a "declaratory judgment." The City contended that the proposed ordinance was not referendable under the Kansas initiative statute. The City's most weighty argument centered on its characterization of the proposed ordinance as "administrative" rather than "legislative." Legislative ordinances set policy. Administrative ordinances carry out policy which already has been set. The Kansas initiative statute prevents administrative ordinances from being enacted by referendum. The defendants who signed the petition contended that the proposed ordinance was legislative.

The petition signers, "Mark Kaplan, et al." (as they were named in the City's suit), filed a counter-action for "mandamus" to compel the City to ballot the proposed ordinance. According to Jack Klinknett, attorney for Kaplan, et al., the City was under an affirmative duty to ballot the measure. If adopted by the people into law, it would then become a proper subject for review by the courts as to its legislative/administrative nature.

The City argued that mandamus cannot be granted if there are any rights in substantial dispute between the parties. In finding for the City on this issue, Judge King wrote, "An order of mandamus is discretionary and does not issue as a matter of right . . ." Klinknett responded: "Does the City have a right to stop people from voting? No power was conferred by the legislature (in the initiative statute) to stop it (the election). In their supplemental brief, the City claimed that we had a substantial dispute on construction of the language in 12-3013, that we said the ordinance should be balloted and that they thought it shouldn't, so mandamus can't lie. But mandamus exists to compel someone to perform a legal duty. Why else would mandamus exist? There's always a basic dispute if someone doesn't want to do something they are supposed to do. What the judge seems to be saying is that if you ever need to use it (mandamus), you are in dispute; and according to him, you can't use it. But if everything is peachy keen hunky dory, you can use it. It's like Catch 22. You can have it unless you need it, and then you can't."

Klinknett sought certification of the petitioners as a "class" of eligible voters being denied their right to vote on the proposed ordinance. A "class action" permits a responsible representative to protect the common interests of a class of people. In rejecting certification for class action, Judge King noted that "the class (of petition signers) is not so numerous that joining of all members (as parties to the lawsuit) is impractical." Klinknett commented, "It's hard to picture 2,400 parties to the suit not being impractical. Imagine what it would be like for the secretaries to address 2,400 envelopes and to find space in the courtroom for 2,400 petition signers."

(see JUDGE, p.2, col.4)