

Bobbie Walthall

Subject: RE: regular agenda number 1

To: City Commissioners
From: Patricia Sinclair
Re: Regular Agenda Item 1, gun range/store/rezoning
Date: March 22, 2016

This agenda item is a convoluted and confusing item, but I am definitely against rezoning the area shown so that a gun range/shop could be located there. I am opposed to having a range at either the Malls location or the area marked for rezoning.

I'm surprised that more people have not mentioned the proximity of Mary's Lake and Prairie Park nature preserve, both of which would be adversely affected by a gun range nearby.

I think that the Mall idea is nuts, for lack of a better word, and can tell the landlord that I would avoid shopping in that area as much as possible.

Please consider that the Transit system has just made a change in the bus system that now requires me to ride all the way down to the Peaslee school center from downtown and then all the way back to my home, which is only about 10 minutes from downtown. This is a complex neighborhood..

Are there any regulations against having such a range so close to K-10 related to its funding sources and designation?

I also fear for the wildlife. Is this an enclosed range or open? If open, then it is particularly of concern.

Is Mr. Sells a Lawrence resident? When I first looked up the property owner, it did not show Mr. Sells. This was some time ago. I think that the Malls location was just thrown into the mix to make the other site more appealing.

Again, as folks have stated before, it would really help to make the maps more clear and capable of being enlarged an to show more directly areas surrounding.

Please deny this in all its forms. Thank you.

Bobbie Walthall

To: Michael Kelly
Subject: RE: March 22, 2016 City Commission Regular Agenda Item 1, Rezoning Request by Richard Sells

From: Michael Kelly [mailto:job4mike6@aol.com]
Sent: Monday, March 21, 2016 11:29 PM
To: Bobbie Walthall
Subject: March 22, 2016 City Commission Regular Agenda Item 1, Rezoning Request by Richard Sells

Ms Walthall-

Please add this message to the correspondence for subject agenda item:

City Leaders, I urge you to approve the rezoning requested by Mr. Sells to permit a firing range and firearms sales business at 1021 East 31st Street.

Because the City recently took action to close the firing range in the Community Center, there is no indoor firing range in the City of Lawrence or Douglas County. This fact, created by affirmative City action, creates a barrier for gun owners to maintain their gun safety proficiency and is an infringement on all citizens' Second Amendment rights. Further such barriers to proper proficiency and safety training reduce rather than enhance public safety.

Presumably, sales tax revenue will result from the operation of the new business so there is a financial benefit for the City if the rezoning is approved and Mr. Sells conducts business successfully as he has planned.

CAVEAT: I am not an attorney and I am not attempting practice law in any of this correspondence.

Respectfully, I wish to point out some legal references I find relevant to the matter at hand.

The City of Chicago, Illinois lost a court case which has many factual similarities to this rezoning request. The case citation I have is in Ezell v. City of Chicago, 651 F3d 684 (7 Cir. 2011.) This was an appeal to the United States Court of Appeals for the 7th Circuit. A Chicago City ordinance established a gun permit regime requiring gun range and classroom training. In the same ordinance, Chicago prohibited operation of gun ranges within city limits with exceptions for private security firms and law enforcement-operated ranges. These "excepted" gun ranges were not available to plaintiff Ezell. The appeals court reversed the district court using analysis similar to First Amendment cases. The opinion is number 10-3525 and was decided in 2011.

Among other findings, the court opinion held the City of Chicago had produced no evidence to establish realistic concerns that firing ranges create the risk of accidental death or injury and attract thieves wanting to steal firearms. Witnesses called by defendant City of Chicago acknowledged that firing ranges in Chicago are located near schools, churches, parks, and stores and they operate safely in those locations.

Here is another key finding from the case law established in this opinion: "Properly regulated firing ranges open to the public should not pose significant threats to public health and safety." [All emphasis by underlining added by this correspondent.]

I claim that if Chicago could not produce any "empirical evidence whatsoever" regarding the proposition that gun range operations could not be conducted safely that there is no such evidence. Note this finding was made on appeal so Chicago had two federal court proceeding to present such evidence. I have corresponded directly with another prominent Lawrence citizen opposed to this rezoning request to ask that that citizen present any such probative evidence that Chicago (a city with a huge criminal gun violence problem) was unable to produce. Please note in the two Planning Commission hearings and one City Commission hearing already conducted on this rezoning request, no one has presented law enforcement records, old newspaper clippings, emergency room admissions data or vital records death notices connected to the operation of the now closed Community Center firing range. Perhaps that is because no such breaches of public safety have occurred in the decades that firing range was in operation. Perhaps that is because there are many highly responsible gun owners in our city and county that take their firing proficiency and safety with the utmost importance and will continue to do so.

A correspondent to the Planning Commission has claimed that potential customers of Mr. Sell's firing range would violate a 1,000 foot buffer about the USD 497 College and Career Center property while transiting in automobiles on public streets. Please confirm with planning commission staff that the streets used for immediate access to the parking lot at 1021 East 31st Street (namely Horizon Avenue and Horizon Drive) are private streets and their only connections to public streets are more than 1,000 feet from the USD 497 property. My geometric analysis shows that customers of the proposed business could approach from the west on 31st. Street or from the south on East 1500 Road without crossing a legal boundary. When the SLT opens, the SLT ramps near the business on South Haskell Avenue are outside the 1,000 foot legal buffer so customers to approach and depart the business to the east. If confirmed, this further reduces the relevance of the 1,000 foot legal buffer about school property created by 18 United States Code Sections 921 and 922.

As my final argument, I urge city leaders to consider the impact of a specific provision of Kansas Law, namely K.S.A. 12-16,124 which I believe strictly circumscribes city authority to regulate firearms-related businesses.

Please support the Second Amendment rights of all citizens and the public safety interests of all citizens through the creation of new firing range and firearms sales business as proposed

Thank you for the opportunity to be heard,

Michael K. Kelly
Lawrence Taxpayer and Voter

To Pennie von Achen
Member, Planning Commission
Dear Pennie,

Because of my health I am no longer very active in the Land Use Committee and am writing to you as a private citizen. However, because of the over 50 years that I have been watching and studying land use planning in Lawrence as a member of citizen groups, there have been many uses that I believed were extremely important to avoid in specific locations but because of lack of available regulations, were presented to the Commissions by our planners because they believed that they had no other options.

I believe that the case of 2-22-16 PC Agenda Item No. 2, the gun sales and shooting range, being treated as an ordinary permitted recreational use is one of these cases. Below is the definition of active recreation excerpted from the current Lawrence Land Development Code. I have searched the Code and this is what I found, below. I could find no terms or definitions for “gun,” “shooting range,” or other related terms, or for that matter regulations relating to them.

LAWRENCE LAND DEVELOPMENT CODE 2-21-16 DEFINITION EXCERPTED

20-1762 SPORTS AND RECREATION, PARTICIPANT

Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). The following are participant sports and recreation use types (for either general or personal use):

(1) Indoor

Those uses conducted within an enclosed [Building](#). Typical uses include bowling alleys, billiard parlors, swimming pools and physical fitness centers.

(2) Outdoor

Those uses conducted in open facilities. Typical uses include driving ranges, miniature golf courses and swimming pools.

Where the Planning Commission has been confronted with this situation in the past, i.e., no zoning definition or restrictions, the Planning Commission chose to limit the permitted location except with a Special Use Permit and treat it as a defined use. A recent one was where to locate “Truck Stops,” when they changed the definition of “Filling Station.” I believe that gun sales and firing ranges are special uses also that should not be treated as ordinary “recreational uses.” The current situation has arisen because the planners have not recognized that they are very different uses from other recreational uses and really need study. They have given you only two choices. We ask that rather than accept the limited choice of only these two alternatives that are before you at your meeting on Feb. 22 that you act on the following suggestions.

You have been given a choice to place the use of gun sales and shooting range in one of two locations both of which ultimately could be highly detrimental. ***There are three other options that the planners haven’t mentioned or even considered:*** (1) deny both choices of locations for the gun sales and shooting range, or (2) defer the issue for study and write the uses into the ordinance with proper regulations that require a special use permit and much more stringent regulations and more restricted locations, or (3) deny both choices and then rewrite the ordinance for proper regulations. We (my family) would much prefer that you follow choice No. 3, above.

The last two approaches have been used by our planners in similar serious situations in the past. I should emphasize again that this is not a use that I could find in the zoning ordinance. This alone should give both the Planning Commission and the planners pause before making recommendations for approval, especially when potentially dangerous uses are located in sensitive locations and are privately supervised.

We appreciate your valuable work on the Planning Commission. Thank you.

Betty Lichtwardt

From: Eric Kirkendall <kirkendall1@gmail.com>

To: Jim Denny <denney1@sunflower.com>; Patrick Kelly <pkelly@usd497.org>; julia.v.butler@gmail.com;
Pennie von Achen <squampva@aol.com>; bcculver@gmail.com; Clay Britton <clay.britton@yahoo.com>;
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vwdean51@gmail.com; ccrose@sunflower.com; bturvey@ku.edu; tsedwards311@yahoo.com;
cityhall@lawrenceks.org

Sent: Monday, February 22, 2016 8:31 AM

Subject: Please do not allow any lead-polluting gun ranges unless you understand lead pollution risks and health effects, pollution in and around current indoor gun ranges, and how to protect the health of the community

Please do not allow any new gun ranges to open unless you understand lead pollution risks and health effects, the levels of lead pollution in current indoor gun ranges, workers blood, adjacent neighborhoods, and how to prevent the pollution - and have put adequate controls in place to ensure the safety of the community, particularly children.

Please be sure you understand the pollution and health impacts, if any, or existing gun ranges, including the recently closed decades-old gun range in the Community Building.

I very much hope this has been done, and that this email message is unnecessary.

If you have any doubts, please consider these questions

In your discussions of the existing gun range at the Lawrence Community Building as well as the new proposed gun range, have you?

1. Considered the fact that lead is a dangerous neurotoxin (especially for children) and that without appropriate pollution controls and worker protection, indoor gun ranges often pollute the buildings in which they are located, customers and workers, and/or the neighborhoods around them?

Background information:

[City-owned gun range operated for years with toxic lead levels, Sacramento auditor says](#), Sacramento News

[\(Gun Range\) Workers Found Being Exposed to Lead at Levels Exceeding the Permissible Exposure Limit By Almost 2000%](#), Ecothink

[Lead exposure at gun ranges 'a serious problem'](#), Washington Times

[Ashland armory closes to public because of lead contamination](#), The Oregonian

From a Seattle Times series:

[Loaded with Lead](#). Lead poisoning is a major threat at America's shooting ranges, perpetuated by owners who've repeatedly violated laws even after workers have fallen painfully ill.

[Bellevue shooting range poisoned dozens](#). The worst known case of workplace lead exposure at a U.S. range happened during renovations at Wade's Eastside Guns in 2012. But documented hazards there go back to 2008.

[Young shooters at risk](#). At a shooting club in Vancouver, Wash., 20 youngsters tested positive for lead overexposure. 'We would get lead on our hands and eat finger food,' one teenager recalls.

[Lead endangers officers](#). Police agencies across the country have put their officers in harm's way by using lead-polluted shooting ranges and by not educating them about safe practices.

[Toxic ranges win federal contracts](#). To train their officers, federal law-enforcement agencies have awarded contracts to contaminated commercial gun ranges, riling unions and sparking calls for reform.

[Research in the news: Rise in lead exposure linked to firearms](#), Yale News

[OSHA cites gun range for workplace lead, arsenic exposure](#), U.S. Department of Labor

[In reversal, Kingston Planning Board sets public hearing on proposed Midtown shooting range](#), Daily Freeman News

2. Measured lead contamination in existing indoor shooting ranges in Lawrence, in the bodies of people who used, cleaned, and maintained the shooting ranges, and in the neighborhoods around them?

3. Required appropriate operational and pollution controls at existing and future indoor gun ranges to protect the safety of children, police officers and other range users, employees and contractors (including cleaning workers), and residents of nearby neighborhoods?

I very much hope I will hear back that "of course this has all been taken care of and we are safe". If so, thank you for your time.

Regards,

Eric Kirkendall
785-550-3408

Good evening commissioners. My name is Shannon Kimball. I am a member of the USD 497 Board of Education. I appear before you this evening on behalf of the Board of Education of Lawrence Public Schools in opposition to this rezoning request.

I understand that you all have received the letter from our Board president, Vanessa Sanburn, that outlines our objections to this zoning change. I am here to elaborate on those objections. Respectfully, the city planning staff's favorable recommendation does not give appropriate consideration to the District's safety and security concerns, nor does it correctly address the impact of the federal Gun Free School Zones Act on the affected parties.

In August, the school district opened our new College and Career Center at 31st and Haskell, across the intersection from the property at issue in the applicant's request. In fact, it is a mere 760 feet from the proposed site of this gun sales shop. Our district has invested over \$6 million dollars in this facility. The City and County have invested substantial additional dollars in our partner facility at this location, Peaslee Tech, for the purpose of creating a college and career training campus that, in partnership with the Boys and Girls Club, will be serving children as young as 10 years old in the future.

The safety and security of our students and faculty at our school facilities is of the utmost importance and concern, and drives our opposition to this rezoning request. Contrary to the staff analysis, rezoning of this parcel will detrimentally affect our neighboring school site. In fact, the analysis of neighboring sites fails to even mention the USD property. It references Peaslee Tech, but that is not the same facility. I submit that a gun sales outlet is not in fact a use that is compatible with the educational use of the school district's property.

It has been noted that this rezoning/use are legal. However, the fact that it is legal does not therefore mean that it is a correct or desirable application of good planning principles. For safety and security reasons, the Gun Free School Zones Act creates a 1000 foot gun-free buffer around our property. The school district, its students, staff, and parents, are entitled to the protection of this law. As the handout I am sharing illustrates, there is no entrance or exit from the parcel at issue that would allow customers to access the gun sales shop without traveling through this gun free buffer zone. Allowing this rezoning and use of this property would make repeated violations of this law a certainty. The detriment to us is very real, as the proposed use exposes us to repeated violations of these safety and security protections. I submit that our detriment greatly outweighs the interests of the applicant here. Staff correctly noted that the federal law places the burden on the consumer to comply, and that it does not apply on the private property at issue but only on the public property. What that means in practice, however, is that there are no actions that Mr. Sells can take, or assurances that he can make or enforce as the business owner, that will prevent or mitigate these repeated violations that will occur.

In sum, for these reasons I strongly urge you to reject this rezoning request. Thank you for your time.

Bobbie Walthall

From: Michael Kelly <job4mike6@aol.com>
Sent: Tuesday, January 12, 2016 1:42 PM
To: Mike Amyx; Leslie Soden; Stuart Boley; Matthew Herbert; Lisa Larsen
Cc: Shannon Kimball; Scott McCullough; Diane Stoddard; Bobbie Walthall; Chad Lawhorn; nwentling@ljworld.com; rvalverde@ljworld.com
Subject: Gun Range Zoning--Z-15-00471

City Leaders-

I urge you to vote in favor of the gun range rezoning application submitted by Mr. Sells.

I am a retired military veteran of 34 years active duty and hold a Master of Science degree from the Air Force Institute of Technology School of Engineering. I was a technical advisor for weapon safety for a significant portion of my active service.

Know this:

Better training results in better safety. Gun owners should have a facility to safely maintain their weapon proficiency. Use of Mr. Sell's proposed business would improve the safety of gun owners in our community. A properly designed facility is a necessary predicate for useful firearms training. Many in our community use their weapons in the performance of their public safety jobs or their reserve military service. This proposed business will permit more gun owners to train safely.

The proposed location in the SE portion of our city is a favorable factor, not a negative factor as the school board has wrongly claimed. All of the land south of the proposed location is sparsely populated land. Prairie Park and Haskell INU are nearby and are comprised largely of sparsely populated areas.

An accidental firearm discharge can take any azimuth from zero to 360 degrees and an elevation of minus 90 to plus 90 degrees. Only a tightly constrained set of aim points would create a trajectory for an accidental discharge to hit the USD 497 property. There are perhaps 5 degrees of azimuth and one degree of elevation that would create such a dangerous trajectory. Given this rudimentary ballistic analysis, there is roughly one chance in 8 thousand that a random accidental discharge would hit the USD 497 property. Further, as Planning Commissioner Denney previously noted, the higher elevation ground of the College and Career Center facility under USD 497 jurisdiction is largely protected from low elevation trajectory from the proposed gun range facility by the terrain and vegetation which create ballistic obstacles.

I understand, but respectfully disagree with, the views of many in Lawrence in favor of large-scale infringement on the current and long-held Constitutional right to bear arms. I went in the way of danger many times in my military career to protect ALL of their Constitutional rights. Accordingly, those citizens have the right to favor changes in our Constitution. I suggest those who hold such views to loudly and repeatedly call for repeal of the Second Amendment rather than falsely claim to improve public safety by this type of zoning regulation.

The school board's characterization of safety-minded gun owners and future business customers as non-compliant with federal law are plainly offensive and not supported by empirical data available to me. Ask any school board member that appears before you for such empirical data (not political judgment) that substantiates the school board's high level of skepticism.

When you do the math of the ballistics (as I have) the risk of accidental firearms discharge hitting any part of USD 497 property is quite small (1 in 8,200) and the risk of injury even smaller because the occupants comprise only a small part of the entire property. Further, the property will not be used at all hours of operation of Mr. Sell's proposed business. Certainly the gun range could be operating without any risk to student or instructor injury from an accidental firearms discharge on days and times when USD 497 classes are not in session and the school building is vacant.

Approval of this rezoning will make gun owners more safe, not less. Accordingly, the community will be more safe, not less, when the gun range is open for business.

I will be unable to attend the City Commission meeting tonight due to a conflict with my school's Site Council meeting and other obligations.

Thank you for your careful consideration of my views and those of other citizens,

Michael K. Kelly
Lawrence KS Taxpayer and Voter

Bobbie Walthall

To: Beth Meyers
Subject: RE: 1-12-16 Regular Agenda Item 2

-----Original Message-----

From: Beth Meyers [<mailto:bmeyers@sunflower.com>]
Sent: Tuesday, January 12, 2016 12:27 PM
To: Bobbie Walthall
Subject: 1-12-16 Regular Agenda Item 2

1-12-16

City Commission Members:

Regarding the continued efforts to have a gun range and retail gun store near a South Lawrence neighborhood:

The previous objections have been that the range would be too close to the new post-secondary tech learning center, and that a zoning change to allow a retail gun store in the facility would have a deleterious effect on the nearby neighborhood. Mr. Sells continues to maintain that the property he owns is already zoned industrial, which is true, and that the area around it is not residential. That is untrue!

The Prairie Park Neighborhood, bordered by 24th Street on the North, 30th Street on the South, Haskell Avenue on the West and McConnell Rd. on the East, consists of approximately 1,178 HOMES!! It includes an elementary school, a nature center and wildlife environment and a small lake.

The property on which Mr. Sells wants to have his gun range and store, 1021 E. 31st., is currently zoned industrial, but it borders both the Mary's Lake RESIDENTIAL subdivision (south of 28th) and the rest of the Prairie Park Neighborhood. Both Prairie Park Elementary School, at 2711 Kensington, and the Prairie Park Nature Center and land at 2730 Harper out to Mary's Lake, are only FOUR BLOCKS from the proposed development!

The industrial designation of the area helped the residential neighborhood grow when assembly plants like King Radio were the major employers. It was easy for people to live close to where they worked. The neighborhood's affordability and close-knit, family-oriented character have remained the same, even though more people now commute to Olathe or KC for work. How would Mr. Sells' enterprise affect this neighborhood?

How much traffic does the proposed indoor gun facility expect on a daily or weekly basis? How much of a change is that from current numbers? Would weekend traffic increase, and if so, by how much? How much parking would it require? How many hours a day would it be open? Would parking lot lights affect the Nature Trails environment?

Would increased traffic fumes and exhaust pollution affect the entirety of Prairie Park?

Would there be periodic tournaments or sales that would bring in more traffic than usual? How often? How much more traffic could be expected?

How much would infrastructure, such as storm drainage or noise abatement, be affected?

Please, please remember that it's easier to prevent something than it is to ameliorate the undesired effects once the changes are made!!

We have numerous examples of endeavors that seemed good ideas at the time and then failed. When this happens out by I-70, it's sad but not tragic, but what Mr. Sells is proposing could undermine this close and affordable neighborhood in ways not even conceived of yet!

There are other locales in Lawrence more suitable to Mr. Sells¹ enterprise, but this particular property is not the best suited for his endeavor!

PLEASE REMEMBER THAT JUST BECAUSE SOMETHING IS LEGAL DOESN'T MEAN IT'S A GOOD IDEA! THAT ARGUMENT MISSES THE POINT ENTIRELY!

I think the zoning of 1021 E. 31st should remain the same industrial designation and use as it has been since the neighborhood was developed.

Thank you for your thoughtful consideration.

Sincerely,
Beth Meyers
2703 Bonanza

Attachments:

Journal World article of November 15, 2015 Journal World article of January 11, 2016 JPEG map of the Prairie Park neighborhood

November 15, 2015

Lawrence school board members are voicing opposition to a shooting range and gun shop that is proposed for a location across the street from the district's new college and career center.

"It's not an appropriate location for a business that sells deadly weapons — that close to a school," said school board member Shannon Kimball.

Kimball brought up the topic at the board's meeting last week, and board members have since written a letter voicing their official opposition, calling the proposal "unreasonable." The Douglas County Planning Commission will consider the issue at its Monday meeting, in which a public hearing about the rezoning request that would allow for the proposed shooting range and shop is scheduled.

Commissioners will vote on whether to approve the request of Lawrence businessman Rick Sells to rezone an approximately 1-acre property at 1021 E. 31st St. — currently a vacant industrial building — to allow for the indoor shooting range and a gun sales and repair shop, according to the commission's report. The rezoning request is recommended for approval.

Sells — the former owner of Lawrence Athletic Club and a substitute teacher for the school district — said he is not against the district's concerns and will be providing details about the safety measures and regulations that would be in place.

"I can understand why people are a little concerned, because when you say guns, it's a scary topic," he said, noting that if people from the school district or community have questions, he'd like to answer them.

<https://goo.gl/maps/MXjwvcnUL6S2>

The Lawrence College and Career Center, 2910 Haskell Ave., is located across 31st — about 760 feet — from the proposed site. The LCCC is attended by hundreds of students from both high schools. It's also adjacent to the proposed site for the future Boys & Girls Club teen center, which will run an after-school program for about 300 middle and high

school students.

Colby Wilson, executive director of the Boys & Girls Club of Lawrence, said the club supports the school district's stance, but explained he will be attending Monday's meeting to learn more about the proposal and safety measures that would be in place.

"We need the club and the college and career center to be a safe place," Wilson said. "We need people to trust that their kids are going to be safe there, and I'm not sure if this is the best fit for a gun range."

Amid an increase in school shootings across the country, the district has made efforts to tighten security at its 21 schools. As part of the district's \$92.5 million bond issue, all schools are getting renovations, which include safety updates such as secure entrances, keypad-entry classroom doors and portable remotes that teachers can carry to lock classrooms at the press of a button. Kimball said having a business that sells guns so close to a school is contrary to such measures.

"We have undertaken a massive effort in our district to increase the safety and security of our campuses, and this just feels wrong in that light," she said.

However, there are no local codes that would prohibit the location of a gun range or shop within 1,000 feet of a school, according to the commission's report. The federal Gun-Free School Zones Act prohibits possession and discharge of firearms within 1,000 feet of a school but has several exceptions, including on private property.

Sells said he doesn't think guns are the problem or that the act would necessarily stop violence.

"It doesn't matter whether that act says 5 feet, 500 feet, 1,000 feet or 10,000 feet, if someone is going to do something stupid, they're going to do it no matter what," he said.

The Gun-Free School Zones Act also requires guns be unloaded within the 1,000-foot zones, unless on private property, so customers of the proposed business could not load their weapons until they entered the property. Kimball argues that puts the burden to comply on the individual.

“I don’t think that there’s any way that you can reasonably expect all customers of a business like that to comply with that statue,” she said.

Sells said he thought more gun training and education would be beneficial to public safety. His customers would not only be informed of the law requiring them to bring their weapons unloaded, but also would be required to sign an agreement to do so, he said. In addition, Sells said, a gun safety and range etiquette class would be available for \$10 and required for customers under the age of 18.

“We’re going way out of our way to make sure this place is safe,” he said.

Sells confirmed that there is another potential location for the business, in the Malls Shopping Center at the intersection of 23rd and Louisiana streets. He noted that location has a residential neighborhood to its south and is near both Lawrence High School and South Middle School.

The Douglas County Planning Commission is scheduled to meet from 6:30 to 10:30 p.m. Monday at City Hall, 6 E. 6th St. The rezoning proposal is the seventh of 10 items on the agenda.

Originally published at: <http://www2.ljworld.com/news/2015/nov/15/lawrence-school-board-against-shooting-range-near-/>

January 11, 2016

City commissioners will have the final say Tuesday on whether a new gun range can be located in a spot on the southern edge of Lawrence near the school district's College and Career Center — a proposal that has pitted the school district against the local businessman behind the idea.

Commissioners will have to decide between following up on a recommendation by the Lawrence-Douglas County Planning Commission to reject the proposal because of the site's proximity to the school, and their staff's support for the business, the location of which they say is legal according to federal, state and city laws.

"I've been talking with some of the city commissioners and going over some stuff," said Rick Sells, who's proposing the range. "There's a lot of stuff they're going to have to take into consideration."

Sells plans to open the indoor shooting range and gun sales and repair shop in the vacant building at 1021 E. 31st St., about 760 feet away from the Lawrence College and Career Center at 2910 Haskell Ave. The center is attended by hundreds of students from both high schools.

The property at 1021 E. 31st St. is currently zoned as industrial. In order to locate the business there, Sells is seeking to rezone it to commercial.

https://www.google.com/maps/d/edit?mid=zcXj7zKCiv9Q.kVarj1t_7OHg&usp=sharing

The planning commission voted 4-2 on Nov. 16 to recommend the City Commission deny the request. The vote was taken after the Lawrence Board of Education came out in opposition to the gun range because of its concern for the safety students and staff at the College and Career Center.

The [board's letter of opposition](#) also states that there are plans for a new Lawrence Boys and Girls Club Teen Center to be constructed on the College and Career Center's campus. The club is currently accepting donations for the teen center, which will operate an after-school program for about 300 middle and high school students.

“It’s not an appropriate location for a business that sells deadly weapons — that close to a school,” school board member Shannon Kimball told the planning commission.

After hearing the school board’s complaints, Sells said he had little time to defend himself before the planning commission took its vote. He said he had not heard any negative feedback about his idea before then.

“There was one guy who said, ‘Rick, you’re going to try to open a gun club in the big blue dot?’” Sells said, referencing Lawrence's reputation as a liberal community. “I said, ‘I’m going to give it a whirl.’”

When considering this issue, one thing commissioners will have to note, Sells said, is that the location of the proposed range is legal.

Both the school board’s letter and a city staff report point out the federal Gun-Free School Zones Act, which prohibits any person from knowingly possessing a firearm within a 1,000 feet of a school. The shooting range would be an exception to the law because it allows possession and firing of a gun on private property.

Sells said the law would require anyone leaving the shooting range to store their unloaded firearms in a locked container before leaving the property.

In their letter, the school board members stated they were “highly skeptical” that customers would take that precaution.

“If it was illegal, I’d be right there with them; I’d agree, I’d understand,” he continued. “But there’s nothing to keep me from doing this legally.”

Among the items Sells hopes city commissioners will consider Tuesday are the safety measures that would be implemented in his renovation of the property to follow federal regulations on gun range design.

He also said the shooting range would provide another in-town option to Lawrence gun owners, some of whom, he said, travel to other cities to use their shooting facilities.

Lawrence does have a city-owned gun range in the basement of the Community Building

at 115 W. 11th St. It's used by the Douglas County Rifle/Pistol Club and open to the public weekday nights.

Sells said this point was a "pet peeve."

"Everybody in town against this, what they don't realize is there's a gun range in the basement of the community building," he said.

Sells said that if the rezoning is not approved Tuesday, he has a backup location in mind: the Malls Shopping Center at the intersection of 23rd and Louisiana streets.

With that location, Sells would not have to go through the zoning process, as it is already zoned as commercial.

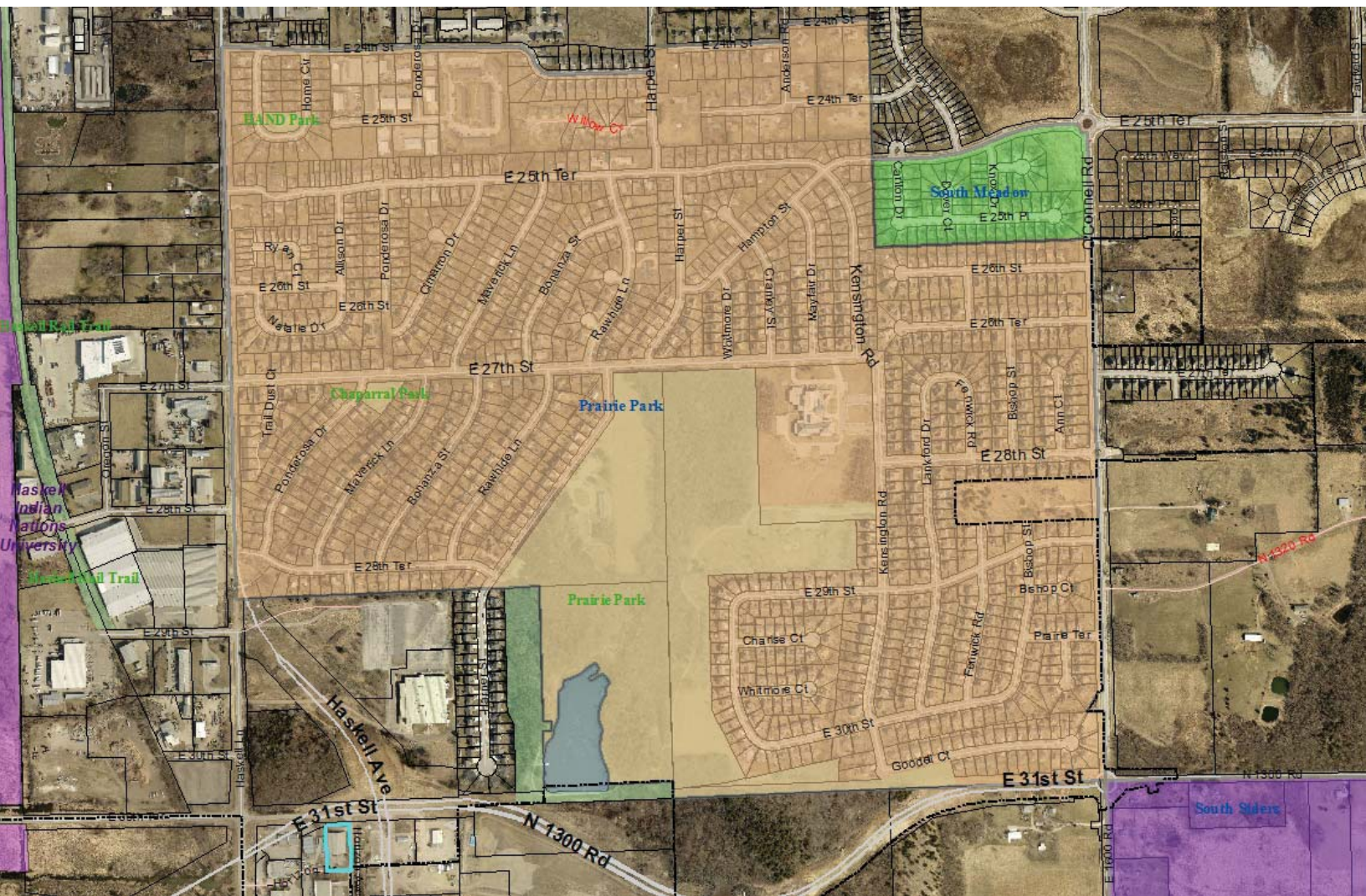
Sells prefers the location on 31st Street, which is on the southern edge of town, away from residential neighborhoods.

Though he's wary of how commissioners will vote, Sells said he would go into the meeting Tuesday "open-minded."

He said one thing he'd be fighting against is that the public is mostly "uneducated about the topic" or the reasoning for which people would want to use the range.

"A lot of guys work all week, and by Thursday they're stressed out. Some of them go to the country club and hit a bucket of golf balls, but some people like to squeeze a trigger," Sells said. "It is a recreation."

Originally published at: <http://www2.ljworld.com/news/2016/jan/11/city-commission-consider-proposed-gun-range-near-s/>



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November 13, 2015

Lawrence-Douglas County Metropolitan Planning Commission
Scott McCullough, Director, Planning and Development Services
City Hall, 6 East 6th Street, PO Box 708
Lawrence, KS 66044

Dear Mr. McCullough and Planning Commissioners,

I write today on behalf of the Lawrence Board of Education, which opposes the staff recommendation to approve the rezoning request (Z-15-00471) from IG (General Industrial) District to IL (Limited Industrial) District in order to allow an applicant to provide an indoor shooting range and gun sales and repair shop at 1021 E. 31st Street. This property is within a school zone; specifically, it's located 760 ft. from a public school, the Lawrence College and Career Center at 2910 Haskell Avenue. In addition, the College and Career Center campus will be home to the Lawrence Boys and Girls Club's future Teen Center, which will serve students as young as the sixth grade.

While the Board understands that the Gun-Free School Zones Act does not prohibit gun sales or a shooting range from locating on private property in a school zone, the federal law does require that consumers entering or leaving the private premises ensure that all firearms are unloaded and stored in locked containers. The Board is highly skeptical that customers will take these lawful precautions prior to entering or exiting the premises. The challenges with enforcement of the federal law relating to Gun-Free School Zones seem insurmountable, and the Board thinks, therefore, that it would be unreasonable to allow the rezoning to occur for the purpose of locating a gun shop/shooting range in a school zone.

The Board discussed this issue at its November 9, 2015, meeting. Due to board members' safety concerns for students and school staff, the Board strongly opposes the staff recommendation to approve the rezoning request related to 1021 E. 31st Street for the purpose of allowing an indoor shooting range and gun sales and repair shop in a school zone. The Board urges Lawrence-Douglas County Metropolitan Planning Commissioners to deny this rezoning request.

Sincerely,

Vanessa Sanburn, President

Cc: Lawrence Board of Education

Marcel Harmon	Jill Fincher
Kristie Adair	Rick Ingram
Jessica Beeson	Shannon Kimball

-----Original Message-----

From: Shannon Kimball

Sent: Monday, November 09, 2015 6:48 PM

To: Patrick Kelly <PKelly@usd497.org>; Rick Doll <RDoll@usd497.org>

Subject: Federal gun free school zones act of 1996 information

I found this information pamphlet while doing a little bit of digging on the federal statutory issues noted by the city. My reading of the attached is that while the gun shop/shooting range would be allowed because it's on private property, any customer entering or leaving the gun shop would have to ensure that the firearm is unloaded and in a locked container except while on the private premises. I am highly skeptical that customers of a gun shop would be willing to lock their guns in a container before putting them in their cars and driving off in order to comply with the federal statute. I think the enforcement issues here are insurmountable and therefore it would not be reasonable to allow the rezoning to occur for the purpose of locating a gun shop less than 1000 feet from our school facility.

Thanks, Shannon

<https://www.atf.gov/file/58691/download>

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

- (i) on private property not part of school grounds;
 - (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
 - (iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
 - (iv) by a law enforcement officer acting in his or her official capacity.
- (4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

If you have any questions, contact:

Bureau of Alcohol, Tobacco, Firearms
and Explosives
650 Massachusetts Ave., NW
Washington, DC 20226
(202) 927-7770

or

Visit our web site at www.atf.gov



U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Office of Enforcement Programs and Services
Firearms Programs Division

Gun Free School Zone Notice

STATE

ATF P 5310.1
October 2006

General Information

Generally, it is unlawful for any individual to knowingly possess a firearm within a school zone. A school zone is defined as being within a distance of 1,000 feet from the grounds of a public, parochial, or private school. This prohibition does not apply to the possession of a firearm on private property not part of school grounds such as an FFL's business premise (e.g., commercial storefront, residence, or driveway)

Once a customer leaves private property located within 1,000 feet of a school with a firearm, they may be in violation of Federal Law. However, in the following situations an individual would not be possessing a firearm in violation of 922(q)(A):

1. The individual is licensed by the State or political subdivision to possess the firearm, and the license was issued after law enforcement officials verified that the individual is qualified to receive the license;
2. The firearm is unloaded and is contained within a locked container or a locked firearms rack that is on a motor vehicle;
3. The firearm is possessed by an individual for use in a school-approved program;
4. The individual or his/her employer is doing so in accordance with a contract between the individual and the school;
5. The individual is a law enforcement officer acting in their official capacity; or
6. The individual is crossing school grounds to reach a public or private way. Their firearm is unloaded, and they have permission from the school.

ATF realizes that not all persons who enter or exit an FFL's premises in such case may fall under one of the above-described statutory exemptions. Therefore, ATF advises that in those States where a permit is not needed, the FFL should ensure that prior to a purchaser leaving the business premise with a firearm that it is unloaded and placed in a locked container.

Federal Law

The Gun Control Act of 1968, 18 U.S.C. Chapter 44, provides in pertinent parts as follows:

18 U.S.C. 922(q)(1)

(q)(1) The Congress finds and declares that—

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.