



Welcome - Please turn off or silence all cell phones during the commission meeting.  
*Meetings are televised everyday on Channel 2 at 7 p.m. and midnight*

Amended Agenda  
Added: Items #5 Mayor's  
Appointment – Library Board

**Study Session:**

1. Quarterly Update by Leavenworth Unified School District No. 453 (pg. 2)
2. 2017 Audit Presentation (pg. 3)
3. Review Transient Guest Tax Charter Ordinance (pg. 4)

**Special Meeting:**

Open a Special Meeting

**Action:** Motion

4. Consider the Purchase of 301 Delaware Street

**Action:** Motion (pg. 11)

5. Mayor's Appointment – Library Board

Action: Motion (pg. 12)

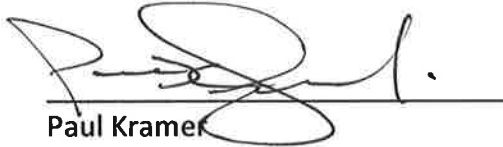
**Adjourn**

**Action:** Motion

**STUDY SESSION POLICY REPORT  
PRESENTATION BY  
LEAVENWORTH UNIFIED SCHOOL DISTRICT NO. 453**

**AUGUST 7, 2018**

**Reviewed by:**

A handwritten signature in black ink, appearing to read 'Paul Kramer', is written over a horizontal line. The signature is stylized with large loops and a trailing flourish.

**Paul Kramer  
City Manager**

**ISSUE:**

**Superintendent Mike Roth with Leavenworth Unified School District No. 453 will provide a quarterly update to the City Commission.**

**Policy Report No. FIN-18-02  
2017 Audit presentation  
August 7, 2018**

Prepared By:

Approved By:

  
Ruby Maline  
Finance Director

  
Paul Kramer  
City Manager

Stacey Hammond, CPA, CGFM from Berberich Trahan & Co., P.A. will present the 2017 Audit.

A copy of the audit report can be found at [www.lvks.org](http://www.lvks.org).

**Policy Report**  
Review Transient Guest Tax Charter Ordinance  
August 7, 2018

Prepared by:



Paul Kramer  
City Manager

**Background:**

In 2015, the City Commission passed Charter Ordinance No. 55 for the primary purpose of granting the City the authority to collect its own Transient Guest Tax, rather than the tax being collected by the state and remitted to the City. When the City adopted Charter Ordinance 55, it did not alter nor expand upon the state statute definition as to the authorized use of Transient Guest Tax Funds, which is:

"Convention and tourism promotion" means: (1) Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel; and (2) support of those activities and organizations which encourage increased lodging facility occupancy

Subsequently, the City Commission has expressed interest in the clarification and expanded authorization to expend transient guest tax fees collected in the City of Leavenworth.

**Issue:**

In order to deviate from the state statute, the City must repeal and replace Charter Ordinance 55 relating to the Transient Guest Tax. All elements relating to the City collecting the tax will remain, with the addition of language related to use.

The attached draft Charter Ordinance, specifically section "v" creates a more broad scope of authorization while still maintaining the core use of Transient Guest Tax as a means to promote tourism and closely related activities.

**Action:**

Review proposed Charter Ordinance replacement related to the Transient Guest Tax.

**CHARTER ORDINANCE NO. \_\_\_\_\_**

**A CHARTER ORDINANCE OF THE CITY OF LEAVENWORTH, KANSAS, RELATING TO TRANSIENT GUEST TAX LEVY, EXEMPTING THE CITY FROM THE PROVISIONS OF K.S.A. 12-1696 THROUGH 12-1698a, INCLUSIVE, PROVIDING FOR ADDITIONAL AND SUBSTITUTE PROVISIONS ON THE SAME SUBJECT, AND REPEALING CHARTER ORDINANCE NO. 55.**

**WHEREAS**, the City of Leavenworth, Kansas has heretofore adopted Charter Ordinance No. 55 pursuant to the provisions of Section 5(c) of Article 12 of the Constitution of the State of Kansas exempting itself and making inapplicable to it provisions of K.S.A. 12-1697 to 12-1698a and providing substitute provisions on the same subject; and

**WHEREAS**, Section 5(c)(4) of Article 12 of the Constitution of the State of Kansas provides that a Charter Ordinance may be repealed or amended by charter ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:**

**SECTION 1.** That pursuant to the provisions of Section 5(c) of Article Twelve (12) of the Constitution of the State of Kansas, the City of Leavenworth, Kansas, hereby exempts itself from the provisions of K.S.A. 12-1696 through 12-1698a, inclusive, and adopts the following additional and substitute provisions:

- a. As used in this Charter Ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:
  - i. "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons;
  - ii. "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two bedrooms furnished for the accommodation of such guests. For purposes of this Charter Ordinance, the terms shall also mean any lodging establishment (as such term is defined in K.S.A. 36-501, as amended), any hotel, lodging house, boarding house, or resort (as such terms are used in City Code Sec. 54-304 *et seq.*, as amended), and any short-term rental (including but not limited to so-called AirBNBs, VRBOs, or similar rental arrangements, as may be further defined by the City from time to time). The terms shall not include group homes (as defined by K.S.A. 12-736, as amended).

- iii. "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days;
- iv. "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court;
- v. "Economic development and tourism promotion" means:
  - 1. Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel;
  - 2. support of those activities and organizations which encourage increased lodging facility occupancy;
  - 3. economic development and related expenditures as may be determined by the governing body, including but not limited to:
    - A. Contracting with one or more agencies, organizations, individuals or groups to promote conventions and tourism for the City, and/or to promote, pursue, and manage the City's economic development activities including securing and retaining business and industry opportunities for the City;
    - B. Operating, maintaining, expanding and developing of City facilities and public areas connected with conventions or tourism;
    - C. Making payments for principal or interest for bonds issued to construct convention, community or civic centers, parks, recreational or other public facilities or public amenities that may be used in connection with conventions or tourism basis as it relates to its use for conventions, tourism and the attraction and retention of business and industry;
    - D. Defraying the cost of providing municipal services to festivals, convention and tourism functions, such as but not limited to Finance, Legal, Police, Fire, Municipal Services and Parks and Recreation Department personnel utilized for festivals, conventions, tourism and the attraction of business and industry;
    - E. Creating innovative projects and activities that relate to the promotion of conventions and tourism;

- F. activities to attract the location or relocation of industrial or commercial enterprises into the community through marketing efforts, including advertising and incentives;
  - G. activities designed to encourage retention and expansion of existing industrial or commercial enterprises in the community;
  - H. Promoting the general economic welfare of the City, including the attraction and retention of business and industry.
- vi. "Accommodations broker" means any business which maintains an inventory of two or more rooms in one or more locations which are offered for pay to a person or persons for not more than 28 consecutive days.
- b. In order to provide revenues to promote tourism and conventions, the governing body of the City of Leavenworth, Kansas (City) is hereby authorized to levy a transient guest tax at not to exceed the rate of ten percent (10%) upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court. The percentage of such tax shall be determined by the City governing body and shall be specified in the resolution authorizing the same.
  - c. Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business or accommodations broker.
  - d. The transient guest taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the City, and the City shall administer and enforce the collection of such taxes. To the extent the City timely and actually receives transient guest taxes from a third-party provider or platform (whether pursuant to a voluntary collection agreement or otherwise), then a business shall not be responsible for payment of transient guest taxes; provided, that to the extent transient guest taxes are not so timely or actually received, the business will remain responsible for payment of transient guest taxes.
  - e. The collection of any City transient guest tax authorized to be levied pursuant to this section has previously commenced as of July 1, 2015, under previous Charter Ordinance No. 55, and shall continue as of the effective date of this Charter Ordinance.
  - f. Any tax levied and collected shall become due and payable by the business

monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of the month specified in the resolution of the governing body which levies the tax. Each business shall make a true report to the City, on a form prescribed by the City Clerk, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.

- g. The City Clerk or the City's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.
- h. The City Clerk is hereby authorized to administer and collect any transient guest tax levied pursuant to this Charter Ordinance and to adopt such procedures as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any business liable to pay any transient guest tax refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the transient guest tax by the Code of Ordinances and amendments thereto. All of the taxes collected under the provisions of this Charter Ordinance shall be remitted by the City to the City Clerk in accordance with the provisions of the Code of Ordinances, and amendments thereto. Upon receipt of each such remittance, the City Clerk shall deposit the entire amount in the City treasury, and the city treasurer shall credit 2% of all taxes so collected to the City general fund to defray the expenses of the department in administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the city transient guest tax fund (also known as the convention and visitors bureau fund), which fund is hereby established.
- i. All such moneys received by the City Clerk or city treasurer from disbursements from the city transient guest tax fund shall be credited to the tourism and convention promotion fund of the city and shall only be expended for economic development and tourism promotion.
- j. Interest and penalties for failure to pay or untimely payment of transient guest tax shall be as follows:
  - i. If any taxpayer shall fail to pay the tax levied pursuant to this Charter Ordinance, and amendments thereto, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by the Code of Ordinances, and amendments thereto, from the date the tax was due until paid.
  - ii. If any taxpayer due to negligence or intentional disregard fails to pay the



tax due at the time required by or under the provisions of this Charter Ordinance, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.

- iii. If any person fails to pay any tax, within sixty (60) days from the date the return or tax was due, except in the case of an extension of time granted by the city manager, there shall be added to the tax due a penalty equal to 25% of the amount of such tax.
- iv. If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of this Charter Ordinance, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.
- v. Penalty or interest applied under the provisions of subsections j.i and j.iv shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections j.ii and j.iii shall be mutually exclusive of each other.
- vi. The failure of the taxpayer to comply with the provisions of subsections j.ii and j.iii was due to reasonable causes and not willful neglect; the city manager may waive or reduce any of the penalties upon making a record of the reasons therefor.
- vii. For serious or repeated and/or continuous violations of any of the requirements of this Charter Ordinance, or for interference with the City staff performance of duties, any license to operate or conduct business as a hotel, motel, or tourist court may be suspended and/or permanently revoked after an opportunity for a hearing before the City Commission has been provided. Prior to such action, the City Clerk shall notify the license holder in writing, stating the reasons for which the license is subject to suspension and advising that the license shall be temporarily suspended at the end of thirty (30) days following service of such a notice, unless a request for a hearing is filed with the City Clerk, by the license holder, within ten (10) days.
- viii. Hearings provided for in this Charter Ordinance shall be conducted by the City Commission at a time and place designated by the City Commission. Based upon the record of such hearing, the City Commission shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the City Clerk.
- ix. In addition to all other penalties provided by this section, any person who willfully fails to pay any tax imposed under this Charter Ordinance, and amendments thereto, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the

person's reports, or who willfully violates any regulations of the City, for the enforcement and administration of the provisions of this Charter Ordinance, inclusive, and amendments thereto, or who aids and abets another in attempting to evade the payment of any tax imposed or who violates any other provision of this Charter Ordinance, inclusive, and amendments thereto, shall, upon conviction thereof, be fined not less than \$100.00 nor more than \$1,000.00, or be imprisoned in the city / county jail not less than one (1) month nor more than six (6) months, or be both so fined and imprisoned, in the discretion of the court.

- k. The transient guest tax authorized by this Charter Ordinance (and previous charter ordinances replaced by this Charter Ordinance) shall be levied pursuant to resolution of the City Commission authorizing the same. Current resolution B-2110 establishing rates as to transient guest taxes shall remain in effect, and is unchanged by this Charter Ordinance, and is hereby ratified.

**SECTION 2:** Charter Ordinance No. 55 is hereby deleted and repealed in its entirety.

**SECTION 3:** This Charter Ordinance shall be published once a week for two (2) consecutive weeks in the official city newspaper.

**SECTION 4.** This Charter Ordinance shall take effect sixty-one (61) days after its final publication, unless a sufficient petition for a referendum is filed and a referendum held on this Charter Ordinance as provided in Article 12, Section 5, Subsection (c)(3) of the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective if approved by a majority of the electors voting thereon.

**PASSED AND APPROVED** by the Governing Body, not less than two-thirds (2/3) of the members elect voting in favor thereof, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mark Preisinger, Mayor

{SEAL}

ATTEST:

\_\_\_\_\_  
Carla K. Williamson CMC, City Clerk

Published: The Leavenworth Times

First Publication Date: \_\_\_\_\_

Second Publication Date: \_\_\_\_\_

**POLICY REPORT  
CONSIDER THE PURCHASE OF 301 DELAWARE STREET**

**AUGUST 7, 2018**



Carla K. Williamson, CMC City Clerk



Paul Kramer, City Manager

**ISSUE:**

Consider the purchase of 301 Delaware Street from Triple R Properties LLC.

**BACKGROUND:**

The City Commission has identified blight removal and economic development as priorities. In recent years, the City has taken action to purchase dilapidated structures, including the former hotel property at Third and Delaware in the historic downtown in an effort to remove blight and in certain cases to expedite redevelopment. A similarly blighted property at 301 Delaware fits the same model at the former hotel.

Triple R Properties LLC recently purchased this property and has agreed to sell the property to the City for the total cost of \$52,500.00, which includes the price of the property and realtor commission fees.

If the City Commission approves the purchase, staff would move forward with demolition and regrading of the site.

**ACTION:**

Motion to approve the purchase of 301 Delaware Street from Triple R Properties LLC in the amount of \$52,500.00 and authorize the Mayor to execute all documents related to the purchase.

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## CITY OF LEAVENWORTH

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**TO:** CITY COMMISSIONERS  
**FROM:** MARK PREISINGER, MAYOR  
**SUBJECT:** CITY APPOINTMENTS  
**DATE:** AUGUST 7, 2018

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I move to recommend the following appointment:

Library Board:

- Appoint Lisa Weakley to an unexpired term ending April 30, 2019