



# City of Lawrence

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## CITY COMMISSION

MAYOR  
SUE HACK

COMMISSIONERS  
MICHAEL H. DEVER  
ROBERT CHESTNUT  
DENNIS "BOOG" HIGHBERGER  
MIKE AMYX

January 22, 2008

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Hack presiding and members Amyx, Dever, Chestnut and Highberger present.

## RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Hack presented a check from Blacksburg, Virginia (as part of the Orange Bowl wager between the Mayors of each community) to the United Way of Douglas County.

## CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City Commission meeting minutes of January 8, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive the Mechanical Code Board of Appeals meeting minutes of November 12, 2007; the Neighborhood Resources Advisory Committee meeting minutes of September 27, 2007; the Community Commission on Homelessness meeting of December 18, 2007; the Lawrence Bicycle Advisory Committee meeting minutes of June 19, 2007, August 21, 2007, and October 9, 2007; the Sustainability Advisory Board meeting minutes of December 12, 2007; the Lawrence Arts Commission meeting minutes of September 12, 2007, October 10, 2007, and November 14, 2007; the Sister Cities Advisory Board meeting minutes of September 12, 2007, October 10, 2007, and November 14, 2007; and the Destination Management, Inc. meeting minutes of December 7, 2007. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 335 vendors in the amount of \$1,956,678.97 and payroll from January 6, 2008 to January 19, 2008, in the amount of \$1,780,420.18 . Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment License for Abe & Jake's Landing, 8 East 6<sup>th</sup> Street; West Coast Saloon, 2222 Iowa; Rudy's Pizzeria, 704 Massachusetts; Southern Cuisine, 1008 Massachusetts; Henry's on Henry Street, 11 East 8<sup>th</sup>; and Jo Schmo's, 724 Massachusetts. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to concur with the recommendation of the Mayor and appoint Cindy Yulich and reappoint Brenda McFadden both to the Public Incentive Review Committee to terms which will expire January 31, 2011. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve a request from the Central Maintenance Garage to proceed with the 2008 police patrol vehicle bid process, utilizing specifications for the Ford Crown Victoria Police package. Motion carried unanimously. (1)

Ordinance No. 8229, annexing .07 acres of City owned property, located west of Hills Song Circle and South of Interstate 70, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (2)

Ordinance No. 8230, incorporating by reference the "Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, December 4, 2007 Text Amendments, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt Resolution No. 6751, ordering a public hearing on February 12, 2008, on the advisability of the construction of improvements at the intersection of Congressional Drive and 6<sup>th</sup> Street, including property acquisition, subgrade stabilization, traffic signals, and traffic calming devices south of 6<sup>th</sup> street along Congressional Drive to the southern most point of Tracts 9 and 10. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize the Mayor to execute a Supplemental Agreement No. 1 with the Kansas Department of Transportation for the consolidation of access points along 23<sup>rd</sup> Street. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize Mayor to sign the Construction Administration Agreement with KDOT for construction of Project No. 5-GI1-105(S) for the improvement of 23<sup>rd</sup> Street (K-10 and Harper St. intersection). Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize staff to revise the "How to Ride the T Lift Policy Manual" regarding advanced day reservation period from three days to five days. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive the 2007 Fourth Quarter Case Management Report from Bert Nash Mental Health Center. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize the City Manager to execute a Supplemental Agreement to the existing Engineering Services Agreement with Black & Veatch for construction phase engineering services related to the Stoneridge Drive Elevated Water Storage Tank Project 6CP-906 in the amount of \$204,450. (9)

## **CITY MANAGER'S REPORT:**

During the City Manager's Report, David Corliss said Parks and Recreation staff was working on a pesticide reduction plan for the City's parks. A draft of the plan would be available in February and staff would then meet with interested public stakeholders for review and comment.

Also, regarding ice and snow removal, in December 2007 Lawrence had 5 weather events that produced 17 inches of snow. He said the staff report showed considerable staff hours and costs involved for those events. (10)

## **REGULAR AGENDA ITEMS:**

### **Receive staff report on sidewalk dining regulations, as requested by the City Commission on November 6, 2007.**

Frank Reeb, Administrative Services Director/City Clerk, said the staff report focused on food sales requirements in other communities. He said another information request from the City Commission was issues surrounding the use of heaters, awnings, and umbrellas related to sidewalk café's or sidewalk dining licenses which would be discussed by Lynn Zollner, Historic Resources Administrator. He said as he researched the issues of sidewalk café's and sidewalk dining licenses and what other communities across the country did, they generally fell into three categories which were: 1) A narrow definition of a food service establishment for license eligibility purposes; 2) no food sales requirement at all; or 3) a food sales requirement of 50% of gross receipts.

He said regarding the first category, he included information from the City of Iowa City, Iowa which was a university community such as Lawrence. Their regulation limited eligibility to a restaurant and had specific requirements of what that restaurant needed to meet in order to have a sidewalk café in Iowa City. Those regulations included the following:

- Prepares meals on the premises and provides meal service to each floor of the premises which is open to the public while the kitchen is open;
- Has a food service menu from which customers may order;

- Has an employee whose primary duty is the preparation of food and an employee whose primary duty is to serve food to customers;
- Has a kitchen separate from the bar equipped with all of the following: a stove; a griddle; a grill or broiler, and a food refrigeration unit with a capacity in excess of twenty cubic feet (20 cu ft.);
- Operates the restaurant service during at least sixty percent (60%) of the hours that the business is open to the public; and
- Holds itself out to be a restaurant and advertises itself as a restaurant if it advertises;
- Includes a café, cafeteria, coffee shop, delicatessen, ice cream shop, lunchroom, or tearoom.”

He said the second option was to not have any type of food sales requirement and open the sidewalk dining license up to bars and restaurants. He said his report included information from the City of Athens-Clarke County, Georgia and Madison, Wisconsin. He said the City of Athens had about 50 sidewalk cafes and approximately 10 of those cafes were adjacent to bars.

The City of Madison had approximately 55 sidewalk cafes and approximately 5 of those cafes were adjacent to bars. While there was similarity with those two communities in terms of eligibility for bars, the enforcement of those ordinances was much different in those two communities. He said the City of Athens was primarily a complaint basis type of enforcement, but the City of Madison took a much more active enforcement approach. He said Madison hired a full-time Street Vending Coordinator who actively looked at sidewalk cafes in that community. During the summer months that person was assisted by a Street Vending Monitor whose half time job during the summer, was to be out on the street actively enforcing that ordinance and looking for issues, talking with the licensees, and educating those licensees about the ordinance.

He said the City of Madison also had an Alcohol License Review Committee which was a 13 person committee that reviewed all applications for sidewalk cafes before going before going to the Governing Body. The committee was made up of the Chief of Police, or designee; City Clerk; a representative of the “Tavern League” which was a group of licensed beverage licensees.

The last category the sidewalk café's fell into and the one category found in his research as the most common was to have a food sales percentage of approximately 50% of the gross receipts. In those communities that had that food sales requirement and allowed alcohol in the right-of-way, they also had restrictive requirements which were:

- limiting the sale of alcohol to restaurant patrons seated at tables;
- limiting containers to non glass materials;
- requiring the sidewalk area to be continuously supervised by a restaurant employee;
- requiring food service whenever the sidewalk café area is in use; and
- prohibiting taps, kegs, coolers or other alcoholic beverage storage devices in the sidewalk café area.

He said one community, Ashland Oregon, prohibited smoking in the outdoor area as well. As far as closing times, it seemed to be split for those communities that had a 50% food sales requirement and approximately half of those communities required an 11:00 p.m. closing time, regardless of when the restaurant itself closed. The other communities did not have any specific closing time for the sidewalk area.

He said he also included some general policy questions, the City Commission might want to think and talk about, when hearing feed back from members of the public.

Lynn Zollner, Historic Resources Administrator, said in their staff report, the minutes from the last City Commission meeting were included when sidewalk dining was discussed. At the time, the City was getting ready to adopt a new code and also, a grant was received to redo the Downtown Design Guidelines and as a result, there was an administrative decision made to wait to come back to the City Commission for full adoption of the Sidewalk Dining Guidelines as part of the Downtown Design Guidelines.

She said in the minutes there was discussion about umbrellas and the majority of the Commission, at that time, was favorable for downtown dining areas so that restriction was taken out of the sidewalk dining guidelines.

There was also discussion about heaters and it was determined that heaters would take up additional space, change the atmosphere, and were not preferable at that time, but it was left open to future discussions.

Mayor Hack called for public comment.

Phil Bradley, Kansas Licensed Beverage Association, said the Tavern League of Wisconsin was a similar organization to his association. They were present to ask the City Commission to consider trying to find a way to remediate what happened after the smoking ban and other instances to allow those special licensees downtown that had no other recourse, to accommodate their customers in a very fair, responsible and timely manner.

He said the last time this item came up, they were under the impression that at some point, the Kansas Licensed Beverage Associations would discuss issues with DLI and come back to the City Commission with some unified effort of what they thought would be reasonable and helpful. He said those conversations had not taken place and was not anyone's fault, but his, because it was the busiest time of the year. He said if there was a possibility their association could have input with DLI and other interested parties, they would like to do that and bring a presentation forth.

Peach Madl, speaking on behalf of the Sandbar, said they were requesting outdoor seating for the Sandbar. She said outside dining should be allowed for four reasons.

The first reason would be a positive economic impact for their establishment. She said their occupancy was limited to 49 people and the smoking ban created many logistics issues in accommodating their guests.

She said with addressing the economic impact, safety issues, and the aesthetics, it would help encourage their establishment to stay in Lawrence another 20 years. She said they had a great design idea for outdoor dining and would be really attractive.

She said another reason was the fairness issue because their establishment had been at the same location for a long time and believed they had a right to accommodate guests like other businesses.

The size of their building inhibited the use as a restaurant and they would be unable to comply with any type of food sales requirement. She said not many of their type of establishments existed downtown, due to the zoning and food sales requirements. Allowing sidewalk dining was a positive aspect and would help alleviate many issues related to their establishment. She said a tavern could not be opened anymore in downtown Lawrence, Kansas. She asked the City Commission to allow outdoor seating, for their type of establishment, in downtown Lawrence.

Robert Lewis, Lawrence, said he had been in Lawrence for 2 ½ years and went to graduate school in Madison, Wisconsin and was familiar with the place. He visited Madison periodically and what someone might think sometimes and what actually happened were two different things.

Madison, Wisconsin was the state capitol of the State of Wisconsin, as well the home of the University of Wisconsin. Madison had a population of approximately 226,000 people with several large major corporations such as Oscar Mayer, large insurance companies, and a couple of tool companies make very high precision computer operated laser equipment.

He said the University of Wisconsin and their city were somewhat homogeneous, but it was different than Lawrence because in Madison they built around four different lakes, it was cold in the winter time, and the university was off by itself even though it was in the City of Madison, Wisconsin. Dane County itself, with the surrounding community, had approximately 460,000 people. There were a number of people coming into the community on the weekends, particularly from Chicago in the summertime.

He said most of the business area was in the heart of the downtown area. He said State Street, at one time, was used for automobiles, but now that street was used for busses and



bicycles only. That area contained most of the sidewalk bars and cafés and there were a few of those bars or cafés on University Drive to the west. The sidewalks also in that area were about a foot to a foot and a half narrower than the sidewalks in Lawrence. As a result, Madison had to make some decisions because it was a very specialized area. He said Lawrence had businesses as well as bars and cafes up and down the street. The people in Madison did not want the mix, so most of it was in one specific area, like the Westport area of Kansas City.

He said he could see problems if Lawrence had a setup like Madison, Wisconsin. He said Lawrence would alienate visitors coming to town because of traffic. He said the City Commission did not realize the envy from other communities because of the people that were attracted to downtown Lawrence during the day and at night.

Jerry Nerverve, owner, Red Lyon, said he encouraged the City Commission to give their type of establishment the opportunity to expand their businesses onto the sidewalk. He did not think it would pose any more problems than they had in downtown already. He also thought it would be beneficial by containing the crowds that were outside of the taverns and bars. He thought it would probably make downtown more attractive during the evening by containing those people, keeping the trash and litter more contained so they could clean that up much better.

Commissioner Amyx asked Nerverve how many people he thought he would have outside his building.

Nerverve said right now on a Friday or Saturday night there were probably 30 – 40 people outside, but in the area that would be like the other sidewalk areas, probably 15 – 20 people, comfortably. He said they were in the hospitality business and were trying to make their customers comfortable and happy. It was not fun to be crammed into a confined place.

Joshua Mochel, owner, Jo Schmo's, soon to be opening on downtown Massachusetts Street, said he was from Chicago and went to the University of Kansas for his undergraduate

degree. From there he went to the University of Southern California for his Master's Degree and since then, had been in New York living as a musician.

He said he had been working in restaurants his entire life and when the opportunity arose to open up a restaurant, he chose Lawrence, Kansas because he and his parents absolutely love this place. Downtown Lawrence was unlike any other place in America and felt very confident in saying that. However, when looking at the law for applying for a sidewalk dining license, he noticed that his food requirements would be 70% of his total gross receipts. He said it was next to impossible in a college town. The dining dollar was very finite and food in general had a very low profit margin. In order for him to maintain a building that had excellent standards as far as kitchen equipment, bar service equipment, and employing staff, it was very tough to make 70% food sales. He asked the Commission to reconsider the law to level the playing field, like allowing a bar to not have any food requirements whatsoever. He said someone earlier spoke about not having enough space for a kitchen. He said he had worked in restaurants that were 400 square feet and had a kitchen and served 10 – 15 people at a time. Not having the space for food requirements was not fair for him as a new business owner. He said if there was any way they could reconsider or lower the percentage down to a majority, he would welcome it because he was up against some very stiff competition in providing entertainment to a town that operated in a college atmosphere.

Mayor Hack said it was important to look at the 70% food sale requirement.

David Corliss, City Manager, said 70% was the food sales requirement for sidewalk dining. He said currently, if an establishment wanted a drinking establishment license, that business needed to comply with the 55% food sales requirement unless there was an existing drinking establishment that was grandfathered in.

Mayor Hack said the goal behind that requirement was to prohibit a chain of bars or taverns, to maintain a balance in the downtown area.

Corliss said when the Commission enacted that zoning requirement, they were concerned that downtown had more taverns and bars and that requirement would provide for a good mixed use for the downtown area.

Mayor Hack asked Reeb the number of tavern/bar versus restaurants.

Reeb said there were approximately 20 establishments were grandfathered into that requirement and did not need to meet the 55% food sales requirement. Some of those were restaurants, like Vermont Street BBQ which at the time the ordinance was enacted, Paradise Café was at that location. The non-conforming use went with the property and not necessarily with the establishment.

Mayor Hack said she had received a number of e-mails about not allowing alcohol to be consumed on the sidewalks, but alcohol was already being consumed on the sidewalks with those establishments that met the 70% requirement.

Corliss said one of the things the City Clerk's office had to coordinate when processing a sidewalk dining license was the Commission's adoption of an ordinance, allowing alcohol on the public right-of-way. In the absence of that ordinance, alcohol was prohibited to be consumed on public property.

Mayor Hack said part of the City Commission's conversation was if this was a subject the public wanted to pursue and if it was comfortable to discuss expanding sidewalk use for a hospitality venue. Other issues that needed discussion were closing time, food requirements, enforcement, such as requiring service at the tables, limiting types of containers, amenities, and sidewalk widths.

Commissioner Amyx asked if changing the percentage of food sales requirement was for the entire business or just the sidewalk dining area.

Reeb said the way the 70% food sales requirement was currently written in the code, the 70% was not just for the sales that occurred in the right-of-way in the sidewalk, but for the entire

establishment. He said 70% of the total gross receipts had to come from the entire restaurant and not just from the sales that occurred from the sidewalk portion of that restaurant.

Mayor Hack said the establishment initially needed 70% food sales, before sidewalk dining was allowed.

Reeb said that was correct. In terms of administration, the first year for the licensed establishment, it was an estimate because there was no record to establish what that gross receipts amount might be. There was not a hard and fast requirement for staff reviewing some particular document to verify that 70%. It was an estimate on what an establishment believed their gross receipts would be and the percentage for food and alcoholic beverages. After that first year, there was a record to review and it was essentially the monthly tax returns that were submitted to the Department of Revenue where the business had to list their gross receipts and the portion that was sales of alcohol to determine their drink tax.

Commissioner Amyx said in order to help the current downtown business, to meet those food sales requirements for outside dining, the Commission would need to eliminate the food requirement in order for those establishments to have outside dining.

Reeb said or the food sales requirement would need to be lowered significantly.

Commissioner Amyx said if lowering the food sales requirement significantly, they would end up with the same concern, the City Commission had when they enacted that requirement, of how not to have a bar in every other space in the downtown area.

Corliss said those were two separate issues. Right now, in order to establish a new drinking establishment use in the downtown zoning district, the applicant had to show they could meet the food sales requirement, which was 55% for a restaurant. The issue at hand was for sidewalk dining. Sidewalk dining could occur regardless of whether they had alcohol sales or not. Signs of Life bookstore had outdoor dining, but did not sell alcohol. Teller's was an example where they had sidewalk dining and were able to meet the 70% food sales requirement. If they did not have any food sales requirement for alcohol, they were not

increasing the number of drinking establishments downtown. An establishment would still need to meet the food sales requirement in order to get a new use.

Commissioner Highberger said he was generally supportive of looking at ways to cut down the restrictions on sidewalk dining such as the 70% food sales requirement. He said at the very least the City Commission needed to lower the food sales requirement for sidewalk dining to 55% to match the requirement for a restaurant. He said he was concerned that it might create situations that were intimidating for people who were downtown shopping and also high noise levels at night for people living downtown. The future of downtown would involve a lot more residential activity. He lived in a neighborhood between campus and downtown and sometimes college students when inebriated made a lot of noise late at night and made life unpleasant. He did not want to create that situation downtown anymore than it was now.

He said the activity in the outdoor space at Free State Brewery, was primarily consumption of alcohol, which was allowed because it was on their private property and not on City right-of-way. He did not recall any problems with that establishment.

He said he would support lowering the sidewalk dining food sales requirement to 55% and consider that requirement for all grandfathered establishments. He wanted the Commission to consider a committee like Madison, Wisconsin, had where that committee reviewed applications so staff could keep a handle on noise problems. He was generally open to expanding what was there now.

Vice Mayor Dever said if they could look at the trend, if there was between 15-20 establishments that were grandfathered in, it was more than likely they were talking about 15-20 businesses in town that would be affected by the increase in space. He thought the amount of noise that could be generated by an outside drinking area, he was not sure it would be that much greater than the noise generated by people standing outside smoking cigarettes or just talking. He said if they set up the dining areas, he would be in favor of not just packing people in that area because it would add to a negative atmosphere. If there was not a requirement for

sitting, he thought they would end up with a smoking lounge as they walked into the building, which would negatively impact the business of the establishment. If it was a bar only, it would be expected. If they would extend it to everyone who was already grandfathered, then they needed to have rules in place about sitting, how many could be in the area, address noise issues like not being able to play music in that area during a certain period of time, and some type of way to police the area.

He said he liked what Madison was doing, but they had the force available. He said in Madison's case, they did not have restrictions on how many establishments could be in the area and they could literally have 50 bars in a row on the street which would be the worst case scenario. He said it was important to help people stay viable.

He agreed with Commissioner Highberger's suggestion to lower the food sales requirement to a 55% food sales requirement.

Mayor Hack asked about the 55% food sales requirement and asked if the food would need to be prepared at an establishment or could food be brought to the establishment for sales.

Vice Mayor Dever said he could see a position where an establishment could have the food prepared and brought to their establishment to be sold. He said he would not be restrictive about where an establishment would get the food as long as the sales came from food whether it was made at that establishment or catered in.

Commissioner Chestnut said he concurred with Commissioners Highberger and Dever about the possibility of lowering the percentage from 70% to 55% since it matched up with the application for a restaurant, serving alcohol, coming in, but he also had a concern about safety. It was discussed about limiting the number of people that could be seated outside, but 11 p.m. – 2 a.m. was disturbing. If 15 more establishments were added to the downtown area, he asked what that meant for downtown from a law enforcement perspective. There were good establishment owners and they did the best they could, but it was a fact there would be more

people outside along with the patrons who smoked, which could create some issues. He said he would like to entertain the idea of limiting the time. This issue was difficult because the smoking ban brought people outside anyway. He was uncomfortable about extending the hours to 2:00 a.m. especially getting down to that last hour because it could create issues.

He had concerns about concentrating establishments on Massachusetts Street because he agreed with the comments about contrasting Lawrence from other communities in that downtown Lawrence had a mixed use area whereas some communities had concentrated that activity in one place. He said there might be difficulty with pedestrians traversing that area sometimes.

He said lowering the food sales requirement from 70% to 55% made sense because it would match with the application for a restaurant serving alcohol, but he would be restrictive on the other requirements. He said safety and the concentration of establishments were his biggest concerns.

Commissioner Amyx said if an establishment already had outdoor space such as in the back, that establishment should not have the sidewalk space on Massachusetts Street such. For example, the Replay Lounge had a porch on the back portion of that building. Most of the business owners present did not have the luxury of having space for people to smoke because of the configuration of their building.

He said he assumed through the site plan requirement, the amount of people allowed in those sidewalk dining areas would be determined by the Fire/Medical Department which would be based on the amount of footage of the sidewalk dining area.

He said Commissioner Chestnut stated the safety issues very well. He said downtown was safe, but he wanted to make sure the community felt comfortable going down Massachusetts Street. He said other items that needed to be addressed were times of operations and keeping areas clean and he did not have a problem with lowering the food sales requirement to 55%. He also would like input from DLI regarding the regulations of sidewalk

dining areas. It was extremely important the operator or his or her designee had somebody outside policing the areas, keeping the area clean, and keeping people under control as best they could.

He said one last concern that needed to be addressed was sidewalk width, related to sidewalk dining areas. He said sidewalks were for pedestrians, but he was willing to look at the sidewalk dining issue to see what could be done.

Mayor Hack said the Commissioners were generally on the same page and appeared to be in favor of asking staff to revise sidewalk dining requirements. She said regarding the closing time, dual closing times would be difficult, but if there was a way to close the sidewalk dining area before an establishment was closed, it might make sense.

She said she did not know if there would be additional people in sidewalk dining areas, but those areas would be better maintained and there would be more enforcement than what happened now with people just out front.

She said some other issues that needed discussion involved the types of containers for beverages, and the amount of sidewalk width allowed for those areas. She said the enforcement committee in Madison was also a good idea.

Finally, she said if an establishment had alternative spaces such as in the back of their building, then sidewalk dining was not something that establishment needed.

Commissioner Chestnut said regarding sidewalk width, those guidelines were adopted in 1996 and revised in 2005, but never approved by the City Commission, so the width issue needed to be addressed in those guidelines.

Zollner said the guidelines written in 1996 were never officially adopted by the City Commission either. There were no officially adopted sidewalk dining guidelines other than those established by code. She said the proposed guidelines indicated a minimum of 5 feet between the first obstruction, which might be a planter box, or the back of curb and the sidewalk dining railing or half the distance, whichever was greater.



Vice Mayor Dever said in looking at other communities, the most he read was a minimum of 6 feet, but most communities were 5 feet.

Commissioner Chestnut said since the guidelines were never adopted and there were a number of establishments with sidewalk dining, he asked if staff knew how many of those establishments would not be in compliance with the guidelines.

Zollner said what staff had done in the past, since the guidelines were never officially adopted, was to give those guidelines to applicants as they went through the process, and the City Commission had to approve the site plan. She said those dining railings were shown on the sidewalk and the City Commission would only approve the site plan with that particular width. All those businesses with sidewalk dining had the required width.

Commissioner Highberger said he would not like to see a restriction on containers. If someone wants to have a glass of wine with dinner on the sidewalk, he did not want to make them drink out of a plastic cup.

Corliss said the City had good compliance with sidewalk dining since inception, this last decade, but occasionally concerns were raised by members of the public or downtown businesses about compliance, cleanliness and those types of things. Staff had good luck talking to those establishments and property owners asking them to respond. The main area that was a challenge was when a business closed, working with that business in removing those railings.

Reeb said every once in a while the issue of fees came up, but other than that compliance had been very good.

Mayor Hack said fees were something that needed to be part of the sidewalk dining ordinance, particularly if the City Commission was going to consider a part-time person to work on sidewalk dining issues.

Corliss said when talking about late night activity, it was not usually the hours the site plan inspectors were working and it would be a concern as to who would monitor the sidewalk

dining areas. He did not expect the police department to monitor those areas because it was a land use issue.

He said he understood that the Commission would like staff to:

1. Provide draft language that for an establishment that had outside dining or outside space, no sidewalk dining would be allowed;
2. Draft an ordinance that would remove the food sales requirement for existing drinking establishments; and
3. Require a 55% food sales requirement for sidewalk dining for new establishments.

Corliss asked for clarification on whether existing drinking establishments that did not have a structural ability to have outside dining, for example in the rear part of their business, they would be able to have sidewalk dining without a food sales requirement or did the City Commission want a 55% food sales requirement to apply to those establishments.

Commissioner Amyx said he thought the City Commission talked about 55% food sales overall. He said Reeb had mentioned that the food sales would need to be lower than 55% in order to accommodate some of those establishments. He said the percentage amount needed to be an item of discussion.

Corliss said for example, if the vacant lot next to the Eldridge would ever redevelop and build a building and they wanted to have a drinking establishment, they would have to meet the food sales requirement of 55% which was in the zoning ordinance. He did not hear direction to look at the zoning ordinance.

Commissioner Highberger said staff might want to structure it so that an establishment that was currently a restaurant going out of business would not be able to open up as a bar with sidewalk alcohol seating. He said he thought it was a drafting issue.

Mayor Hack said what if there was an existing business that currently operated as a bar or tavern that did not currently have food sales and asked if it was a general consensus from the Commission to waive the food sales requirement for outdoor drinking.

Commissioner Amyx said he believed that part of the ordinance could be left blank until the City Commission addressed the other issues regarding that ordinance. He said he thought the Commission was indicating to keep it 55% across the board for existing and new establishments.

Vice Mayor Dever said yes that was what he heard.

Mayor Hack said that was why the Commission discussed not defining restaurant in a narrow way, but the Commission needed to have discussion about that issue.

Corliss said another issue was to require a seating area.

Mayor Hack said to be served, patrons need to be seated at a table and there needed to be a certain capacity.

Corliss said staff would come up with ideas for an enforcement committee or review committee for applications. He said he needed to be sure to understand what the next steps were for the historic guidelines for sidewalk dining which would be part of the package.

Vice Mayor Dever said there were a couple of issues of concern. The first issue was what had happened with the Bourgeois Pig. Staff needed to monitor those things more closely, so if they were going to have those rules and open up the opportunity for people to be a party or be involved in the sale or transfer of a business, they needed to protect the buyer and sellers' rights as well as the City's rights so they did not have the loopholes to go through. It was important they had a more rigorous enforcement of the rules because there might be additional members at large that were going to be subject to those rules.

The second concern was noise because if the City Commission allowed sidewalk dining areas and extended it to facilities that did not have food, but wanted to set up an appropriate outdoor area, they needed to have a noise ordinance and a way to enforce those rules

concerning noise. For example, if the speakers outside a bar were on at 2:00 a.m. and were blasting, which could be bothering someone who was trying to sleep, there needed to be some type of enforcement action. If this allowed staff to regulate sidewalk dining a little better, then everyone would be better off. They wanted to encourage people to live downtown but could not sleep if there were speakers blasting. He thought they needed to have a more solid way of enforcing those rules.

Commissioner Chestnut said the Commission was circling around the discussion about the grandfathered tavern owner and it sounded like the Commission was forming an ordinance for the future, talking about the 55% and other things that would apply. If the Commission was going to have a discussion about the taverns that were downtown and knew they were not going to meet the food sales requirement that should be made by a separate ordinance. They needed the ordinance that applied the 55% food sales requirement for those moving forward and that that consider that grandfathered group separately because they could not comply with the ordinance the Commission would adopt.

Corliss reminded the Commission that with the sidewalk dining regulations, those were not land use or zoning laws when talking about traditional legal non-conforming uses. This was City regulation of City owned property. The City did not have the same legal issues they had with zoning where legal non-conforming uses were created.

He said staff would also look at the historic guideline issues because that pertains to the width of the sidewalk issue. (11)

**Consider approval of a plan to deploy Electronic Immobilization Devices (Tasers) for the Lawrence Police Department.**

Ron Olin, Chief of Police, said Electronic Immobilization Devices, commonly called Tasers, were the latest technology in a wide range of technologies they employ in lethal and less than lethal situations. It was a logical extension of the other changes made over the past two decades. All deployment of weaponry, whether it was lethal or less than lethal, required a

number of steps they had already taken. First, a policy was developed and that policy explained in what circumstances a taser may be employed. Secondly, a training program and thirdly all of the technologies depended on critical decision making skills of the officers and appropriate oversight of those officers. He was pleased today to receive a report from the crime analysis unit which showed in 2007 they had 127,000 documented contacts with citizens in the community. During that time, they wrote 18,000 reports and only had 22 complaints against police conduct. The critical decision making key was an essential characteristic and one they stressed very strongly.

He said they had four resources to talk about this issue, starting with Captain Steve Zarnowiec, who helped author the policy. They had Scott Miller to answer legal questions and a master instructor, Jeremy Campbell from the Kansas City area in case there were technical questions.

Captain Steve Zarnowiec, Lawrence Police Department, said he wanted to share some of the incidents that have given them concern and driven their department toward consideration of some different tools for their job.

During December they had an officer who was injured while investigating a battery. The officer was simply taking a witness statement in the residence when one of the people in the room jumped up and took the glasses the officer was wearing off his face. After taking the glasses from the officer, the suspect then hit the officer in the face, and the officer began defending himself. Two other officers came to the aid of that first officer. During the attempts to secure the individual, pepper spray was used. It did not have an effect with the individual and the individual who was resisting the officers made a direct attempt to remove one of the officer's guns from their holster to use it. The officers spent a considerable effort and had a difficult time controlling the individual and had to remove the individual from the residence. The three officers were finally able to overcome that individual.

In November, one of their officers was injured while investigating a person who was urinating in public. The officer approached the individual and the individual turned and immediately hit the officer in the face and ran away. The officer pursued the individual on foot and tackled the individual. While on the ground, the suspect struck the officer in the face with an elbow, stood up and tried to hit the officer again while on the ground, but the officer was able to dodge that hit. The person ran again, so the officer got back up and pursued the individual and took the individual back to the ground. While on the ground, the person hit the officer in the head and kicked the officer in the groin. The officer was able to regain their footing, and the pepper spray used did not have an affect on the individual and the individual kicked the officer in the stomach, knocking the officer back to the ground and fled a third time. The individual was tackled by a nearby citizen and the officer was able to catch up and the person was secured in custody.

In October, they had an individual that was investigating a suicidal individual, and without warning the individual punched the officer in the head, and the officer reacted by forcing the person to the ground. While on the ground, the individual began kicking the officer in the head. As a second officer arrived to help, both officers tried to use pepper spray, and again the individual was unaffected by the pepper spray. After being sprayed, the suspect was able to take from one of their officers their police baton, and the officers focused on recovering the baton back from the individual. As they were recovering the baton back from the individual, the individual then transitioned to try and take one of the officer's guns. The officers had to resort to the use of batons to regain control in that circumstance. In that instance, the size of the officers was far beyond that of the attacker. It was sometimes amazing what a very motivated and direct person could accomplish despite size.

He said again in October two officers were sent to a medical emergency involving a person who was feeling paranoid. The person came to the door with a razor and needle nose pliers. As the second officer was arriving, the first officer began retreating from the individual

and warned the second incoming officer of what was going on. The person refused to drop their weapons, and both officers continued to retreat. This person pursued the officers and actually jumped over the hood of one of the patrol cars at the officers and was making a stabbing motion as they were coming across the hood of the vehicle at one of the officers. The officer was able to dodge that and continue to retreat. Both officers began to use pepper spray, and had no effect. One officer actually depleted his entire canister of pepper spray while retreating from this individual. A deputy had come to the aid of those officers, and the deputy was carrying a taser. As that deputy arrived, the individual turned and attacked the deputy as he was getting out of the car, and the deputy tried to deploy the taser device, but it missed. The individual jumped on the deputy and took the deputy to the ground, and began stabbing him in the back with the needle nose pliers, puncturing the shirt and the vest, but not fully penetrating the ballistic vest of the deputy. The officers immediately engaged the individual on top of the deputy and were able to physically gain control of the individual and pulling off the deputy, regaining control of the circumstance.

There was a litany of those types of occurrences in 2005 when they had two officers engage a person with a samurai sword with hands on pepper spray and were successful in resolving that with their hands. They had individuals encounter officers with knives that the officers went physically hands on and engaged and removed the knife from the individual.

What their department was seeking was a limited deployment of 10 taser devices in the field to see if it would have some effect on providing officers safer and more appropriate ways to deal with those types of attacks and incidents. Electronic control devices were nothing new in the law enforcement arena. In this region, a large number of police agencies were making use of that technology. Nationally, the use of that technology was somewhere around 11,000 police agencies that used electronic control devices.

The electronic control devices were different than their current equipment. Nothing he had with him right now had any ability to interrupt the ability to affect an attack. The electronic

control device was different. If it was correctly deployed, it could interrupt muscular ability to further the attack or resistance. It made it a different technology than what they had been exposed to. They could see the potential for the application in the circumstances he listed earlier.

He said some would argue that the officer with this type of technology might somehow over time become too dependent on this technology. Their use of force training did not teach the use of force to gain compliance out of individuals. It seemed to be a theme that came up, that the police department would use a taser to obtain compliance. They taught persuasion as a way to gain compliance from an individual. Their use of force program began with a core curriculum and hours associated with interpersonal communication skills as it related to use of force and how to avoid use of force. It was directly a part of that program and what began that program. Their philosophy was they would teach the use of force was for self defense, defense of others, and custodial securing the resistive person who refused to be persuaded to cooperate.

The intended purpose of their deployment of those devices was not about failure to obey police orders or do what they were told. They were looking at placing those devices in their portfolio of devices to stop an attack or to cease active physical resistance to an arrest. Simply refusing to obey the officers was not on par of what they were looking at the use of those devices. He said a rough equivalent would be the use of a baton because they were very conservative about their use of batons and would be the same arena where an electronic control device would present itself in the officer's tools which was a very conservative approach.

He said there had been some concerns about the potential undetected use of those devices. He said the electronic control devices the taser in particular, was one of the most supervised pieces of equipment that would exist on an officer's belt. It had internal electronics that tracked each and every time it was used, the date, time and duration of use. It was not able to be interfered with by the field personnel. It was something the device did on its own. The



cartridges, as deployed, deployed small chips that were individually serial numbered to that cartridge, which was directly associated with that officer. It left behind not only the electronic record of its use, but physical record of its use. He said if they thought about everything available to the Police Department, it was unique in that the use if the device could be known upon the complaint or any other inquiry; that device could be examined and information would be available.

He said it would be the department's hope the City Commission would consider going forward and allowing a limited deployment of those devices so their department could examine if those devices would afford their officers some different approach in extreme circumstances and some ability to maybe limit injury to the officer and the citizen. They had seen in looking at the reports from other deployments to the United States that agencies could expect to see a reduction in the number of injuries to the citizens and officers. They would also see reduction in complaints. Additionally, there were many documented cases where the use of an electronic control device had been able to replace deadly force where the officer's firearm was justified and would have been used absent such a device which was a strong benefit.

Commissioner Highberger said the data showed there was a reduction in both citizen and police officer injuries. He asked if their staff had baseline data and roughly how many suspects were injured during the course of last year and how many officers were injured.

Zarnowiec said he did not have the number of individuals who had been injured. He said in looking at 2007 there were roughly 16 officer injuries. Out of those injuries, there were 6 where an electronic control device would have directly had a bearing on the outcome. There were probably another 3 or 4 that would not have been applicable due to the suddenness of what occurred, and obviously they had some slips and falls on ice and incidents of that nature.

Commissioner Highberger asked if they tracked injured suspects or citizens.

Zarnowiec said those were reported and documented in the Administrative Services Department. However, he did not have a report at this time.

Corliss asked if Commissioner Highberger wanted that information.

Commissioner Highberger said he wanted to make sure that if the Commission approved the use of those devices, that information was tracked for comparison data.

Commissioner Amyx asked for the range of one of those devices.

Zarnowiec said there were three particular cartridges that could be used. He said 15 feet, 21 feet, and a 35 foot which was a specialized unit usually used for a specialized application. Generally the 21 foot cartridge was used. Obviously as that range increased, certainly the ability to assure contact decreased.

Commissioner Amyx asked if this was primarily going to be used in a close, confrontation type of situation.

Zarnowiec said yes, that would be the circumstance. They would expect that anywhere from 7 feet to 15 feet would be the general contact range for one of those devices.

Scott Miller said he already prepared a written summary of the findings he made regarding liability. He was ready to address the issue on any level of depth the City Commission wanted. He could go over the entire report or answer specific questions.

Commissioner Chestnut said the memo provided information on the risks and the successful defense on product liability, but he did not think that was where the possible liability existed. He said from the City's standpoint it would be pursuing legal action against the either the police force or the City in general. He asked Miller if he did any research in that area.

Miller said the primary risk for this use of force technology or any use of force technology from a litigation standpoint was police misuse. If the police use the taser in circumstances where it was not justified, then the Police Officer was opening himself up to a liability and potentially, depending on what level of training and supervision was given to that officer. The reason product liability was important was because that evaluated the liability of the technology itself. It would be irresponsible for the City to take technology that had an unproven real liability record and place it in the police officer's hands and tell the police officer to use the device

against members of the public. Given one set of expectations, for example, that it was a completely safe technology and then find out after the fact that it was killing 25% of the people that it came in contact with. If that was done, then the City would also be open for potential liability. Discounting that, the situation they were in now was comparing this force technology against other force technologies because it was not comparing that forced technology against no force at all. The circumstances they were talking about and heard from Captain Zarnowiec, in those situations some force was going to be used. That was a police duty, in that circumstance. The question was from an individual officer liability standpoint, whether that situation called for the use of the taser technology. Right now, as it had been classified by courts and the cases he cited in his materials, courts had easily found it was a non lethal technology for the purpose of pigeonholing it under the law and found that it was reasonable to use that against an act of resistance in Kansas. Provided that suspect was actively resisting and if the police officer used a taser in that circumstance, he had a fair confidence level that there would not be an inordinate amount of liability based upon any other use of force option.

Commissioner Highberger asked about the wording in the policy regarding the section about deployment which read: "It is forbidden to use the device when the use of the device is not reasonably necessary to prevent harm to an officer or another person or to affect a lawful arrest."

Miller said that was the general Fourth Amendment standard for any police use of force. In order for any use of force to be justified, one of two things had to exist which was: 1) reasonably necessary to prevent an attack on the officer or another person or at least to prevent harm; or 2) it needed to be reasonably necessary to effect a lawful arrest. The reasoning was on a sliding scale, depending on the circumstances of the arrest and the level of the offense. He said in other words, they could not go outside the Fourth Amendment with the use of a taser or any other force technology.

Mayor Hack called for public comment.

Corliss said it might be appropriate to note that this policy did allow the use of the device if it was reasonably necessary.

Commissioner Highberger asked what was reasonably necessary to affect a lawful arrest.

Miller said that was a training issue and with the Eighth Circuit case, which was one of the more recent cases, they approved and found reasonable use of a taser against a person who was not actively resisting at all and found that person was in a position where he was about to escalate resistance. He said that was found by the Eighth Circuit Court of Appeals to be a justified and reasonable use of force. He said the City's policy in police training would not take that liberal of a view regarding when tasers should be used. A lot of police departments place the use of tasers roughly equivalent to pepper spray, whereas the City's proposed policy and training would place it more equivalent to the use of the baton. It was not only more in line with what they believed the communities expectations were, but also in line with a Kansas case from 1993, that said it was reasonable in that situation.

Mayor Hack called for public comment.

David Strano, Lawrence, and a member of the East Lawrence Safety Network, said he was glad Chief Olin was very clear in his statement that it was less than lethal or less lethal, which was actually what the Taser Inc. Company stated. The legal liability issue said it was a non lethal weapon, but it was not a non lethal weapon. They had to be very clear about the wording; it was less lethal. In fact, the UN Committee Against Torture in November 2007 claimed that taser weapons, specifically the X26 and the M26, which were equivalent or what the Lawrence Police Department were asking for, were torture by definition of the United Nations. The U.N. quoted the use of taser weapons, specifically the X26 and M26, provoked extreme pain, constituted a form of torture and in certain cases can also cause death as shown by several reliable studies among certain cases that happened after practical use. The United Nations said repeatedly that it was a form of torture. It came out of a case dealing with

Portuguese police officers using the X26 weapon, but also looked at different cases that involved the M26 and X26, which were different styles of the taser weapon.

Also regarding liability, in looking at the packet of information given to the City Commission, was that it was cited repeatedly in the United States there were cases claiming that tasers caused death. It claimed that 277 people in the United States were killed directly after being tasered between June 2001 and October 2007. The liability document handed out claimed most of the deaths were contributable to a medical term called "Excited Delirium". However, "excited delirium" did not exist according to the American Medical Association or American Psychological Association. The International Association of Chiefs of Police also took the same stance. One of the most problematic things about "excited delirium" was that it was only used as a cause of death in police custody. If someone died in a nursing home, there was never going to be on a death certificate that it was caused by "excited delirium." The only time "excited delirium" was claimed as a cause of death, was in police custody. This was problematic according the International Association of Chiefs of Police in saying that it was not a proven condition and could be contributable to taser use. NC International further estimates that only 20% of those who had been tasered in the United States since tasers were introduced to police were actually armed at the time of their tasing.

He said more than 1/3 of the shocks that were administered to people were to people who were being verbally non-compliant with officers. He said most police departments had a use of force continuum which went from making contact with a suspect to using deadly force and there were things in between they could do to affect an arrest. One of the things the Police Department discussed was using that method right before deadly force or somewhere around the use of OC spray or batons.

The question that Commission Highberger raised was when it was an affecting reasonable use, who determined reasonability in those cases. There was no outside board right now that had effective administrative power over the Lawrence Police Department that actually

got to weigh in on what was reasonable and what was unreasonable. That was internally decided by Police Chief Olin who was in favor of this proposal. He would contend as his work that has led him to believe throughout the last two years, it was great the police only received 22 complaints throughout the year of 2007, but the 99% of people he came into contact with on a daily basis did not even know how to file a complaint with the police department and the people who had tried to file complaints, were told they could only file a complaint after their case was closed, whether it was dismissed or whether that person was found guilty, but after the case had been decided, an internal investigation was conducted by the Police Chief. Earlier tonight when they were talking about the use of sidewalks by bars, they talked about being able to offer assurances to people and enforcement if those things were abused. Right now, they did not have any outside body that was capable of doing that. He thought if the tasers were going to be issued to the Lawrence Police Department, there had to be a creation of an actual "Police Oversight Committee" within the City that would be able to look at those incidents and declare what was reasonable and what was unreasonable with enforcement power of what was going to happen to officers and the police department in general if the tasers were abused.

He said they needed to decide whether the use of tasers were reasonable. One of the things the Police Department was saying was that it could protect suspects as well. In the four shootings that he knew about in the last 30 years of people who have lived in this community that were killed by police officers, he could not think of a single time a taser could have been used to prevent that death. Maybe in the case of Greg Sevier, in 1991, but even in that case police officers testified there was no time to make a decision on what type of use of force to use and in fact an officer was going to use a baton, but decided to use his pistol instead to affect that self defense. He did not see any reason to believe that people were not going to be selectively targeted by the police for tasers. He really believed what was going to happen was the homeless community in this City was going to be receiving taser shocks from the police and no one would be able to enforce that from the outside as an oversight committee. He said if

they were going to hand tasers to police officers they should demand an outside accountability force and not an internal one which currently existed.

Mike McAtee, Chairman Lawrence Police Officers Association, said he represented the 112 police officers and detectives of the Lawrence, Kansas Police Department. As a group or membership organization, they represented over 940 years of law enforcement experience. They overwhelmingly supported the deployment of tasers in a limited use, as a base line to see where they were going to go from here. He respected the community in wanting to make sure there was accountability. The way they talked about accountability when they were talking about law enforcement, as officers and detectives, they were probably the most accountable for their actions. Their accountability occurred in three ways, administratively through their supervisors, to the City staff, and ultimately to the City Commission. They were also accountable to the District Attorney's Office and the legal/criminal justice system where they could be held criminally liable. The third part of that was civil liability. Their actions would be viewed by individuals, but even if they found they had done their job administratively, criminally, they could still be sued in a civil suit. There was a point of accountability on how they needed to do their jobs and continue to do those jobs professionally. They had a professional law enforcement organization in Lawrence. The members were members of this community and in talking to a lot of people once this issue came on the agenda, people were supportive of the Police Department. He said the LPOA, the City's employees, ask that the City Commission approve deployment of tasers for their officers and detectives.

Vice Mayor Dever asked in general, the positive and/or negative impact of having a Citizen Police Review Board in place.

McAtee said he viewed the Citizen Review Board as the City Commission because they were elected and representative of this community. He had a feeling that people on an average basis contact the City Commission and if the Commission had a question or what was going on with the Police Department, the Commission's names were listed in the newspaper and on the

City's website. He said they had plenty of oversight and overview and ultimately, he saw the five people on the City Commission as a review board because the public had the opportunity to vote for them. He thought as a community this was the best possible scenario for review of the police department's actions.

Hubbard Collingsworth, Lawrence, asked about the education component of this proposed technology and how it would be disseminated to the general public so the public could wrap their minds around the technology and do away with some of the myths he heard addressed tonight. He said there were only two people present representing a whole community and he wanted to address the educational component.

Rob Farha, Lawrence, said he went through the Citizen Academy and had seen a lot of the officers use persuasion first. He had witnessed, in his line of business, that the police had opportunity to use pepper spray, but instead used persuasion first. He felt the Commission should give the Police Department any tool they needed, and if this was another tool that could prevent lethal force, then the Police Department should be able to experiment with this technology.

Mayor Hack asked Chief Olin to address the education component and training of the officers.

Chief Olin said they currently had about 29 volumes of training materials they were obliged to teach to new recruits, which was dictated by the Kansas Law Enforcement Training Center. The KLETC model policy was one they adopted and part of the policy that was in front of the City Commission tonight. Their training would be done in such a manner that any of the training overviews or outlines would be made available to people who wished to see those. All of their training outlines were available. He imagined there would be follow up in the media and imagined they would be working on some sort of reporting mechanism in the future.

Mayor Hack asked if this would be an opportunity for the Neighborhood Resources officers to have conversations with people.



Chief Olin said they definitely could put it out with the Neighborhood Resource Officers and the School Resource Officers.

Commissioner Highberger said he was confused about the number of tasers proposed.

Chief Olin said they would like to have 10 units. They would have one for the training unit and three for each shift. They found that equipment was much better maintained if it was not rotated and passed between members of the shift. They were also talking about a finite number of officers trained at the beginning of the program. They were not training everyone. They would report back to the City Manager about what the findings were after a reasonable time period.

Vice Mayor Dever asked if there was any liability associated with not equipping all officers with equivalent gear and protected devices.

Scott Miller said the short answer was no. Officers, when they had use of force tools, had to select among the reasonable use of force tools they had available. If one officer had a taser, it might be reasonable to use but there were other use of force tools that were reasonable in that circumstance. If they did not have the taser, they could use one of their other tools, at least in existing case law right now.

Vice Mayor Dever said if a citizen was tasered and in the event one officer could have arrested that citizen, but did not have a baton and another officer had a taser and used that taser on that citizen who ended up suffering injury or died, he asked if there would be an issue since all the officers had access to the same equipment.

Miller said no. There were some police forces still that did not have any level of use of force tool less than a fire arm. There were still some police forces in the United State that carry a fire arm and use their hands. There have been cases regarding that failure to equip other use of force tools, and by and large the liability did not exist at this point. They would want to continue to monitor that as certain things became more mainstream, but at this point, he did not

see any liability from only doing a limited test. If an officer did not have the tool, then he or she did not have the tool.

Commissioner Amyx asked how the officers would be selected who would be trained to carry the tasers.

Olin said they would probably have a competitive selection process. It would almost have to involve the sergeants because they had full run of the place. They wanted to train enough police officers that there would always be three tasers on the street. They would have to train more than three people on a shift because people had days off. They would take that into account when they determine who would be trained. A lot of people may not want to be trained on the use of a taser because that person had to take a hit so they knew what they were giving. In an off chance in some inadvertent circumstance they tased themselves, they would need to know how to react.

Commissioner Highberger said given the statistics he saw in the decrease in use of injuries to citizens and to police officers with implementation of those devices and given the fact they were considering a fairly conservative use of policy on those devices, he would vote to approve the test program. He would like to see a report back in a reasonable time, as the Chief indicated, listing each use of the device and showing comparative statistics on injuries.

He said regarding Strano's comments, he would be supportive of the concept of a Citizen's Review Board for the police. He said with all do respect to the officers a well constituted Citizen's Review Board would be a benefit to officers as well. He thought a good Citizen's Review Board could protect officers in unfounded complaints. He said they had a Citizen's Advisory Board that had been functioning for approximately a year, required by state law, and only applied to racial profiling.

Vice Mayor Dever said he concurred with Commissioner Highberger. He said perhaps they could place taser use and the evaluation thereof under the existing board to look at that under a more structured scenario so they could address both concerns. He was supportive of

the use of the existing methods for racial profiling and/or putting some other responsibility on the existing board, rather than creating a new one, specifically if that was one of the big concerns of the improper use of that device. He said when placing this type of power in peoples' hands, there would be those who question it and it was important for the City Commission to try and address that issue up front.

Commissioner Amyx said the responsibility of review and oversight of the Police Department rested with the City Commission through the City Manager's Office. If there were concerns, he suggested the public contact a member of the City Commission or the City Manager and they would make sure there was a review of any concerns.

He said the use of tasers already existed in Lawrence through the Douglas County Sheriff's Office and the working relationship with the Lawrence Police Department and Sheriff's Office would continue. He said the term "less lethal" was a very good term. If the use of tasers was something that would give an officer the opportunity to not make the decision to pull out a lethal weapon, then the Commission should give the Police Department that opportunity.

Commissioner Chestnut said he supported the deployment of a pilot program with proper training. He said he had a lot of confidence in the Lawrence Police Department. He had received more and more comments on transparency and when it came to law enforcement, it was inevitable because they had 112 representatives from the Police Department that were out in touch with the public every day. He said it was a difficult job and he appreciated the LPD.

He said it might be time to look at the responsibilities of a Citizen Review Board for Commission education. They had recently created the Neighborhood Resource Officers and started collecting their feedback about being in contact with the public and if there was a better way to create dialogue between the public and the department, it might be a good idea to look at the Citizen Advisory Board's charter.

He agreed with Commissioner Amyx in ultimately, the responsibility sat with the City Commission and did not know if it was appropriate to give that up but possibly a review board

could be more effective in communicating with the public and give the public more access to police department actions.

He said the limited deployment of those tasers was important and it was also important to recognize they were trying to place a high priority in deploying this in the appropriate time frames. He said with some of the legal cases mentioned, they would want a standard of use that was much higher than what would comply with the law but something that was appropriate.

He agreed with Commissioner Highberger in that they needed baseline statistics about officer and citizen injuries, and start to track this information to make sure they were seeing the impact they were going to have that other communities had.

Mayor Hack said staff had the data, but the data had not been assembled in that form. She said it was important to remember the law enforcement officer's primary responsibility was for citizen and officer safety. If deployment of those devices would allow for better enforcement of those two goals, with the appropriate training, it would be effective.

She agreed with Commissioner Amyx that a Citizen's Oversight Board took away the authority of the City Commission to be the ultimate oversight. She would not support a review board because it was the City Commission's responsibility. She agreed the Citizen's Advisory Board was relatively new, and the Commission had not spent time talking about the work of that body. She would be supportive of this deployment and looked forward to the reporting process.

**Moved by Amyx, seconded by Chestnut,** to approve the deployment of Electronic Immobilization Devices (Tasers) for the Lawrence Police Department. Motion carried unanimously.

Corliss said he heard that the majority of the Commission would like some additional information on a Citizen Review Board.

Mayor Hack said the Citizens Advisory Board was in place due to a state regulation regarding racial profiling. She said the City did not have a Citizen Review Board.

Commissioner Chestnut said he would like to look at the Advisory Board's scope of work and have a discussion about whether or not the City Commission wanted to expand the use of that board. (12)

**Consider amending the School Crossing Control Policy by adding speed limit, lanes of traffic and sight distance criteria, and deleting "Marked" from Items 1, 2 and 3 under Adult Crossing Guard.**

David Woosley, Traffic Engineer, presented the staff report. He said last fall after hearing a request for a school crossing guard, the Traffic Safety Commission looked a little bit closer at some of the criteria and thought that some of the criteria needed to be changed because they were not taking into account some things the TSC thought should be taken into account. Whether their recommendations would have an affect on any recommendations they made for or against crossing guards in the past, they felt that they were some things that could come in the future and they needed to be prepared in case they did.

The three different areas they looked at were speed limit, which was not addressed in the current policy, the number of lanes of traffic that were expected for elementary students to cross, which was not directly addressed, and the sight distant. In looking at that, the Traffic Safety Commission's recommendations were that an adult crossing guard might be provided if the speed limit on the street was over 35 mph. They did not think elementary students should be making a decision to cross high speed traffic on their own.

He said the second item was the number of lanes of traffic. With regards to elementary students, the Traffic Safety Commission felt that an elementary student should not be expected to make a decision more than three lanes of traffic on their own. A lot of elementary students could not make that decision on their own.

The third item was sight distance. The Traffic Safety Commission felt they needed to take a look at sight distance because if there was not good enough sight distance to see the cars coming, the students would not be able to get across the street in the required period of time. He said for example, at the intersection of Bob Billings Parkway and George Williams

Way where they did have a request for an adult crossing guard, the Traffic Safety Commission did not recommend that crossing guard because it did not meet the criteria and there were not enough students. When they looked at sight distance at that location, based upon the speed limit of 45 mph of traffic, and pedestrian crossing time of 24 seconds for an elementary student to cross that street, a vehicle would travel the distance of 1,584 feet. A student on the southwest corner trying to cross the street would have to look and there might be a hill that obstructed the view of approaching traffic. They wanted to make sure if sight was obstructed, it would be a criteria for an adult crossing guard to help those elementary students get across the street.

Commissioner Amyx said he thought staff had done a very good job in recognizing what they had looked at several months ago when the item came before the City Commission and made a very positive recommendation. He appreciated the work done.

Mayor Hack called for public comment.

After receiving no public comment, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6748, amending the School Crossing Policy. Motion carried unanimously.

(13)

**Consider approving the work schedule for the 2<sup>nd</sup> Street and Locust reconstruction project, including incentive package.**

Chuck Soules, Public Works Director, presented the staff report. He said their project was scheduled for bid February 20, 2008 with the City Commission's approval of this supplemental specification that the Kansas Department of Transportation and City staff put together.

He said October 18<sup>th</sup> was the project completion deadline. Because of planting season, it might be extended to March 15<sup>th</sup> for the incidental/subsidiary work of sodding and landscaping. He said October 21<sup>st</sup> was the deadline to have that road reopened before liquidated damages set in at \$2,500 per calendar day.

If the contractor completed the project by September 1<sup>st</sup> including the cleanup, the City would provide a \$50,000 incentive. If the entire project completion was after September 1<sup>st</sup>, but prior to October 18<sup>th</sup>, the contractor would receive \$1,000 a day, up to a maximum of \$30,000.

He said he had not seen too many projects that KDOT let with an incentive, but they realized this was important to the City. As the Commission discussed in December, staff talked to emergency services and constructing this project while the Turnpike was working on the West Lawrence interchange in June was preferred because it gave that second access into North Lawrence not only from across the bridge but from the Turnpike. Construction sequencing as far as the cost of construction could go up if the Commission decided to delay this project.

Commissioner Amyx said he thought staff had done a good job in laying out the scope of work that had to be completed by a certain date and making sure the emergency vehicles could use the West Lawrence interchanges. He said he was going to rely on Soules and his expertise to make sure they did not run into anything between now and October.

Mayor Hack called for public comment.

After receiving no public comment, **it was moved by Chestnut, seconded by Dever**, to approve the work schedule for the 2<sup>nd</sup> Street and Locust reconstruction project. Motion carried unanimously. (14)

**Follow up to January 12, 2008 study session on economic development.**

David Corliss, City Manager, presented the staff report. He said staff tried to hit the work items the City Commission wanted staff to review and provide regarding draft policies, draft language, and additional information. He wanted to make sure staff captured all the directions from the study session. He said if there were additional items or corrections, staff looked forward to that direction.

Commissioner Highberger said he mentioned the idea of looking how they could use the City's policy to work with expanding existing local small businesses. He said that was something he would like them to give some consideration to in the future.

Mayor Hack asked what Commissioner Highberger hoped would be the outcome because the City did have a policy that looked at retention and expansion of existing businesses.

Commissioner Highberger said he was looking at smaller businesses. He gave the example last time where they were looking at a project where they were going to spend in excess of \$50,000 per job created. He thought if they had resources available, he suspected there were dozens of smaller, local firms who would be happy to commit to creating jobs for less than that amount. He was sure someone was out there who was willing to hire someone if they could buy another truck and could get half the cost of the truck, they could put another person on the job. If there were some mechanism for people to approach the City and if the City had the resources, he thought it would work. He said those were the jobs that stayed and were the jobs that were created by smaller, local based businesses.

Mayor Hack said they talked about increasing the number of tools in their toolbox and that would be one tool. She said data indicated that 80-90% of jobs were created by existing businesses with the opportunity to expand.

Commissioner Chestnut said it looked like the City would draft an Economic Development Policy that was outside the tax abatement area. He thought certainly in that body, there ought to be discussion about existing small businesses and also in developing a draft policy for cash incentives, in particular, when they talked about the purpose and the target that that might be one of the objectives to address. A TIF would probably not be for a smaller project, but more of a direct type of contribution. He was glad that was brought up because Vice Mayor Dever mentioned that they ought to specifically address those in those highlights.

Mayor Hack said the assumption was sometimes those small businesses were not getting the fireworks and were not being addressed, but it was quite the contrary. The City Commission needed to do a better job of letting the public know and also having those items in their toolbox.



Vice Mayor Dever said he wanted to address the idea of a meeting and look within the rules and policies within the City and the legal limits to determine what tools were available to help small businesses. The Commission needed to determine what sums of money they could identify and where that money was going to come from. He said whether it was economic incentives or tax deferment or abatement, they had talked about it in large sizes and was something he did not see in the list. He thought they should specifically have a bullet item that stated to identify tools and statutory limits on what they could do for small businesses and make sure if they could not do it, explain to people why they could help a larger new business, but not a smaller business to help dispel myths about wanting to only help big businesses. He said Commissioner Highberger was correct that if they could give somebody \$5,000 and could provide \$50,000 worth of benefit, it was just as good as an investment as \$50,000 bringing in a million. He said there were costs, benefits, and risks. Small businesses were less risky in some instances than the larger businesses.

Mayor Hack said as they look at the bottom bullet developing draft policies for consideration was certainly within that cluster. She said the City had statutory requirements for tax abatements, but that did not preclude the City from having their own policies and toolbox ready for those very things they were talking about.

Mayor Hack called for public comment.

Beth Johnson, Lawrence Chamber of Commerce, said as an economic development practitioner, the need for clarity, detail and options in their available incentives was important to their efforts to compete with other communities and regions. As they said in the past, having competitive tools in the toolbox, as mentioned, was essential to those efforts. The City Commission decisions have an impact on their ability to use those tools; therefore they hoped to work with the City Commission as they continued to provide clarity and understandability to those efforts and to add to that toolbox.

In the past, Lawrence had used tools and incentives in the establishment of the East Hills Business Park. That incentive was seen as an investment, an investment that today provided for over 2,600 jobs, over 1 million square feet of buildings, and over \$2 million in property taxes that was paid in 2006 divided between the City, the County, the School District and the State. It was a great incentive and investment in the community.

The market in which they compete for companies was becoming even more competitive and incentives were used not only for industrial projects, but also for corporate office attraction, bioscience, and small businesses. They could look to the neighboring communities to see some of the different tools they were using as well.

She said they were ready to work with the City Commission as they continued to move forward to add tools to that toolbox and be more competitive as a community looking to attract and expand on the businesses in Lawrence.

Laverne Squier, Lawrence Chamber of Commerce, said he wanted to applaud the City Commission and City staff on work done to date on the incentive discussion. The incentive discussion, talk of the toolbox, and how it was equipped or not, was something that had been going on for some time. He thought it was a great time now to really flesh that discussion out in full. If going beyond tax abatements and talk about tax increment funding, the TDDs, or those other kinds of things that were out there, he thought it was a good conversation to have.

He said small businesses comprised the bulk of the community, the bulk of the Chamber membership, and therefore those small businesses should be assisted whenever possible. He said in part, what the Chamber heard from small businesses, that they were assisting, were that sometimes those small businesses needed assistance and sometimes they needed to be left alone. From a City perspective, relative to regulations and all the things those small businesses had to comply with, those over pressures were the burdens they had to bear were a way the Chamber could help those businesses.

He said the Chamber tried to operate across the spectrum. One of the goals the City Commission had articulated by City staff and the County as well was removal of the machinery and equipment taxation at the state level. That left the City and County with less income. One of the ways to replace that money was replacing it with property taxes that would be paid on real property. Since the equipment was no longer taxable, the real property becomes taxable and became the area of focus. Translated, the more brick and mortar they could cause to happen in the community, those ultimately pay new tax dollars. Small businesses paid tax dollars and real property tax dollars. Those small businesses might be paying on their older machinery and equipment that was not grandfathered out based on the state law.

He said he wanted to thank and support the City Commission for starting this economic development discussion, as one of the Economic Development partners in the community. He said the Chamber would like to be part of the dialogue as those discussion moved forward.

Hubbard Collingsworth, Lawrence, said another issue was how education was going to be addressed into the public and private sectors in the community. He said a micro loan process could be developed, via the City or with a consortium of banks in this City.

Mayor Hack said in one of the City Commission's study session, one area of discussion regarded the importance of continued community conversations so there was general comprehension and understanding about the large issue of abatements and incentives and how critical those were to future economic development in Lawrence. She said along with that thinking was what other opportunities there were to help Lawrence's existing businesses and providing jobs to citizens. Having this type of conversation was critical to that end of education.

Commissioner Amyx asked if staff would draft those policies and recommendations.

Mayor Hack said the City Commission could ask staff to draft a rough outline of those policies and recommendations.

Corliss said staff, in their memo, was asking for some timeframe and level of expectations as to when the City Commission would like those items reviewed. It was important

to make substantial progress in drafting those policies and recommendations. He said getting those drafts out did not mean those drafts would be adopted because the City would want to involve their partners in the comments. Some of the items were more city oriented than others, for example, transportation development district, anyone could comment on that issue, but it was a public improvement financing tool the City Commission could address to decide what type of policy they wanted. He said the City Commission might want to look at the cash incentives and the City's current tax abatement policy. He said clearly, the economic development policy regarding the type of economic development the City wanted, and what tools were needed had to involve not only the public in general, but more specifically, the City's stakeholders. He said the City needed to go back and remind themselves of what policies were now in place and refresh those policies as appropriate and look at other issues. He said it was clearly indicated by the City Commission that they wanted to look at small business issues, incentives, tools and their statutory limits, and staff would provide that information letting others comment as well.

Mayor Hack said there were several different issues in terms of goals and objectives for economic development, but those were articulated in the City's various policies and Commission goals. She said perhaps some of the information received from Gilmore and Bell, the City's Bond Counsel, would help the Commission clearly define the City's policies on TIF's and TDD's. Regarding incentives, it was important to look at the City's tax abatement policy, the Public Incentive Review Committee and the Economic Review Board and how those committees could work together or if those two overlapped in some areas. Also, she suggested discussing the toolbox, and what other types of incentives the City could provide.

In terms of a timeline, the goals could be discussed within the next two to three weeks because much of that information was already available. The TDD and TIF could be discussed after Gilmore & Bell presented information to staff. Tax abatements and incentives in general, needed more time to clarify the City's options and how the partners would be involved.

Commissioner Amyx asked if the Commission's goal was to draft a New Economic Development Policy that the Chamber and others could present to interested companies who wanted to locate or expand in Lawrence. It would be helpful to look at one new policy, instead of multiple policies, that would cover the entire list of those types of items and would be helpful to the Chamber.

Mayor Hack said Commissioner Amyx was correct and there were various components. One of the components needed to be flexibility and creativity.

Commissioner Amyx said flexibility was needed for things like borrowing money or expanding a business to help make decisions.

Commissioner Chestnut said he agreed with the overall economic policy. The tax abatement policy needed some work, but they had a policy which moved it to a lower priority versus the cost benefit analysis needing to be redone. He said cost benefit as far as review process was important and needed to be vetted out from a public standpoint extensively. He said with the draft policies on the TDD and TIF, examples were found and could be put together in a short order. The review process was one that had to go right behind it and the stakeholders would be interested in it as well.

(15)

**Discussion of 2008 City Commission meeting schedule.**

Mayor Hack said the City Commission tried an experiment regarding City Commission meeting times which was three Tuesdays a month and one Thursday morning which was to pay bills. She said her concern was the City Commission asked staff for information that required an enormous amount of time to gather that information for discussion. If meetings could be structured so they were not making major policy decisions late at night, it would not make a difference whether the meeting took place on a Thursday morning or Tuesday night. She said she was concerned that as they moved toward some important policy decisions that they gave staff adequate time to give the Commission information to make their decisions.

Corliss said there were a lot of issues on the future agendas memo. He said the City Commission's February 5<sup>th</sup> meeting would be a light meeting and staff could catch up on a number of items that needed to be processed.

Mayor Hack said that was why the Commission would continue with Tuesday evening meetings.

Commissioner Amyx said changing the times the City Commission met worked out well during the budget discussions. He said regarding future agenda items staff needed to get caught up so people did not need to wait for decisions to be made which was the responsibility of the Commission. He said staff provided the Commission with an abundance of information and needed time to get that information out. One suggestion would be that once a month, meet earlier in the evening to give staff time before a long meeting took place that next week.

Commissioner Chestnut said he agreed. He preferred to have the line up on Tuesday night, but agreed to one meeting a month that tried to be lighter than the other three. Also, it gave the City Commission the flexibility if something important came up to address. The Thursday morning meeting became difficult because someone might not be able to show up, but he agreed that they needed to lighten up on one of those weeks because once 10:30 came around, focusing was difficult. (16)

#### **PUBLIC COMMENT:**

Hubbard Collingsworth said as a member of the public, the public wanted to offer their sincere appreciation to the City Commission and to City staff for doing an excellent job.

#### **FUTURE AGENDA ITEMS:**

01/29/08

The "Links" item has been moved from the January 15, 2008 City Commission Agenda to January 29, 2008 at the request of the applicant.

- Consider the following items related to The Links at Lawrence, a Planned Residential Development containing 40 multi-dwelling buildings with 12 dwelling units per building for a total of 480 dwelling units, located at the intersection of Queens Road & Wakarusa Drive.

- a) Consider approval of the requested annexation of approximately 81.13 acres for A-11-07-07 for The Links at Lawrence, located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record. (PC Item 4A; approved 8-1 on 12/17/07) Staff Report Map of Area Correspondence

**ACTION:** Approve requested annexation (A-11-07-07) of 81.13 acres located at the intersection of Queens Road & Wakarusa Drive, and adopt on first reading, Ordinance No. 8225, providing for the annexation of approximately 81.13 acres, if appropriate.

- b) Consider approval of the requested rezoning Z-11-28A-07, a request to rezone a tract of land approximately 80 acres, from A (Agricultural) to RM12 (Multi-Dwelling Residential). The property is located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record. (PC Item 4B; approved 7-2 on 12/17/07)

**ACTION:** Approve requested rezoning (Z-11-28A-07) of approximately 80 acres located at the intersection of Queens Road & Wakarusa Drive, from A to RM12 and adopt on first reading, Ordinance No. 8226, providing for the rezoning of approximately 80 acres from A to RM12, if appropriate.

- c) Consider approval of the requested rezoning Z-11-28B-07, a request to rezone a tract of land approximately 80 acres, from A (Agricultural) to RM12-PD (Multi-Dwelling Residential Planned Development Overlay). The property is located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record. (PC Item 4C; approved 7-2 on 12/17/07)

**ACTION:** Approve requested rezoning (Z-11-28B-07) of approximately 80 acres located at the intersection of Queens Road & Wakarusa Drive, from A to RM12-PD and adopt on first reading, Ordinance No. 8227, providing for the rezoning of approximately 80 acres from A to RM12-PD, if appropriate.

- d) Consider approving, subject to conditions and use restrictions, PDP-11-06-07, a Preliminary Development Plan for The Links at Lawrence, located at the intersection of Queens Road & Wakarusa Drive. Submitted by JEO Consulting Group, Inc. for Lindsey Management Co., Inc., contract purchaser, and Turner Douglas LLC et al, property owner of record. (PC Item 4D; approved 7-2 on 12/17/07) Staff Report Preliminary Development Plan

**ACTION:** Approve, subject to conditions and use restrictions, PDP-11-06-07, if appropriate.

- Consider request from Lawrence Freenet for City support for “Freenet-Kids”.
- Consider authorizing the City Manager to enter into an Engineering Services Agreement with Professional Engineering Consultants, in the amount of \$285,680, for completion of the design and construction phase services for the West Baldwin Creek Interceptor Sewer and initiation of condemnation proceedings, if appropriate.

**ACTION:** Authorize the City Manager to enter into an Engineering Services Agreement with Professional Engineering Consultants, in the amount of \$285,680, for completion of the design and construction phase services for the West Baldwin Creek Interceptor Sewer and initiation of condemnation proceedings, if appropriate.

- Consider authorizing the City Manager to execute a contract with Burns & McDonnell for design and construction phase engineering services for Phase I of the Kaw Water Treatment Plant Transmission Main and additional services associated with property acquisition along Phases II & III, and the design and construction of the Kansas River crossing associated with Phase II.

02/05/08      The February 5, 2008 City Commission meeting will start at 5:00 p.m. and will consist of bill paying items and consent agenda items.

- 02/12/08
- Conduct public hearing on the advisability of the construction of improvements at the intersection of Congressional Drive and 6<sup>th</sup> Street, including property acquisition, subgrade stabilization, traffic signals, and traffic calming devices south of 6<sup>th</sup> Street along Congressional Drive to the southern most point of Tracts 9 and 10.

Consider the following items related to the Proposed Oread Inn project (12<sup>th</sup> and Oread): *Following commission discussion at the December 27, 2007 City Commission Meeting, the land use findings will be considered after the completion of the financial feasibility service study.*

- a) Receive financial feasibility study.
- b) The public hearing on the appeal of the Historic Resources Commission determination for DR-07-93-07 was conducted on November 13, 2007. Additional public comment from the applicant and the public in response to recently submitted material would also be appropriate.



**ACTION:** Receive public comment.

- c) Consider making a determination on the appeal of the Certified Local Government Review under K.S.A. 75-2715 – 75-2726, as amended:

**ACTION:** Make a determination based on a consideration of all relevant factors that there is no feasible and prudent alternative to the proposed demolition of the structures located at 1140 Indiana Street, 1142 Indiana Street, 1144 Indiana Street, and 618-620 West 12<sup>th</sup> Street and the new construction proposed for the site, if appropriate.

**ACTION:** Make a determination that the proposed project includes all possible planning to minimize harm to the listed properties, if appropriate.

- d) Consider making a determination to issue a Certificate of Appropriateness for the demolition of the structures located at 1140 Indiana Street, 1142 Indiana Street, 1144 Indiana Street, and 618-620 West 12<sup>th</sup> Street and the new construction proposed for the site.

**ACTION:** Make a determination to issue a Certificate of Appropriateness for the demolition of the structures located at 1140 Indiana Street, 1142 Indiana Street, 1144 Indiana Street, and 618-620 West 12<sup>th</sup> Street and the new construction proposed for the site, if appropriate.

- e) Consider approval of the requested rezoning and direct staff to draft ordinance for Z-07-13-07, a request to rezone a tract of land approximately .746 acres, from CN1 (Inner Neighborhood Commercial) & RM32 (Multi-Dwelling Residential) to PCD-2 (Planned Commercial Development). The property is located at 618 W 12<sup>th</sup> Street. Submitted by Paul Werner Architects, for Triple T, LLC, property owner of record. (PC Item 6A; approved 9-1 on 10/22/07)

**ACTION:** Approve rezoning, Z-07-13-07, and direct staff to draft ordinance for 618 W 12<sup>th</sup> Street, if appropriate.

- f) Consider approval, subject to conditions and use restrictions, PDP-07-03-07, a Preliminary Development Plan for Oread Circle (Oread Inn), located at 618 W 12<sup>th</sup>

Street. The plan proposes mixed use residential and commercial development. Submitted by Paul Werner Architects, for Triple T, LLC, property owner of record. (PC Item 6B; approved 9-1 on 10/22/07)

**ACTION:** Approve, subject to conditions and use restrictions, PDP-07-03-07, if appropriate.

- g) Conduct public hearing on proposed redevelopment district.
- h) Consider passing ordinance creating redevelopment district.

02/26/08 • Consider the following items related to the proposed Oread Inn project (12<sup>th</sup> & Oread):

- a) Adopt resolution calling for a public hearing on proposed redevelopment plan.
- b) Adopt resolution calling for a public hearing on proposed Transportation Development District.

TBD

- Discussion of Snow Removal Ordinance.
- Fire/Medical Department Apparatus Replacement Plans
- Receive follow-up staff report on sales tax options
- Access Management including Traditional Neighborhood Design Code issues
- Presentation of Transportation 2030 Plan
- City Commission consideration of revised Preliminary Development Plan for Bauer Farm development at 6<sup>th</sup> and Wakarusa, submitted by the applicant on November 29, 2007.
- Consideration and discussion of proposed Neighborhood Revitalization Act plans. The Lawrence Association of Neighborhoods has indicated an interest in establishing a task force to review applications of the NRA.
- Consider amendments to Sections 20-804, 20-805, 20-808, and 20-815 of the Development Code for TA-09-21-07 to clarify that access shall be taken from a hard-surfaced road. (PC Item 13; approved 8-2 on 10/22/07. Approved by County Commission on 11/14/07.)
- Consider approving request from Aquila, Inc., to transfer its franchise to Black Hills/Kansas Gas Company, LLC, and authorize the Mayor to sign the Franchise Transfer Consent Letter.

- Proposed City of Lawrence – DMI agreement for Convention and Visitors Bureau services.
- Consider County request regarding special assessments in the East Hills Business Park.
- Presentation by Northern Flyer Alliance regarding intercity passenger rail service.
- Discussion of City/County funding relationships
- Consider the following items related to the Farmland Industries Redevelopment Plan:

- a) Consider approval of the Farmland Industries Redevelopment Plan. (PC Item No. 14; approved 9-0 on 11/28/07)

**ACTION:** Approve Farmland Industries Redevelopment Plan, if appropriate.

- b) Consider adopting on first reading joint City Ordinance No. 8218/County Resolution No. \_\_\_\_ regarding the Farmland Industries Redevelopment Plan and CPA-2007-05, amending Horizon 2020, Chapter 14 Specific Plans.

**ACTION:** Adopt on first reading joint City Ordinance No. 8218/County Resolution No. \_\_\_\_, if appropriate.

- Approve, subject to conditions, SP-03-25-06, a site plan for improvements to the northwest corner of 9<sup>th</sup> and Vermont Streets (Carnegie Library). Submitted by Peridian Group, Inc., for the City of Lawrence, property owner of record.
- Receive status report regarding the timing and scope of sanitary sewer projects, and consider the following items:

- a) Consider authorizing staff to advertise a Request for Proposals (RFP) for engineering services to review the scope and timing of the Wakarusa Water Reclamation Facility and perform a watershed sewer service plan.

**ACTION:** Authorize staff to advertise a Request for Proposals (RFP for engineering services to review the scope and timing of the Wakarusa Water Reclamation Facility and perform a watershed sewer service plan, if appropriate.

- b) Consider authorizing staff to distribute a Request for

Proposals for a Construction Management Agreement for the expansion of the wet weather storage capacity at Pump Station 09 (Four Seasons).

**ACTION:** Authorize staff to distribute RFP, if appropriate.

The Airport Business Park items have been deferred indefinitely at the applicant's request.

Airport business park land use and public financing issues. ***Because valid protest petitions have been received, a super-majority vote (4 votes) would be needed regarding the rezoning items.***

- (a) Consider approval of the requested annexation of approximately 144.959 acres and direct staff to draft an ordinance for A-06-05-07, for Airport Business Park No. 1, located at E 1500 Road and US Hwy 24/40. Submitted by Landplan Engineering, for Roger Pine, Pine Family Investments, LC, and Kathleen and Brian Pine, property owners of record. (PC Item 16A; approved 5-2 on 10/24/07)
- (b) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-09-07, a request to rezone a tract of land approximately 99.31 acres, from A (Agricultural) and B-2 (General Business) Districts to IL (Limited Industrial) District with use restrictions. The property is located at the intersection of E 1500 Road and US Hwy 24/40. Submitted by Landplan Engineering, for Roger Pine, Pine Family Investments, LC, and Kathleen and Brian Pine, property owners of record. (PC Item 16B; approved 6-1 on 10/24/07)
- (c) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-10-07, a request to rezone a tract of land approximately 43.48 acres, from A (Agricultural) and B-2 (General Business) Districts to IL (Limited Industrial) District. The property is located at the intersection of E 1500 Road and US Hwy 24/40. Submitted by Landplan Engineering, for Roger Pine, Pine Family Investments, LC, and Kathleen and Brian Pine, property owners of record. (PC Item 16C; approved 6-1 on 10/24/07).
- (d) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-11-07, a request to rezone a tract of land approximately 26.22 acres, from A (Agricultural) & B-2 (General Business) Districts to IL-FP (Limited Industrial-Floodplain Overlay) District. The property is located at the intersection of E 1500 Road and US Hwy 24/40. Submitted by Landplan Engineering, for Roger Pine, Pine Family Investments, LC, and Kathleen and Brian Pine, property owners of record. (PC Item 16D; approved 6-1 on 10/24/07).
- (e) Consider accepting dedication of easements and rights-of-way for PP-06-07-07, a Preliminary Plat for Airport Business Park No. 1, located at E 1500 Road & US Hwy 24/40. The Planning Commission will also consider a number of waivers from the Development Code with this

request. Submitted by Landplan Engineering, for Roger Pine, Pine Family Investments, LC, and Kathleen and Brian Pine, property owners of record. (PC Item 16E; approved 6-1 on 10/24/07).

- Discuss request from property owner at the southeast intersection of 9<sup>th</sup> and Iowa Streets concerning possible improvements.

**COMMISSION ITEMS:**

**Moved by Amyx, seconded by Dever,** to adjourn at 9:25 p.m. Motion carried unanimously.

**APPROVED:**

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Sue Hack, Mayor

**ATTEST:**

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Frank S. Reeb, City Clerk

## **CITY COMMISSION MEETING OF JANUARY 22, 2008**

1. 2008 Police patrol vehicle bid process.
2. Ordinance No. 8229 – 2<sup>nd</sup> Read, annex .07 acres of City owned property, W of Hill Song Circle & S of Interstate 70.
3. Ordinance No. 8230 – 2<sup>nd</sup> Read, Subdivison Regs, r Lawrence and Unincorporated Areas of Douglas Cnty.
4. Resolution No. 6751 – Public hearing, Feb 12, 2008, improvements at intersection Congressional Dr. & 6<sup>th</sup> St.
5. Supplemental Agreement No. 1 – KDOT, access point along 23<sup>rd</sup>.
6. Construction Administration Agreement - 23<sup>rd</sup> & Harper intersection.
7. Revise “How to Ride the T Lift Policy Manual.”
8. 2007 4<sup>th</sup> Quarter Case Mgmt Report - Bert Nash.
9. Supplemental Agreement - Black & Veatch, Stoneridge Dr Elevated Water Storage Tank for \$204,450.
10. City Manager's Report.
11. Sidewalk dining regulations
12. Electronic Immobilization Devices for LPD.
13. Resolution No. 6748 - amend School Crossing Control Policy.
14. Work schedule -r 2<sup>nd</sup> St & Locust reconstruction project.
15. Economic Development Study
16. 2008 City Commission meeting schedule.