



City of Lawrence

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CITY COMMISSION

MAYOR
SUE HACK

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

February 12, 2008

The Board of Commissioners of the City of Lawrence met in regular session at 5:00 p.m., in the City Commission Chambers in City Hall with Mayor Hack presiding and members Dever, Chestnut and Highberger present.

EXECUTIVE SESSION

It was then moved by Dever, seconded by Highberger, to recess into executive session to discuss non-elected personnel matters until 6:00 p.m. The justification for the executive session is to keep personnel matters confidential at this time. Motion carried 4-0. Commissioner Amyx arrived at approximately 5:20 p.m.

At 6:00 p.m., the Commission returned to regular session at which time the Mayor stated the Commission would take a short break and that the City Commission meeting will resume at approximately 6:35 p.m.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval, Mayor Hack proclaimed Sunday, February 17, 2008 as, "Think Pink Day."

CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to approve the City Commission meeting minutes from January 29, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to receive the Grant Review Board meeting minutes of October 22, 2007; and, the Planning Commission meeting minutes of December 17, 2007. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 419 vendors in the amount of \$2,208,184.84. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment License for On the Border Mexican Grill & Cantina, 3080 Iowa Street; and the Retail Liquor License to Hird Retail Liquor, 601 Kasold B-101. 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 Amy Kelly to the Lawrence Arts Commission to a term which will expire January 31, 2010; reappoint Matthew Veatch and Jay Antle to the Historic Resources Commission, each to terms which will expire March 1, 2011; and appoint Lyle Hettinger to the Public Transit Advisory Committee to a position that expired December 31, 2007 and Howard Hill to the Public Transit Advisory Committee to a term that will expire December 31, 2008; appoint John Geist, USD 497, Steve Hughes, Hughes Consulting Engineering, Chad Luce, Westar, Carey Maynard Moody, environmental community, Jeff Novorr, LMH, Jeffrey Severin, Director, KU Center for Environmental Stability, Simran Sethi, Sustainability Advisory Board member, Susan Rodgers, Hallmark, David Dunfield, Architectural Community, Dan Simons, The World Company, all to the Mayor's Task Force on Climate Protection. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize City Manager to execute purchase agreements for required property interests in the amount of \$21,139 from Jack L. Graham, Trustee, and in the amount of \$48,251 from Swan Management for the West Baldwin Creek Sanitary Sewer Project. **(1)**

The City Commission reviewed the bids for 35 radio headsets for the Police Department. The bids were:

BIDDER	BID AMOUNT
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Atlantic Signal LLC	\$20,608
BearCom	21,560

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to Atlantic Signal LLC in the amount of \$20,608.00. Motion carried unanimously. **(2)**

The City Commission reviewed the bids for one rotary mower for the Parks and Recreation Department. The bids were:

BIDDER	BID AMOUNT
Turf Professional Equipment Co.	\$33,768.88
Turf Professional Equipment Co., (3 yr lease)	\$11,950.41/yr
Turf Professional Equipment Co., trade offer	\$5,500.00
Midwest Turf	\$50,950.00
Midwest Turf, (3 yr lease)	\$24,456.00/yr
Midwest Turf, trade offer	\$3,500.00
Van Wall Equipment	No Bid

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to Turf Professional Equipment Company for a three year lease for \$11,950.41 a year, totaling \$35,851.23. Motion carried unanimously. **(3)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to set bid date of March 11, 2008 for the comprehensive rehabilitation projects at 1729 Louisiana, 2225 Barker Avenue, and 956 Lawrence Avenue. Motion carried unanimously. **(4)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to set bid date of March 18, 2008 for the Kaw Water Treatment Plant high service pump replacement project. Motion carried unanimously. **(5)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to place on first reading Ordinance No. 8057, rezoning approximately .85 acres from RS7 (Single-Dwelling Residential) to PRD (Planned Residential Development), Hanscom-Tappan Addition III, located at 1511 Haskell Avenue. Motion carried unanimously. **(6)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to place on first reading Ordinance No. 8231, providing for the annexation (A-04-03-07) of approximately 40 acres of City owned property located north of Folks Road extended and south of Interstate 70, for the remaining property of Pump Station No. 48. Motion carried unanimously. **(7)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt Resolution No. 6754, authorizing the Mayor to sign the application for the 2008 Emergency Shelter Grant from the City to the State of Kansas. Motion carried unanimously. **(8)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize City Manager to enter into Engineering Services Agreement for \$219,330 with Wilson & Company for preliminary engineering and plan preparation for 31st Street, Haskell Avenue to O'Connell Road, Street, Storm Sewer, and Waterline Improvements. Motion carried unanimously. **(9)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize Mayor to sign Authority to Award Contract/Commitment of City Funds with the Kansas Department of Transportation, for \$62,400, for improvements on Harper Street at 23rd Street. Motion carried unanimously. **(10)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize City Manager to add 731 Massachusetts and 732-34 Massachusetts to the list of approved incentive recipients for the Downtown Sprinkler Incentive Program. Motion carried unanimously. **(11)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize City Manager to submit federal funding requests to members of the City's Congressional delegation. Motion carried unanimously. **(12)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve as "sign of community interest" a request from Pilot Club of Lawrence to place a sign

promoting their antique show on the US Bank Property at Harper and 23rd Streets from February 29 to March 2, 2008. Motion carried unanimously. (13)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said staff would be closely watching building permits when watching the local economy.

Also, staff drafted a narrative about the City's snow removal efforts. He said when the City experiences heavy snow events, it involved a number of different City departments.

He said staff was anticipating a healthy number of potholes as the freeze/thaw cycle did its work on the City's 300 miles of streets and staff was gearing up to address that issue. (14)

REGULAR AGENDA ITEMS:

Consider adopting Resolution No. 6752, establishing the Mayor's Task Force on Climate Protection and approve appointments to the Task Force as recommended by the Mayor.

Cynthia Boecker, Assistant City Manager presented the staff report. She said this Task Force came forward as a result of a recommendation by the Sustainability Advisory Board. The resolution was modeled after a number of different efforts throughout the country. The names for the appointments reflected people from various aspects of the community that had interest and representation in sustainability and climate protection initiatives.

Michael Almon, Lawrence, said he had been interested in environmental, ecological issues for at least half of his life and this particular issue for the last 10 years. Given the gravity of this issue, which he thought only the hardest skeptics could continue to ignore, he appreciated how far Lawrence had taken this issue. He said some 5 years ago, the skeptics had the coverage in major media and this country was ignoring the problem. At the recent climate discussions, the U.S. Delegation which was continuing to be "foot dragging" was actually booed and heckled, and forced to submit to the will of the world and acknowledge that this was a serious problem. In the meanwhile, other cities, like Lawrence, had been taking the

bull by the horns since the federal government had advocated their responsibilities. Once again, this was excellent that Lawrence was taking this opportunity.

The way that energy consumption was viewed, conventionally, was by breaking it into 4 sectors of industrial, commercial, residential, and transportation which was an inadequate way of looking at those sectors. He said an there was an architect, who for 30 years of his career had looked at energy use in buildings and pointed out that it was more accurate to look at how energy was used in our economy by breaking it into 3 sectors. Those sectors were industry, transportation, and architecture, architecture comprising of how buildings were designed and built which encompasses residential and commercial sectors and part of the industrial sector that constituted buildings. He said buildings, when looking at the numbers in that way, contributed to 48% of our energy use and 48% of global green house emissions which was from constructing, operating, or anything about buildings.

He said he was concerned that Lawrence needed an architect on the Task Force because this Task Force was to address City operations specifically and then with some recommendations for future city-wide things. He said the buildings for City operations were a huge chunk of our economy and was important to have an architect on board.

He said initially there was to be a citizen representative, but he noticed there was none. He was also concerned that in other cities, there was a labor representative, particularly representing green occupations or green jobs. He said Commissioner Chestnut had introduced something to include green job evaluation to the City's tax abatement policy. It was an issue they were aware of and probably could be looked at if they were going to be shifting how the economy works in this City and employment would be a major part. He said he would be interested in seeing a labor representative too.

He said finally, the resolution was drafted from several other cities, primarily from Resolution 060777, from Kansas City. Some of the wording was directly taken from that resolution. He said it was a good resolution, but he was concerned that Lawrence's resolution

had left out some of the important aspects of the Kansas City resolution. Primarily, the Kansas City resolution directed the City Manager, in concert with the Director of their Environmental Management Office, to conduct the climate planning process which made it institutionalized within the government of Kansas City. He understood Lawrence's Task Force would probably be making a recommendation to that effect, but he thought it would be a little clearer, for the sake of the public understanding of what the Task Force was working towards, that it just be stated in the resolution the City Manager shall investigate how City organizational structure could incorporate an office of sustainability, including a full paid, staff person for that office as hopefully, on of the Task Force's objectives.

He also suggested using words in the resolution such as "establish goals" rather than "recommend goals", just to make the resolution a little more forceful, so the public and media was approaching this with a clear understanding and were all on the same page of what they really hoped to accomplish. He said he was fully aware that those excellent members of the Task Force would be working towards that goal any way they could and hoped the resolution would reflect that the City intended to follow through with what the Task Force accomplished with clear guidelines for implementation through staff dedication.

Mayor Hack said two slots on the Task Force were going to be filled, but one concern was if they had a representative from every single possible stakeholder group, it would be a committee that would be unmanageable. She said the Task Force would work together as a unit and then break-off into smaller subgroups dealing with specific issues. There was one major person on the Task Force that she neglected to mention who was the Vice Mayor and he would be the Chair of the group.

She said regarding the goals and the City Manager's role, those would come out in conversation with the Sustainability Advisory Board. She said she did not want Almon to think his concerns were not being heard because those concerns would certainly be heard.

Commissioner Highberger said there were places where the wording in the resolution could be a little stronger, but by adopting the Mayor's U.S. Climate Protection Agreement, the Commission had directed staff to move forward.

Moved by Dever, seconded by Highberger, to adopt Resolution No. 6752, establishing the Mayor's Task Force on Climate Protection and approve appointments to the Task Force as recommended by the Mayor. Motion carried unanimously. (15)

Consider the following items related to the proposed Oread project (12th and Oread):

- a) **Receive financial feasibility study and subsidy feasibility analysis.**
- 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.**
- c) **Consider making a determination on the appeal of the Certified Local Government Review under K.S.A. 75-2715 – 75-2726, as amended.**
- d) **Consider making a determination to issue a Certificate of Appropriateness for the demolition of the structures located at 1140 Indiana Street, 1144 Indiana Street, and 618-620 West 12th Street and the new construction proposed for the site.**
- e) **Consider approval of the requested rezoning 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), located at 618 W 12th Street.**
- 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. 12th Street, proposing a mixed use residential and commercial development.**
- g) **Conduct public hearing on proposed Oread redevelopment district.**

David MacGillivray, Springsted Financial Advisors, said he had two presentations which related to the Tax Increment Financing District and part of that establishment process was the performance of a feasibility study and a finding by the elected officials that the benefits exceeded the costs. The second presentation related to the need for the public subsidy of Tax Increment Financing (TIF), in this case, Transportation Development District (TDD) statutory

inducement. He said with those discussions, they would respond to the question about height, 7 stories versus 6 stories, and how that related to the feasibility of the project.

He said tax increment financing was a financial tool designed to tax the increases in property value resulting from property improvements. That incremental basis of additional tax revenues was used to fund project costs and public improvements that were defined by statute.

The Oread project was a single structure consisting of 116,000 square feet with 106 rooms, but noted the plan was still under design in terms of room configuration. He said there were approximately 92 hotel rooms, 14 condominium units and associated commercial space. An underground parking facility was integrated into the structure which was an amenity for the hotel, but also eliminated the need for surface parking.

The financial feasibility study would show the project's benefits which were a tax increment revenue, and other related public revenues, under state statute, and were expected to exceed or be sufficient to pay the project costs. In this case, it was predominately roadway improvements or public rights-of-way and if money was available, for the parking structure underneath the hotel facility.

He said tax increment financing had two potential revenue sources, property taxes and sales taxes. In this case, it was only the property and sales taxes from this structure and was not city wide. In terms of the property tax element, fundamentally, the parcels involved were already generating property tax which was the base amount and those taxes continued to flow to the existing taxing units. The County, City and School District would receive their share over the life of the district. The Oread project would be built on top of four parcels of property. Currently, the valuation of those parcels, assessed value, was \$559,075. He said working with other Counties that had built this type of hotel in Kansas, the fair market value, for tax purposes, related to an assessed value of \$2.5 million.

As stated, this was incremental property taxes which was a new value that was created where certain tax rates were applied and was assumed with this study, that payable 2008

property tax rates which were the most recent available, there were certain property tax rates that did not go into tax increment districts. He said there would be a valuation increase and a tax rate. He said when looking at the property taxes and tax incremental financing, Kansas permitted up to 20 years of collection. He said if taking the increase in property taxes only, over the entire 20 year period, it would equal \$3.5 million.

He said the developer also was requesting the use of tax increment financing (TIF) which again was the sales tax generated from the new hotel only. There was a City and County tax rate which each were 1%, totaling 2%. The County had its own separate process to approve its participation.

He said the developers projected annual sales to be \$5.45 million. In the State of Kansas there were things that were excluded from paying sales taxes such as people that work for higher education institutions that might go out and have related business activities. He said their firm had a fairly heated discussion about how much of a percentage that would be and their firm reduced the amount of sales that were subject to taxation by 30%. Therefore, the developer's taxable sales were \$3.8 million and the projected sales tax revenue over the term was \$1,489,873 over a 20 year period.

The combination of property and sales tax increment over the 20 year period was \$5,001,787.

The developer was also requesting a Transportation Development District (TDD) which was a defined geographic area imposing an additional 1% sales tax that would be used for eligible project costs defined by the statute and collected over 22 years which generated over the entire term \$917,095 based on those assumptions.

The developer was going to provide total financing for entire package with the public improvements which was \$37,000,000.

He said regarding projected costs, there would be no obligation on the part of the City to contribute to any shortfalls to finance the \$11,000,000. The developer would be financing the

entire package and only to the extent that TIF and TDD monies were received. The City would collect those monies and pay that money back to fund whatever obligation the City could, but with a ceiling.

In terms of benefits exceeding cost, there were \$11,000,000 of costs, the City's revenue sources under those incentives programs were \$5.9 million and the developer had to come up with the remainder.

He said in the report there had been some discussions with the developer on how this financing would occur and it was germane to this topic. Potentially, there was \$11,000,000 of possible costs and what had been discussed with the City, so far, was if additional money was produced beyond that \$5.9 million figure that additional money would go 100% to the developer up to a point of \$7.1 million and that figure was based on what the developer thought this project would generate. If that figure was even more robust than anything over that amount, 50% of that money would go to the developer up to statutory permitted maximum of \$11,000,000 and 50% would come out of the TIF District and be remitted to the underlying taxing entities which were the City, County, and School District which became a benefit flow into the public sector locally.

He said the second presentation related to the need for the public subsidy of Tax Increment Financing (TIF), in this case, Transportation Development District (TDD). He said their firm had to play under certain ground rules which was constructive for the City in that when every other private party like this proposed development came forward and made representations about needing money, there was always a bit of head scratching as to whether those developers needed the money and other questions. It was an extremely rare case where the developer turned those plans over to the City to address because those plans then became public documents such as bank statements, income tax returns and other personal documents, plus there was a competitive situation where they might have a good idea for a hotel and

someone else might look at the same idea. He said his firm had executed a confidentiality agreement with the development firm and would not release information.

He said regarding the Subsidy Feasibility Analysis, it was not an audit or an accounting activity, but fundamentally a professional opinion on a project, a project that had not been built yet and a business plan that had not started over a 20 year period. It was a professional exercise and their firm did a lot of those exercises for fairly sophisticated projects in a lot of states. He said their firm was not present to argue if it was 6.2 or 6.3 because it was a range of more probable outcomes.

He said he would start referring to something described as an "internal rate of return" which was basically the same thing in making an investment and getting interest paid back. He said if a person had a U.S. Treasury Bill, it was most secure investment a person could have. He said 5 years would be 5% which was the rate of return which could be looked at in terms of an analogy when going through some of those numbers.

The City had looked at a number of options and part of their analysis would respond to those options.

The term "but for" was a term in tax increment financing lingo that if the developer did not get the money, would they still build the project or the developer would not build the project "but for" the interjection of this public incentive. He said their firm was asked to look at that as the proposal represented a seven story project and if the project was financially feasible with it or without it.

He said other questions were if this project would be feasible with a six story structure which was included in their study; and if in their professional opinion their firm was offering, if the amount stated by their firm was too conservative and the developer ended up getting a lot more money, what would happen.

He said their firm was not in the hotel business and they had to take something from the developer's business plans such as financial statements, projections, etc. He said they did not

take those documents on faith, but they started with those documents. He said with the TIF and TDD, their firm looked at different levels of assistance to evaluate that and went out 10 years to look at the potential financial performance of the project over that 10 year period to see if the developer would get an adequate rate of return.

The developer had retained a respected national hotel feasibility consultant HVS, and their firm used HVS's materials which were more conservative than the developers. He said they tested the HVS's material, but had some solace because their firm had a brand name national hotel consultant and their best interest was to give good advice to their general market, not this particular developer.

He said the developer had a very elaborate seven story hotel and if it would be six stories, what would happen. He said the developer's information was that a seven story would generate a small profit, \$10,000 and asked the developer why they would want to do that if they were only making \$9,600 a year. If they constructed a 6 story hotel, they would lose \$893,000. If looking at the developers numbers by the TIF project, it would cost \$6,000,000 to build this hotel and sell it for \$6,000,000, but his firm knew the developer would make money, so they probed for information, and the developer would make money, but in a different line item.

He said the developer had set up a limited liability corporation and would be financing everything themselves, including a public streets and garage. He said the developer would be taking a risk if constructing this project on a City general obligation basis, which they were not. The developer was shouldering all that risk and he thought the developer should get some credit for shouldering all that risk.

He said regarding the parking garage, the way the assessors handled that was it was all in the hotel value and there was no extra credit for the parking ramp, but their per room hotel value went up a little bit because they had structured parking underneath.

He said developer equity was \$10,000,000 and in all candor that was not seen very often and it was a fairly high level for those sources and uses which was a good demonstration of good faith in the project.

He said the developer was going to finance the public improvements which would be 20 years debt at a 6.5% interest rate. That rate was very attractive rate from the City's perspective. He said this was done in a lot of other places and for a 20 year transaction, for one hotel where the developer was taking all the risk, was a reasonable rate for the City. The developer had 1% inflator on revenue expenditures which was also very reasonable.

He said one thing the developer did not have in the materials that were sent to his firm was the sale of the hotel. He said the developer did not expect to sell the hotel, but if making an investment, ultimately, they would have a valuable piece of real estate which was worth something. In order to calculate the internal rate of return, he included a theoretical sale of the asset, the full-service hotel, in the tenth year. The fair market value of the asset was estimated based on the net income in the tenth year and an estimated 9.5% cap rate.

He said the range of internal rate of return (IRR) calculated with the TIF/TDD payments was between 8% and 13% based on those 5 alternatives and without the TIF/TDD payments was 5% to 10%. He said they went to a national source, real estate investor, which reported discount rates (IRR) for the full-service lodging segment ranged from 9% to 14% with an average of 11%. He said there was a basis to say that the developer needed the money.

He said City staff had asked their firm to talk to the City's Convention and Visitors Bureau because they had a good handle on numbers and what was happening in Lawrence. He said they tried to get some local flavor to what the hotel market was in Lawrence.

He said in their report, what was found regarding the alternative six story project, was the following:

"The basis for our financial feasibility estimate, if the completed structure is limited to six-stories versus seven, is the Developer prepared height analysis. As previously stated, the Developer prepared a three-year operating analysis whereby the revenue expectations for a six-story

facility would decline approximately 8% and the total expenditures would only decline 3.5%. The Developer's analysis shows that this would result in significant ongoing annual losses. The Developer maintains that there are certain costs, specifically the public infrastructure, fixed operating levels, and minimum parking garage costs that are necessary even with one less story.

Using a straight 3.5% reduction in project costs (other than the public infrastructure) combined with an 8% reduction in operating revenue results in even lower IRR's than those for the seven-story structure. Since the height analysis included adjustments to operating revenue and expenses only and did not reduce the condominium sales, we assumed the same level of condominiums and revenue from sales in the six-story alternative. We calculated a range of Developer IRR's with TIF/TDD payments (also reduced as described above) of 4% - 7%. We prepared the same base and alternative calculations as for the seven-story structure.

As in the seven-story analysis, even if the Developer were to be reimbursed for the total costs of \$11,000,000 plus interest, the IRR range indicated above would increase only modestly to 5% - 8%. This range would continue to fall below the range of market returns. Also as previously stated, this alternative revenue stream generates a total of \$12,000,000 and greatly exceeds the projected revenue and in our opinion is an unlikely occurrence."

In conclusion his report indicated the following:

"Alternative Six-Story Project: As detailed above, the projected IRR to the Developer if a six-story structure is completed, versus the requested seven-story, falls well below the current range expected within the marketplace. Therefore, Springsted concludes that the six-story alternative would not be financially feasible if a market return is expected.

Proposed Seven-Story Project: Also as detailed above, the projected IRR to the Developer if a seven-story structure is completed without any TIF or TDD assistance is at the low end or below the current range expected within the marketplace. Therefore, Springsted concludes that the proposed seven-story project would not be financially feasible without the projected TIF/TDD revenue if a market return is expected.

Proposed Cap on Total TIF Reimbursement: Alternative TIF revenue projections prepared in order to test the affects of the proposed cap result in a de minimus change to the Developer's projected return. Therefore, Springsted concludes that if the contract with the Developer enables reimbursements based on the costs of the project plus interest with a total cap, the potential return to the Developer would not exceed market expectations and would enable the return to the Developer to reach the upper-end of the range.

Commissioner Amyx asked if this project was almost performance driven to capture the incremental financing through the TIF and TDD. He said this developer had to perform and the numbers were needed in order to receive those benefits back to that company.

MacGillivray said yes.

Commissioner Amyx said regarding shortfalls, he understood the developer would be financing the project 100% if those projections were not met.

MacGillivray said the developer was going into debt \$11 million dollars, \$5 million for the City streets and \$6 million for the parking structure and the City was only going to remit what it collected in TIF and TDD which was a proposed structure of a development agreement, but they did not have a development agreement yet. He said that had been the discussion, to date, on how that would work. If the proposed development only produced \$3 million of TIF and TDD, then the developer would only receive \$3 million over time. He said their firm had worked in states where they structurally changed the property tax system where they took the schools off the property tax and those were hard times for developers with pay as you go structures.

Commissioner Amyx said the City, County and School District would continue to collect the base amount, but as for the incremental financing that was being requested for the increase in property tax, that new increment between the appraised value, once completed, versus the base year that was being collected and the sales tax that would be collected from the new facility would pay the debt through TIF and TDD with a cap of \$6 million, with that additional \$1.1 million between \$5.9 million and \$7.1 million, up to a maximum amount of \$11 million which the difference between the \$7.1 and \$11 million and if the project worked, those were big numbers to hit. He said that \$4 million dollars would be split 50/50 between the developer and the taxing units.

MacGillivray said yes. He said all of his comments were based on the final development agreement which had not been fully negotiated, but conversations between the City and the developer had been along that line for the last couple of months as he understood it. Ultimately, the developer would bring that agreement back which was discussed.

Commissioner Highberger said he understood after the \$7.1 million, the revenues would be split 50 percent until the \$11 million cap.

MacGillivray said \$7.1 million to \$11 million, and would collect \$1 after that, 50 cents went to the developer, and 50 cents went to the City, County, and School District up to the \$11 million cap.

David Corliss, City Manager, said it was \$7.1 million, plus the developer's interest costs and also included the developer's cost for bond. He said there was also the TDD as well. He said there were a number of moving parts. He said it was MacGillivray's report and staff had not asked for any changes to reflect what the City was recommending as far as the negotiation points. He said MacGillivray's report was showing there would be less revenue generated over 20 years than what the developer believed. There would only be reimbursements based upon how much revenue the City received. He said one of the key aspects that were part of staff's recommendation was that the developer would not receive an occupancy permit to the hotel until the public improvements were substantially completed. Obviously, the development also had to have the parking garage in place because they were using that parking garage as a foundation for the hotel. The parking garage and the public improvements would be in place.

Commissioner Amyx said the financing arrangement that was proposed by the developer was different than what it was 3 months ago. He said 3 months ago the City Commission was being asked at that point to initiate a bond sale and the City would need a guarantee. He said today, it was not the case, the project would be 100% financed by the developer with a request of the financing up to \$11,000,000 plus interest cost to be reimbursed through TIF and TDD.

Corliss said the City was not issuing any debt and there was no public expense in the TIF eligible items.

Commissioner Amyx said all monies from this project had to come from this project.

MacGillivray said yes. He said the monies could only be spent on the two TIF eligible project costs.

Lynne Braddock Zollner, Historic Resources Administrator, said the 12th and Oread project required demolition and would be a new construction of a hotel and a mixed use facility. The Historic Resources Commission (HRC) reviewed the project under Chapter 22, of the Code of the City of Lawrence, because it was within 250 feet of the Jane Snow residence and under State Historic Preservation law because it was within 500 feet of the Hancock Historic District National Register of Historic Places and the Oread District, which at that time, on the Kansas Register of Historic Places and was now elevated to a National Register status.

She said a structure at 1142 Indiana was one of the structures slated to be demolished. In an earlier staff report the structure at that location was eligible for listing as a contributing structure to the historic district.

In the historic review process, structures would need to be reviewed under Chapter 22, Code of the City of Lawrence, for a Certificate of Appropriateness. Also, the City of Lawrence had an agreement with the State Historic Preservation Office to conduct state law review from a local level by the Historic Resources Commission on behalf of the City. The HRC must use certain guidelines and standards to review those projects.

On September 20, 2007, the HRC determined the proposed demolition of new construction project did not meet standards and did not meet the standard for a Certificate of Appropriateness. The applicant could appeal that decision per state statute and per Chapter 22 of the Lawrence City Code which had been done. The City Commission held a public hearing to make determinations on November 13th and 27th, 2007. At the November 27th hearing, the applicant requested the new project design go back to the HRC for further review and comments. On December 20th, 2007, the HRC looked at the new redesign of hotel and made a determination that it still did not meet those guidelines and standards. The HRC minutes indicated the new design was more compatible than the previous design had been and the HRC made some suggestions to the City Commission as to items the Commission might want to look at as far as all possible planning to minimize harm to the historic districts. She said if the City

Commission determined there was no feasible or prudent alternative then they also needed to make sure that all possible planning to minimize harm to the listed properties had been taken.

She said regarding the Certificate of Appropriateness appeal, the City Commission was making a different decision from the State law review. This decision was actually overturning the HRC decision to say this project did not encroach upon the Jane A. Snow house and determined that based on the standards that a Certificate of Appropriateness should be issued.

The City Commission's actions for the appeal of the HRC determination was the determination based on relevant factors that there was no feasible and prudent alternative to the proposed project; a determination that all possible planning had been done to minimize harm to the listed properties; and, a determination that the project met the criteria established in Chapter 22 and the City Commission could issue a Certificate of Appropriateness which was outlined in Resolution No. 6753.

Commissioner Chestnut said since the overturning of the ruling of the HRC was being discussed, it was important to discuss the guidelines, in particular, the least stringent evaluation and also who had the burden of upholding the denial.

Zollner said this was an environs project for the Jane A. Snow House that was within that 250 feet and the environ standard, which was the least stringent review done under Chapter 22, and was the one that applied. In looking at the guidelines, staff or some other proponent had to show how this project would directly damage the Jane A. Snow House. If that could not be shown, then the City Commission could approve the Certificate of Appropriateness.

Toni Wheeler, Director of Legal Services, presented Resolution 6753, a proposed resolution finding that no feasible and prudent alternative exists to the proposed project and the project included all possible planning to minimize harm to historic properties resulting from the project and granting a Certificate of Appropriateness for the proposed project. She said if those findings that were contained in that resolution were consistent with the City Commission's determination, after considering all relevant factors, including current information, the

Commission received, then the City Commission could adopt the resolution as submitted or amend the resolution as deemed appropriate.

The resolution contained a number of recitals and those recitals merely contained a lot of information that staff had already covered. The resolution discussed the chain of events that led up to the current consideration of this resolution. The project briefly described the authority of the HRC to review the project, the listed properties were identified, and the HRC and City Commission proceedings, to date, were also summarized.

She said Section 2 of the resolution set forth the governing body's findings on this issue and she called the City Commission attention to paragraph (e) which discussed all the possible planning that had be done to minimize harm to the listed properties. Those planning items were recommendations that came from the HRC at their meeting on December 20th, 2007 and their concepts were incorporated in that paragraph (e).

Finally, she said Section 3 stated the governing body's determination. Again, after the City Commission completed this consideration, if this determination was consistent, then the City Commission could adopt the resolution.

Sandra Day, Planner, presented the staff report on the requested rezoning for Z-07-13-07 and the preliminary development plan PDP 07-03-07. The subject property included four distinct parcels to that front onto Indiana Street and two parcels that front onto 12th Street. Those properties included multi-family zoning and commercial zoning and there were a variety of surrounding land uses.

She said another key factor of this consideration was the application was submitted under the 1966 Code and was received in June of 2006. The applicable codes were article 10 of that 1966 Code. This project was submitted as a multi-story building, underground parking, commercial uses, a residential element, and HRC elements. Staff compartmentalized the reviews somewhat so this would not touch on the HRC.

The subject property was located in the Oread neighborhood with a lot of direct proximity to the University. The subject property with multi-zoning allowed up to 32 dwelling units per acre, the commercial that was existed under the new code was reflected as a CN-1 property. The current and surrounding land uses to the subject property were predominately multi-family with 2 and 3 story structures throughout the area, University property, public property, and water towers.

The preliminary development plan was submitted, originally, as a project called Skyscapes which was a mixed residential and commercial project and did not include a hotel. Through a number of evolutions and public meetings with staff and the neighborhood, it had evolved to what was currently seen.

She said there were a number of review issues that were associated with the development plan, it was a unique piece of property on a relatively restricted size of property with off-street parking requirements, waivers and setbacks, evaluation of the use group, density, and the development plan requirements for minimum area and access were all development issues that had to be sorted through the public hearings by the Planning Commission.

The off-street parking requirement for a Planned Use Development required a minimum of one space per 200 square feet which was an across the board calculation. Staff evaluated a couple of different scenarios such as what would a project like this look like if it had just conventional zoning, what were the parking requirements, what would it be under the new code, and what was proposed. She said what was seen at the Planning Commission was 165 spaces. The applicant continued to tweak and work with that space and staff noted to the Planning Commission it was after the time the staff report was already printed and published, that their parking had actually been able to increase providing that much more parking toward what the minimum requirements were. It required a waiver by the Planning Commission to reduce parking and that recommendation came to the City Commission with a recommendation to approve the project with a reduced parking requirement.

Staff reviewed and considered specific uses that would ultimately be listed and this was just a summarization of what those use groups were and it went back and reflected what the old code was and it would set, at a point in time, those uses so that if the project were proposed to be revised in some way, it would be limited to those things that staff assessed. Staff spent a lot of time talking with the applicant, how to word those things.

She said regarding setback reductions, the easiest way to view that was predominately a zero setback. A planned unit development would typically have 30 to 35 feet of a peripheral setback and was not unusual in certain circumstances to look at reduced setbacks because this proposed project certainly had those reduced setbacks which were a purview of the development plan to allow for the Planning Commission to hold that discussion to waiver those elements.

Again, regarding the subject property, the zoning request covered 0.7 acres, just under an acre. Typically, staff would look at planned unit developments at a minimum of 2 acres which was much larger in today's code as well. It was an infill development and the tool staff had to look at infill development and mixed uses, at the time this application was submitted, was a planned unit development.

The subject property was adjacent to local streets that were designated as local streets, but those streets were heavily used. It was also on a designated bus route making this a very difficult turn which was on the plan and plan realigned that public right-of-way providing a 90 degree turn which was a big improvement to the traffic circulation for the area.

Development plans did a number of different things which was spelled out in the staff reports, but the key thing was once approved, the City's new code went into effect and the primary uses that were allowed, specific to the development plan were only those that should be allowed in the terms of the conditions of the original approval. This went back to the fact that the zoning and the development plan were very tied in terms of use.

The Planning Commission had two recommendations to forward to the City Commission, the zoning request and the preliminary plan. Both were forwarded to the City Commission with positive recommendations.

The City Commission had a memorandum that tried to pull together the conditions of the preliminary development plan with one additional condition that the applicant and staff were discussing to address the height issue which dealt specifically with the south elevation.

In summary, she said this was the project as the Planning Commission saw it so the different versions that had gone back and forth from the HRC did not go to the Planning Commission and it was not required. The HRC focus was predominately the larger land use aspect of the project. The summaries that were given excluded the garage and were dealing with more of the active space. There was about 11,000 square feet of commercial in this particular version.

As staff continued to tweak this project there was a final development plan that was submitted and would be scheduled for consideration in March which was an item that would go to the Planning Commission, but final development plan would not come to the City Commission. Staff wanted the City Commission to be aware that the flexibility that was allowed by code between the preliminary and the final development plan. Staff would refine the numbers, but within a specific range and those would be at the top end of anything staff would be doing. The square foot retail reflected more of this on-going discussion on how to reflect the ancillary uses that were associated with the hotel to that retail mix. Even though it looked like more of an increase, they were still dealing with the same footprint and the same box, it was just that pieces of the building block shifted where some were taller, now they were longer.

The City Commission had staff recommendation for approval, recommendations from the Planning Commission for the rezoning and the development plan addressing the land use aspect of this request.

Commissioner Chestnut asked about the current CN-1 zoning on 12th Street and essentially did not have zero setback, but parking in the public right-of-way.

Day said at this time, yes.

Commissioner Chestnut said essentially it was a negative setback, for lack of a better term. As a scenario on redevelopment, if that was developed with the same zoning, CN-1, that parking would disappear.

Day said correct.

Commissioner Chestnut said at that point, there would be requirements on surface parking within the current acreage which might be somewhat problematic.

Day said yes.

David Corliss, City Manager, said it would be appropriate to open the public hearing on the creation of the redevelopment district. One thing the City Commission needed to understand was when closing the hearing that was when the 30 day clock started for the taxing units and whether or not they wanted to stop the TIF project.

Mayor Hack called a public hearing related to the proposed Oread Project, 12th and Oread.

John Miller, Staff Attorney, said on January 8, 2008, the City Commission adopted a resolution establishing today's hearing date. As part of the ordinance, the redevelopment statute required the City Commission to make two findings. The redevelopment district was conservation area and therefore an eligible area as the term was defined by statute for being designated as redevelopment district. The redevelopment of the area was necessary to mark the general and economic welfare of the City; approval of the ordinance also approved the district plan which the map outlined the boundaries of that district plan, and authorized the City to issue bonds. The ordinance in section 4, talked about the issuance of bonds, but if it was a pay as you go situation, the City Commission might want to consider discussing removing section 4 from the ordinance.

To qualify as a “conservation area” the City Commission must find:

- (a) the Redevelopment District comprises less than 15% of the land area of the City;
- (b) 50% or more of the structures in the Redevelopment District are at least 35 years old; and,
- (c) the Redevelopment District is not yet blighted, but may become blighted due to the existence of at least 2 of the factors outlined in the Act. City staff believes that the following conditions exist within the Redevelopment District: (i) the existence of dilapidated and deteriorated structures, (ii) the presence of structures below minimum code standards and (iii) inadequate utilities and infrastructure.

As described in the staff report there was evidence to support a finding in all three factors.

Also, he said there was one minor clerical correction in the staff report stated the Ordinance No. was 8232, but should read Ordinance No. 8234 for the record.

He said following the public hearing staff recommended the governing body place on first reading Ordinance No. 8234; make findings that the Redevelopment District was a “conservation area” as defined by the act and therefore was an “eligible area” for being designated as a Redevelopment District; and the redevelopment of the area was necessary to promote the general economic welfare of the City.

Corliss said regarding the property in that area there were rights-of-way and easements. One of the projects was to make improvements to the stairway down from Mississippi Street. There were water tanks that were located to the north of the Alumni Center and there was beautification in front of those tanks in they planned on doing major rehabilitation to those tanks in two to four years. He said this project was not paying for the water tank and the project was a budget buster. There were two different properties the developer owned that were included in the district and he wanted everyone to understand there was not any proposed redevelopment or renovation that was associated with this project on that property. The developer was requesting that that property be in the district so as the natural appreciation of property values went up associated with this district, that the TIF revenues would capture that property tax increment which made sense. One of the things staff wanted to discuss with the City

Commission was that if those two properties that were not associated with the Oread Hotel were redeveloped at some point, in the future, it would not automatically be that that TIF revenue, whether property or sales tax, that revenue did not automatically go to reimbursement for this project.

He said other than the public rights of way and public property there was no other property in the redevelopment district then that property that was owned by the developer.

Mayor Hack asked Corliss to explain some of the next steps.

Corliss said the City Commission should conduct the public hearing and there were land use and historic items before the Commission, rezoning, and the preliminary development plan. Associated with the TIF items, the 30 day clock began to run for the County and School District once the public hearing was closed. Those entities could veto the TIF project, but they did not have any land approval issues. One of the next items was finalization of the redevelopment plan where staff needed City Commission direction on some of the financing items. There was now the feasibility study that was received and if the Commission accepted that as the final work product then that was included in the redevelopment plan. That redevelopment plan went to the Planning Commission and would come back from the Planning Commission after their review and would be placed before the City Commission for adoption of the Redevelopment Plan. That adoption of the Redevelopment Plan essentially indicated the project could proceed from a TIF standpoint.

Gary Anderson, Gilmore & Bell, Special TIF Counsel for the City, said after the plan went to the Planning Commission for the consistency finding with respect to the City's Comprehensive Plan for this area, the governing body would be asked to adopt another resolution calling another public hearing at least 30 days after that date on the Redevelopment Plan which was the second stage in the process.

Corliss said the public would get another opportunity to look at the project and there would also be a Redevelopment Agreement that would accompany consideration of the plan, but staff was looking for City Commission direction on some of the essentials of that agreement.

Mayor Hack said Corliss had indicated there needed to be a finding on the acceptance of the feasibility study and asked if that went with the Redevelopment Plan and then to the Planning Commission.

Corliss said the feasibility study was part of the redevelopment plan.

Anderson said there were a number of processes going on the agenda, all of which were related to the project, but were not all necessarily related with each other. He said he was just focusing on the TIF side. With respect to the TIF side, if the City Commission chose to adopt the ordinance, the governing body was not committing to any certain amount that they would make available. He said those were general parameters that had been discussed and if the ordinance was approved, all the City was doing was approving the cross access area as a redevelopment district and making the necessary findings. With respect to the number side, all that would come back with the redevelopment project plan and when the City considered the redevelopment project plan it would be accompanied for consideration by a Redevelopment Agreement which would be the contract between the City and developer as to the specific numbers where a multitude of issues would be dealt with in that agreement. He said with respect to TIF feasibility study that was a required statutory element that would be part of the redevelopment project plan. The subsidy analysis was done both for the governing body to consider with connection with the TIF, but was not a statutory requirement, but more importantly with respect to the discussions regarding the HRC.

Commissioner Amyx asked Anderson his opinion if this project was setting the bar pretty high for other projects that might come forward in the future.

Anderson said based on Gilmore and Bell experience working on many TIF projects in both Kansas and Missouri, typically he was talking to governing bodies about other peoples'

money because typically developers were asking for cities to issue bonds and they use those bonds basically as equity in connection with their borrowing. It was very unusual, in their experience that developers were putting this amount of equity in this project as well as the golden opportunity for the City to issue bonds.

Commissioner Amyx said the reason he brought that issue up was as they looked at going through a process that had not been done before and looking at the ordinance that dealt with bonds, it seemed that when looking at process for this project as compared to possible future projects, the City might be setting a standard and he wanted to know how many times Gilmore and Bell dealt with projects that came along where the developer, in this case, was going to finance the project 100% rather than going through a bond issue.

Anderson said this was a very unusual project.

Matt Gough, Barber Emerson, counsel for the applicant TTT,LC, said it was his pleasure to be present to discuss what could be the most substantial private infill development in recent Lawrence history. The only project that compared was the redevelopment of the 600 block of Massachusetts Street, but the thing about this project was it was a homegrown project put on by local developers who had an impeccable reputation for quality. This was a clean project in the City's core viewed from every angle, micro, macro, short term and long term this project would be of benefit to the community. The majority of the public infrastructure that was being put in with this project was not things that would automatically be required with this development rather than being put into enhancing and protecting the neighborhood that surrounded the area and was a result of communication with the neighborhoods in the planning phase. The Oread would require a lot of construction workers during construction at a time where building activities were slowing in Lawrence. After construction was completed, The Oread would employ hundreds of people and over a period of over 20 years, would generate an estimated \$40 million of payroll. In addition, the Oread would generate approximately \$20 million in visitor spending outside of the hotel and in the community and also another \$7 million in additional taxes that

were not TIF eligible. The most notable would be the 20 mills the School District would retain from the tax increment which would be in addition to what the school district received right now.

Both literally and figuratively speaking, this project was a big deal and an acknowledgement to the importance of this project, they provided, ahead of schedule, a draft of the project plan which contained the general terms and conditions of the redevelopment and were very appreciative of City staff's hard work in getting them to this point to make it available.

He said he suspected the majority of comments would pertain to the plan to the feasibility study and to the project itself, but the ultimate question was "to TIF or not to TIF." He said they were urgently and respectfully asking the City Commission to make a decision about the formation of the TIF District. He said their urgency was not for a lack of respect of process, three months ago they were talking about some of the same issues, but before that the applicant was meeting with neighborhoods and felt that throughout this entire process, they respected the processes that needed to occur. He said the nice thing was there was no reason why the City Commission could not pass the TIF District ordinance at this time. In addition, before it was all said and done, there would be another public hearing to set the resolution, another public hearing to approve the TIF project ordinance so there would be other occasions to discuss the project plan, feasibility study, the forthcoming Redevelopment Agreement, and all the various specific details of the project. He said their objective at this time was to answer the question to "TIF or not to TIF." If this project was deferred, it would be a decision that would be costly to the applicant, the obvious engineering, legal, architectural, expenses accrue, taxes would accrue, interest on the already substantial investment would accrue, costs of raw materials would go up, but most importantly, they were losing time, time during this year's construction season to work with concrete. He said he was not an architect or engineer, but there was a lot concrete that would go into that structure and they certainly did not want to run out of time before it was too cold.

Commissioner Highberger said on the 20 mills that was going to the schools, it was his understanding it would go to the state general fund and not to the school districts.

Gough said it would be paid as normal cycle through the state funds and work its way back to the school district. He said it was his understanding it would never be part of the TIF fund.

Corliss said it was his understanding the money would go directly to the State General Fund. He said it was education money, but not designated USD 497. He said the City's school district had to compete for its share of funds based on student population count and other things. That money along with whatever money state would be available for that purpose.

Paul Werner, Paul Werner Architects, said he was present to stand for any questions the public or staff might have.

Mayor Hack called for public comment. She asked for a show of hands of those that would like to speak. She noted it was 8:15 p.m. and would like to take public comment for one hour.

Bob Gent, Lawrence said he was not exactly in favor of the City's tax base being used in whatever way it was being done in order to help finance this project. He said if this project was a good idea, and was a profitable project, then the project should be able to stand on its own. He said they had seen enough major developments and remembered 20 years ago there was a huge argument about whether or not a downtown mall was needed. He asked how much revenue the City received from the downtown mall or the Tanger Mall and what good did those developments do for Lawrence. He said if this project was going to be able to accrue benefit to the developers, then it was the developers that should be shouldering the cost of it and taking the full risk.

Dennis Brown, President, Lawrence Preservation Alliance, said in the case of the Oread Inn every person or entity you rely on for preservation expertise from the City's own Historic Resources Administrator to the Historic Resources Commission, to the Kansas Preservation

Alliance and the Lawrence Preservation Alliance, had stated that a hotel design could be accomplished that would not damage the National Historic Districts that the project bordered, but this design was not it.

He believed Corliss under the City Commission's direction had spent considerable energy backing into the question of feasible and prudent alternatives. In other words building a case why there were not feasible alternatives rather than as part of the negotiating process with the developer, bringing pressure to bare on developer to work with the City's own HRA and Preservation Specialist to determine whether or not there were. In lieu of that, the City was basically crafting a response the City hoped would hold up in court. It's a subtle difference, but they noticed and were sure state officials noticed too this developer expressly wished to do infill development directly with a historic urban core and the developer had the means to do it. The developer would be back again and the City Commission had yet to use its influence as negotiators for the public to direct the developer to pay attention to preservation concerns. He said he wanted to emphasize LPA were not suggesting "no build options", but rather stating that new infill design that was successfully integrated with cultural resources in its midst, that did not ignore or dominate those resources would ultimately be more successful than those that did not. The City Commission was about to make a decision that would damage a registered national historic district and it was a shame this project was about to move forward without the support of any recognized preservation entity.

The Lawrence Preservation Alliance appreciated the work of the Historic Resources Administrator, appreciated the work of the HRC, and if this City continued with its plans for urban core redevelopment, they would not allow their collective voices to continue to go unheard.

Kirk McClure, Lawrence, said he was in support of this particular development. He said this was a good proposal, but it was not a perfect proposal. A perfect proposal would be good sized hotel that spun off a lot of revenue and paid full taxes. He said this was a good hotel that

was asking the City to partner to provide subsidy of somewhere in the \$5 to \$7 million category. If the City in fact, received a good return for that \$5 to \$7 million partnership, then in fact the City had a good thing. He said he believed this was a valuable development.

The criteria that should be looked at in all those cases, was provide only what was necessary to make the deal happen, but not one dollar more. He said the City was being asked to provide a transportation development district with about \$900,000, simply put, it was not money the City could obtain in any other mechanism and it was not foregone revenue to the community, but paid entirely by outsiders. The TIF was the more problematic portion of the project because they were being asked to give away all of the City and County sales tax and the property tax increment City and County and the levy beyond the 20 mils for the school. He believed this to be a valuable project and would create a large payroll. He said in economic development terms, only hospitals were better than hotels in terms of payroll generation per square foot. Hotels were good things and this project would produce a very healthy payroll and a goodly amount of auxiliary spending. The people that came to the hotel were not going to sit only in the hotel, those people would spend elsewhere.

He said this was a very low risk project. He had worked on TIF deals and other types of tax increment deals in other parts of the Country. Normally a person would work very hard to get a developer to provide guarantees as offered earlier with the letter of credit. It was especially difficult to get developer to offer a "pay as you go" system.

He said this project would enhance the neighborhood and had less than gorgeous architecture now and had a very impressive project that was about to come forward.

He said the way the proposal worked at the moment, was the developer would get back 100% of the TIF up to this threshold of \$7.1 plus interest. The Springsted Report suggested that in fact the more likely number was more like \$5 million which was the amount of public subsidy that would be given. The developer believed the number was more like \$7 million. The way that was structured was that it was \$7 million plus the interest and then was split after

that to \$11 million minus the TDD and would add back in the interest. Interest on millions of dollars was itself a very large component. He suggested that if the property, to use Springsted's phrase, was more robust than expected, meaning it generated more value then, in fact, that suggested that it needed less public subsidy. He suggested setting a ceiling of \$7 million and state that was the maximum exposure the public sector was willing to do. If in fact the developer generated a property that was more valuable than that, then there seemed to be little argument for that additional subsidy.

He said this project had been a very pleasant process for the community. He was still concerned it was a developer driven process and what the City should have was someone who took the lead in those settings. Earlier in the process an alternative was offered that it would not work at 6 stories, but it would work at 7 stories if in fact they went taller to 8 stories they could pay down the debt in 10 years. The potential for having a 100 room hotel on the tax rolls in year 2011 which sounded good, in a City that could not afford to build a new library. The difficulty they had now, Springsted had directly answered the questions put to it. He said they had not had someone take the lead and say what was the best position for the City and that best position might be something like, 8 stories with a 10 year pay back. The way this plan had worked well was self proclaimed evil developer David Longhurst was actually about the nicest evil developer he had ever worked with. Longhurst had been there a public and private meetings and willing to talk with everyone all through the process and was very forthcoming. The Fritzel family had done a lot of great things for this community and they had every reason to believe this property would continue to make such a contribution.

Allen Ford said he opposed the granting of the TIF for several reasons, but the primary reason for his opposition was the entire concept of fairness and equity which should be the guideline for local government. He said the City should treat all investors the same. There were investors in this community who were providing condominiums, restaurants, and lodging without subsidies. There was an investor present that stated he was not making enough profit

on his project and was asking for a subsidy so he could make enough profit. That was not the public's responsibility to give that extra public subsidy to help that investor make that profit. He said his comments were not designed in anyway to be negative to the developers or investors in that group because they were a top flight group of people. If the project was going to be developed, he could not think of a better group to develop the project.

He said he was trying to get a better understanding of what was going on. He looked at the data and found it confusing. The public had no clue of what was going on with regard to this project. He said they just heard that someone who had been studying the data for a long time, that this was a \$5 to \$7 million subsidy and a report indicated that number. He said he wanted to assume that was basic in that report and most know that everyone could get to where they wanted to with numbers. It depended upon the assumption a person made.

1. A constant mil levy for 20 years.
2. A constant sales tax rate 20 years
3. The value of the property was going to go up 1% per year for 20 years.
4. Sales would go up 1% per year for 20 years.

He said he did not think anyone would make an investment in a hotel or restaurant where their sales would go up 1% a year for 20 years and would not be a good investment. He said those were bad assumptions that understated the amount of income and subsidy.

The real critical issue that seemed to be glossed over was the issue of \$11 million plus interest. He asked interest on what?

Corliss said the developer was going to give the City the interest rate that they would need to borrow the money at and that was the amount the City was going to set in the Development Agreement which was the cap on the reimbursement amount.

Ford asked Corliss if it was money on the interest rate.

Corliss said yes.

Ford asked about what rate.

Corliss said the interest rate on \$11 million. He said the City was only concerned about being reimbursed for the fair cost associated with the TIF reimbursable items which were the private parking garage and the public improvements.

Ford said the City was going to be providing the interest payments on potentially \$11 million. He said the City was going to be providing a subsidy of \$11 million dollars plus interest. He asked if it would be a fixed rate or variable rate.

Corliss said that level of detail had not been discussed yet. He assumed it would be a fixed rate, but he did not know.

Ford said if a person borrowed \$11 million dollars for a 20 year period, paying it back on a monthly basis at 7% equated to \$9.5 million dollars of interest and that interest had to be paid back before getting to that 7.1 million when talking about sharing. He said he guessed it would be a \$15 to \$20 million subsidy, but close to \$20 million, far greater than what someone might get when reading the report. The report also did not say anything at all about lost revenue from other sources. He said there would be fewer sales at the Holidome and other competing restaurants and other competing businesses. The City would lose revenue from other sources.

The biggest mystery was they were talking about a \$37 million investment. He said when they started using those numbers to see what the value of the property was it would be \$14.3 million. He said he was concerned because in 10 years, the internal rate of return was based upon a selling price of the property which was critical.

Chris Anderson, Lawrence, echoed what Professor Ford just said in that there were a lot of conservative assumptions in the internal rate of return calculation which was critical to the question of whether the TIF was necessary. The assumptions were conservative because it appeared to reduce the TIF liability the City pay the developer, but it was very conservative in terms of making the project look like it needed TIF. The paradox was those very conservative assumptions appear to reduce how much property tax the project would give off, but it actually enhanced the claim that they needed the subsidy.

He said what Professor Ford had indicated was right on target. He said 1% growth in revenues, 1% growth in property appreciation of 20 years, based on today property situation, he would be happy to get 1% for next year, but would shoot his self if he only received 1% over 20 years. He said compound interest kicked like a mule. He said at \$5.9 million TIF cap, if taking the Springsted projections of TIF revenues as a given, and compound interest on \$5.9 million dollars, that was like having a credit card for which the monthly minimum payments did not match the interest expense as it accrued and the balance was never paid down and the balance only grew. If everything was true, the actual expense over 20 years to the City would not be \$5.9 million, but more like \$11 million. If the project turned out to be better and property values grew faster or sales tax revenues grew faster, it still would not be enough to make up the difference. The projected TIF revenues that were to be passed on the developer could be as high as two times what was projected by Springsted, before they ever began to reach the TIF cap of \$5.9 million in 20 years. Again, compound interest kicked like a mule and the cost of this project to the City of Lawrence and the other taxing entities was a lot more than \$5.9 million or whatever the cap was.

Beth Johnson, Lawrence Chamber of Commerce, said economic development projects came in many different shapes, sizes, and formats within the Lawrence community. The Oread project could be characterized as a significant economic development investment in this community. In order to be successful with economic development projects there needed to be essential tools in the City's toolbox. Discussions were currently taking place about what tools the City had currently and what tools might need to be added to that tool box in order to be more successful. In this case, there were the right tools, TIF and TDD and the Chamber would encourage the City to use those projects in that significant economic development project.

Mike McGrew, Member Chamber Board of Directors, said he was excited about the opportunity the City Commission had to approve the Oread project. While he had no personal or family financial interest in this project, he knew that he and everyone else in Lawrence would

benefit greatly from this project when it was approved and completed. This important project represented a major private investment by a highly respected developer/builder. The public return in both dollars and quality would be highly accepted.

Joan Golden, past Chair of the Lawrence Chamber of Commerce, neighbor to the K.U. Campus, said she applauded the project developers for their commitment to the community and the willingness to redevelop and improve the north entrance of the university. As they heard, the project placed no financial burden on the City of Lawrence. In fact, using the financing tools like TIF and TDD, this community would have more revenue at its disposal to continue support of many of the services that were continually threatened by revenue challenges faced by the City, like the bus service and street repair. From an economic development opportunity and an improvement to the neighborhood, she encouraged the City Commission to support the Oread Inn Project request.

Cindy Yulich, President of Emprise Bank, member of the Board of Directors of the Chamber of Commerce, said like McGrew she had no personal or professional interest in the proposed project. Her family had lived in Lawrence for 16 years, so she was also a taxpayer, a parent, and a citizen of the community. She wanted to add her voice of support for the Oread Hotel Project. There were several reasons to support the project but the key for her was this was the most significant infill project in the last decade and it was being driven locally. The project was privately funded with no funds at risk from the City. Developers would pay for street improvements at 12th and Oread and the project was compatible with the City's Smart Code. The potential economic and community value of this project was significant; therefore use of the requested financing tools was appropriate. Lawrence, Kansas would benefit from this project for many years to come. She encouraged the City Commission's support.

Dasia McKay Mahor, Lawrence, said her family moved to Lawrence 20 years ago when she was in the 7th grade. She said she did not actively get involved in opposition to this project until October when she first started hearing about tax increment financing. At first, this type of

financing, the way explained, did not seem that bad of a deal for the community, but something did not sit right. She asked how an established developer could build a luxury hotel right on the edge of campus and expect the City to assist with up to 1/3 of the cost. It was this question that prompted her to investigate further.

The original intent of TIF was to level the playing field for underserved areas that have not shared in the economic prosperity of the City. Poverty stricken areas, areas of high unemployment were examples of those underserved areas. A study conducted by the Heartland Institute, TIF's, which were used in 47 states, were criticized as falling short in terms of meeting goals set for economic activity. Researchers found that TIF's tended to favor large businesses at the expense of smaller ones, excluding local residents from participating in detailed planning, and often implemented in a manner that bend the rules of design contradicts common assumptions of fairness and justice.

The Verkins Institute also conducted a TIF study that focused specifically on Missouri projects and TIF regulations. Missouri laws, like those of many states, were written in such a manner that TIF's could be misused and even abused when the right justifications were applied. The definitions permit municipal leaders to make their situations and circumstances fit the requirements.

In 2006 two economics professors, stated that tax increment financing was an alluring tool; however they found evidence that the non TIF areas of municipalities that use TIF grow no more rapidly and perhaps more slowly than municipalities that did not use TIF. Other research found that project developers were the driving force behind the use of TIF. They saw it as the broad description afforded in most TIF statutes to subsidize a potential profitable venture. When in statutory compliance with the requirements of blight funding and the but/for test was loosely defined, developers could easily obtain the benefit of TIF. In conjunction with a local government, those developers were identifying only one problem and implicating health and safety in the development of the area to qualify if it was blighted. By permitting private

developers to work so closely with the government when it proposes a TIF project, the local government may fail to give adequate consideration to state and regional concerns.

TIF might also cause loss of control over tax bases while increasing the tax basis so that it was followed by public use for TIF's. TIF district post potentially negative effects to the tax base, in the form of cost spill over and increased taxing in neighboring areas. Many states had reenacted TIF reforms with minimum states claiming for the reforms, including Missouri, Illinois and Minnesota.

In September 2007, it was reported that TIF reform goals emphasized high paying jobs, small business growth and development in poorer neighborhoods. As it was now, some of the most economically challenged areas in favor of growing neighborhoods, TIF created an unfair advantage for businesses within the district while businesses outside the district suffered. The public missed out on potential revenue or received greatly reduced amounts of revenue. They must have greater public approval on TIF projects.

Originally, TIF was intended for developments that could not be done with private money. This was not the case here. The public was asked for tax increment revenues in the form of reimbursements for \$6 million parking garage for a private development, regardless of how it was being framed it was using public funds for private development.

She said pictures of properties owned by the applicant only showed that the developer would allow the properties to exist in the condition that was self serving and further proved her point. She asked if those properties were for sale for any length of time and recognized as marketable or if the properties remained vacant unable to fill leases with businesses contributing to the economy of Lawrence.

Whether there was a feasibility study done, people said it was too narrow and did not ask the right questions. There should be more consideration where this project could make more money 6 floors versus 7 floors. The analysis found it was feasible without public funding but not with an average market return.

The subsidies turn the project from a project that might break even or make some profit into a project that would make better than average profits. The fundamental question was what would be built without this subsidy. She said if it was such a great deal and a need within the community, then it would be built whether it was on this property or not. She said let the market build a high end hotel. If the project would be abandoned at this site, then someone would develop the land because it was valuable.

She said she was not anti growth or anti development and not against using TIF incentives for economic growth, but it could be used and could be misused. She wanted to use incentives in planned out, thoughtful ways that helped ensure growth and overall economic benefits to Lawrence.

Suggestions for TIF included finding a bigger share of public money for development projects that met high priority community needs, such as affordable housing, requiring developers to estimate the number of new jobs their projects created and the wage and benefits connected to those jobs. This proposed project would not bring a new number of jobs. If looking at the net number of jobs created, it was not impressive. The number of jobs displaced at the existing site and quality of jobs created would not fill a huge, long term need within the community. Housekeeping service in those industry jobs were not family paying wages with health care benefits.

She said there was importance for the City to have flexibility on how it created tax districts, but also thought it was important to establish new rules on requirements, approval and implementations of those subsidies. It was also important to have a system in place to verify business compliance with those incentive agreements.

She appreciated the efforts the City had taken so far to minimize the risk and making sure the City would not be stuck financing a losing venture. She was also quite happy when she discovered the City Commission was taking steps to research, and develop policies for incentives used to spur economic development. If the Commission recognized the necessity to

have those policies in place, then she hoped the City Commission would see the importance of establishing those policies first before the approval of any project that relied on tax subsidies. Only the City Commission had the authority to do that.

During these tough economic times, there had been or will be budget cuts and dwindling revenues at the local, state and federal levels. It was vital now more than ever they do the proper cost benefit analysis when they were deciding which subsidies to use to spur economic growth. She asked how they could ask the public for understanding with budget when the proposal was asking the City for a public contribution to a project so investors could maximize their returns. She asked the City Commission to deny the use of TIF for the proposed Oread Inn. She was not asking the City Commission to deny their right to build this hotel, on their property, but to set up fair policies that help ensure a net benefit to all of Lawrence and allow for greater public transparency in the development and implementation of those policies.

Hank Booth, Lawrence Chamber of Commerce, said he was thinking the discussion of the skyline with regard to this project. He remembered that recently they had a discussion about the tall, brick structure on the 800 block of Vermont Street because the telephone company came to the City of Lawrence and wanted to erect a huge, nasty looking, metal tower. Everyone came out in opposition to the tower that would greatly improve the telephone service in the community. Instead of that, they built a high rise around the tower. The other day he heard someone wanted to tear the tower down and a number of people came down to complain. They had a tendency to create interesting conversations in the community about what should and should not be.

He said he grew up in Lawrence and watched a lot of development occur in the community. He said this was a first class project, a Lawrence class project, and a first class developer and a Lawrence class developer. He said they were a family of builders and more than that they were craftsmen and craftswomen. They had always taken great pride in their

workmanship. He said he would take great pride in looking at the skyline of Lawrence in the future and seeing that facility.

Jim Otten, Lawrence, said he wanted to speak personally first about the project. As Professor McClure indicated, whatever anyone thought about this development, they had to consider the families involved, the Fritzel's and Longhurst's. He said those families had been sensitive to all the parties involved, all of the discussion, open for ideas, open for input from neighborhood associations and the HRC. He had the opportunity to attend several meetings that involved this project and was always impressed with the fact the developers were willing to listen to anyone anytime and open for input. While there may be differences in how tall, how large, how aesthetic, how appropriate, this consideration of many opinions and flexibility in finding a design and financing guaranteed they were responsive to this input, which was remarkable and unique.

He said as a businessman and as a Chamber Board Chair, it also represented an excellent example of a project of infill development and partnering with the City to improve infrastructure and through an appropriate use of TIF and TDD as justified by the Springsted Report. It would be a positive resource in the future and feasible for reasonable rate of return to the developer and a successful business.

The risk defined, by Springsted, represented no risk to the City at all. The project would stand on its own and be mired in fairness. In short, it fit in many ways of the community and could be a project that was good for the City. It was good for tourism and KU as an adjacent property. It was a project that needed the City Commission's full consideration and approval, and a project the City deserved as well. He encouraged the City Commission to approve the development district.

David Johnson, Member of the Chamber Board, said the reason he was a member of the Chamber Board was because he had a long standing concern about the tax base in the community and being the Director of the program, Bert Nash, which was dependant upon taxes

to deliver services to thousands of people every year. He thanked the City Commission in considering making an investment in the tax base. He always thought as tax increment meaning that tax would be there in the future that would give a stronger base that would be able to provide services to the community.

Laverne Squier, President and CEO, Lawrence Chamber of Commerce, read a letter which stated:

“The Lawrence Chamber of Commerce supported The Oread Project as it represented a significant infill project and business investment in our community by local investors. The project would have significant economic impact for years to come. The Chamber was committed to stand in support of local business investments of varying types and sizes in the community. It also said that the Lawrence Chamber of Commerce supposed the City Commission’s use of various economic development and other financing tools, such as TIF and TDD, to aid in The Oread Project. They believed the potential economic and community values of this project were significant and, therefore support the approval of The Oread Project’s requests for the use of these financing tools.”

Squier said he also had two observations. He thought Commissioner Amyx said it well when he said this was a performance project. It seemed that common sense would tell someone that if the project performed above the expectations, more fuel was generated, more batteries were generated, and they could pay down the debt. He was glad the City Commission was reviewing this. Lawrence was a terrific community with tremendous potential and was only realized by people who were willing to take risks and make investments in the community.

Dennis Domer, Lawrence, said he appreciated all the meetings that architects and the developers had come to, how pleasant they have been in their discussions, even though they have been frantic. He said the area was the best architectural site in Lawrence, so it was going to be very important. If they could find something that represented this City, he thought it would have great, useful and symbolic value to the City. He said someone might say that beauty was in the eye of the beholder, which was the half truth, it did not answer the fact that the objective, qualitative differences between buildings.

This building would never fit into the neighborhood. It was 106,000 square feet bigger. It could not fit into the neighborhood because of the scale. They could not change it because of

how it was articulated styled, which was what the neighbors wanted. They would have to make a very different kind of architectural decision. He knew that the architects understood this. It would meet the needs of the project. He would support the project if they had good architecture and the hotel worked economically. He thought it was the architecture that needed to be better understood on how it was going to work in the next seven generations.

David Longhurst, representative of the development, said he wanted to make a couple of comments in response to some comments that had been made. He said that he highly valued 120 plus employees at the Eldridge Hotel. He thought they were dedicated to their jobs and thought they did a wonderful job. They cared a lot about their employees, including their housekeepers who have health insurance. They thought those jobs were important to those people and thought those people were important to the success of the hotel. The Oread Inn would generate over \$40 million in payroll over the next 20 years. He thought the students at KU who had an opportunity to work in that facility would enhance it and find it rewarding to work there. He personally thought those jobs were valuable and thought those people were valuable.

He said he wanted to comment more specifically on the comment of only showing 1% inflation. He said they needed to understand that they were also showing an increase in occupancy which increased revenue. They were showing 1% inflation for revenue and 1% inflation for expenses. If inflation was 2%, their expenses were going to be 2%. It was not as if the inflation factor as it increased would only apply on revenue side, but it would apply on the expense side. His task from the beginning was to come up with numbers that were reasonable and defensible, not to prove to the City Commission the feasibility of the project or the feasibility of 7 floors versus 6, but rather to determine how to go about putting the whole package together for themselves. He was putting in 1% because he wanted to put in something. He could have put in 3% and inflated the expenses 3%. It would not make a significant difference for the bottom line. It was the same from his point of view. He was not trying to defend the TIF, but was looking at it from the operations angle. If the assessment was higher than had been

anticipated, then there was going to be more property tax available for the TIF. He had to pay the property tax. He said from where he was working, it was a moot point. He was trying to analyze the profitability of the enterprise. He said it was not worth getting worked up over the \$7.1 million or \$11 million because in his opinion it was not even going to be close; the TIF was necessary. He said about twice as much of the TIF came from the property tax as from the sales tax. The potential for twice the revenue was just not there. The TIF regulations did not allow receiving anymore than the actual costs. To him, he did not know what it would actually cost and the developers agreed to set the cost at less. The significance of the 1% inflation applied to expense and revenue both and to him it was a non-issue.

Commissioner Highberger asked MacGillivray to respond to Ford's comments. He said he would like to know the answer to the percentages used.

MacGillivray said he thought there were three primary points. One was the assumption used in a tax increment. In general, in doing tax increment revenue projections, they were looking at 20 years and often looked back 20 years to see how that went. He said they worked in a good number of states and one of those states was Minnesota, and it had been a rocky road both legislatively and economically because of the things seen in the underlying assumptions of the TIF projections. He said fundamentally there were a number of things that affect that such as state law, property tax rates, etc.

In a variety of states, including Kansas, in the mid 1990's there was a structural change in the property tax system where 20 mils went to the state and local rates went down in terms of that benefit. If this district had been in place in 1994, instead of 94 mils they would be looking at 114 mils and two years later it would be 94 mils which was a 20% or more reduction.

He said regarding valuation, the spending of the project was \$37 million and how they could have a valuation of \$14 million. The composition of the \$37 million, \$5 million was for the public right-of-way improvements, \$6 million was for the parking garage, \$16.5 million for the hotel, predevelopment financing, miscellaneous, and \$7 million contingency. There was a lot of

discussion because the developer came with \$16.5 million. They would base the income on \$22.5 million. It was not done that way. It was done on an income approach and per hotel room. He said they were visiting the Douglas County people both in terms itself and structured parking, but there was not a comparable piece in Douglas County, but one in Johnson County. He said they would not get anything for the cost of the garage piece, it was pulled into the per room valuation and the per room valuation was based on how many night's it was occupied and what was the average room rate. It was a working with the Johnson County Assessor and he came up with a market value over time which came \$14 million, which was the difference between the \$37 million, etc.

He thought there was confusion between \$5 million over time, total, plus \$900,000 of TIF revenues and \$11 million up front plus interest. Right now, those projections over time, the only amount of money in play was \$5.9 million. They could call it interest or principal, but at the end they would collect \$5.9 million and send it back. There was \$5 million of public infrastructure, not all in front of those buildings, and thought it was a very valuable asset being paid up front. He said they could talk about interest and principal, but there was a wide gap.

Commissioner Amyx said one issue that was not discussed in the report was the sales tax that would be collected on the building supplies purchased for this property. That money was going to come back to the City and the County and was not going to be part of any of the repayment or basis going back to the developer in this case.

MacGillivray said there were a variety of other taxes such as transient guest taxes which was not part of this proposal. There were other public revenues.

Commissioner Amyx asked about building permit fees.

Corliss said the development paid the building permit fees and the impact fees and were eligible reimbursable expenses.

Commissioner Chestnut said he appreciated the wealth of information. He agreed with Professor McClure that it had been an interesting process. He noted back to a letter Professor

McClure had sent back in November that contained a lot of questions, and he believed a lot of those questions had been answered through this process. One thing he thought it was important to understand was they were not determining whether the project was going to encroach on the environs; that determination had already been made. He said given that fact was there feasible and prudent alternatives. He said he looked at alternatives and thought they had three alternatives to consider. They could do nothing. He thought there were some comments if this TIF was qualified for blight. They had a study session about the time they were considering this last fall with the Oread Neighborhood Association and clearly recognized the fact that this was a neighborhood somewhat in crisis and was moving toward much more student housing. He said regardless of this project or not, was to stabilize that neighborhood as far as its balance from residential and student housing. He thought that it had a lot of those qualifications. The Oread Neighborhood had issues with housing blight for a long time and looked at this as a possible opportunity to resurrect that. He did not think the do nothing alternative was prudent.

Using the current zoning for redevelopment was another option. The current zoning did not work and commercial neighborhood would not work because they would wipe out the parking on the right-of-way and there was no way to pursue development with the current zoning. The back side was zoned RM-32, which was high density, multifamily, which was exactly what the neighborhood did not want for this piece of property.

The third alternative, which would be probable if this project did not move forward, was to rezone this in some type of high density, multifamily dwelling. That was another probably large income producing project that could possibly happen there. From a neighborhood standpoint, it was absolutely the worst case scenario. He said from the three alternatives, two were not feasible and thought one was not prudent. He did not think it was prudent to go to multifamily dwelling on this area because they would exacerbate a problem that the Oread Neighborhood had been talking to the Commission about.

He said also there was where the \$37 million was. \$6 million or \$7 million on an underground parking garage was an absolute necessity to not exacerbate the problem of the neighborhood, which was parking all over the place. To some extent, they were trying to self contain the traffic they were going to create. The other thing was the streetscape of \$5 million and if the City could not fund that right now with the capital improvement plan, and if they funded that 5 or 10 years from now that figure could be \$10 or \$15 million to fund. It was a huge public improvement for that intersection as well. He said the parking on the right-of-way was very problematic right now and from his standpoint he did not see a feasible and prudent alternative to the project presented and was happy to have the presentation of the feasibility study because it addressed the 5, 6 ,7 story scenario and was really interesting they put this in a box. They were concerned about having extra normal profit for the developer and he thought it was a third party analysis that showed it was on the bottom part of relevant range that was on expectant turn, but did not want to make too much because they generated a whole bunch of tax. If this project exceeded expectations, it not only produced more tax for the TIF district, but produced more for the transient guest tax that went to the Chamber of Commerce for special alcohol tax that funds DCCCA, Boys and Girls Club, SRO's in the schools. It was 70% that came directly back to the community and estimated based on the analysis to be around \$50,000 - \$60,000 a year. They would increase that fund 10% if the projections were good.

He said they talked about the school district and the 20 mills that would not come back to the school district, but this project was projected to generate \$220,000 of sales tax that would go to the State of Kansas. When they thought about the way the schools were funded, they had to consider the economic well being of the state because they were having a hard time funding education. He thought it was a great project and did not see a feasible and prudent alternative.

Commissioner Amyx said a comment was made about a contemporary building and about concerns from the Lawrence Preservation Alliance regarding protecting the environs, but

when discussing feasible and prudent alternatives, the Oread Neighborhood was extremely important.

He said during a study session in the fall, it was apparent that a number of the improvements needed did not include multi-family development in the Oread Neighborhood. He believed that was the only alternative on that particular site and was not acceptable to anyone in the Oread Neighborhood. He said he looked at many different alternatives, but when looking at this site from a Commission standpoint, the affect on the Oread Neighborhood had to be taken into consideration.

He said the developer tried to minimize the harm to the environs by containing the proposed development in the smallest footprint possible. The proposed .73 acres, for this project, minimized the harm to the environs.

He said regarding the financial side of this development, the sales tax that would be realized by the community for building this project, those funds would help with public transportation and service agencies in this community.

The City Commission's job was to agree or disagree with the HRC determination that there was no feasible or prudent alternative, but this proposal still had to go before the Oread Neighborhood. He said the developer and neighborhood had agreed with much of the work done on this project.

Commissioner Highberger said the HRC made the only determination it could, based on the law and standards in this circumstance, but the City Commission's standards were different. There were great efforts made to adapt the design of this building to increase its compatibility with the neighborhood with a building of this magnitude, as someone pointed out, would not be compatible in a historic district. He said perhaps a taller tower might have been a better design solution, but they might be beyond that at this point.

He thought if a convention center was going to be built by KU, it was an amazing spot for it. He was convinced by the Springsted analysis that the 7 story option was necessary to make

it financially feasible with a reasonable rate of return to the developer. He said the risk the developer was taking needed to be taken into consideration when considering a reasonable rate of return.

He said he was comfortable with finding there was no feasible and prudent alternative to the project with regard to all possible planning to minimize harm and he would include the suggestions from the HRC to be included in the resolution.

This was a \$37 million project and he suggested that rather than adding a condition, there was an opportunity to move the 1142 Indiana home, and he suggested asking the developer to contribute \$10,000 or \$20,000 toward moving that house as a way to minimize harm.

Vice Mayor Dever said Commissioner Chestnut did an exemplary job of summarizing how the City Commission felt in some way. He said he wanted to comment on the historic nature of the neighborhood. He did a lot of research on that part of town and it had always been a unique place. It always had the highest concentration of student housing, boarding houses, fraternity houses, sorority houses, just about any kind of house that could be imagined. He said a lot of the area was not residential specifically from a single-family or low density standpoint. He said the neighborhood had been unusual as long as it had been in existence.

The best that could be done was to minimize the impact on significant and historic buildings. What made it more comfortable to approve was the developer tried to make commitments to the community, commitments that might not be made by an outside developer. He said the community was blessed to have someone who was local welcoming input from the community as well as doing things that were above and beyond the ordinary. For him, he believed they would make a minimal impact on some of the environs in the area. He said the developer would do some things to adjacent land that would significantly improve the way the area was preserved.

He did not believe there was really any feasible or prudent alternative to demolishing at least some of those structures and concurred with Commissioner Highberger in that if the structure on Indiana could be moved, that would be great. He said the proposed project included all possible planning to minimize the harm to the listed properties.

Mayor Hack said she appreciated the process that had taken place because it was one of the largest and most complex projects that she had dealt with since sitting on the City Commission. The Springsted Report helped clarify there was no feasible and prudent alternative in terms of a building that was smaller. She said when discussing how this project would affect the Oread Neighborhood, it was not acceptable to the community to damage one of the community's core neighborhoods. She said the development would infuse energy into the neighborhood and an area that would help in the revitalization of one of the most important areas of this community.

She said she agreed that financial assistance in moving that house on Indiana would help because that process was expensive.

She said the resolution addressed some of the HRC issues. She said she agreed with Commissioner Highberger in that the Commission did exactly what they were supposed to do regarding the parameters of their decision. She said the City Commission was not ignoring the HRC's work.

Moved by Amyx, seconded by Chestnut, to make a determination based upon 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 12th Street and the new construction proposed for the site, and determined that the proposed project included all possible planning to minimize harm to the listed properties. Motion carried unanimously. **(16)**

Commissioner Highberger said if the developer could provide \$20,000 for a potential move of that house on Indiana, it would increase the possibility that house might be moved and saved, rather than demolished.

Paul Werner said he knew there were people trying to find someone to move the house off the hill. He said with demolition costs, they already threw out \$10,000, but they were more than willing to try and move the house off the hill.

Corliss said staff would amend the resolution, but the City Commission could adopt the resolution as amended to include the \$10,000. He said that money would not be TIF reimbursable, but funds from the developer.

Moved by Chestnut, seconded by Dever, 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 12th and the new construction proposed for the site. Motion carried unanimously. (17)

Moved by Chestnut, seconded by Dever, to adopt, as amended, Resolution No. 6753, finding that no feasible or prudent alternative exists to the proposed Oread Development Project 12th and Oread Avenue and the project included all possible planning to minimize harm to historic properties resulting from the project and granting a Certificate of Appropriateness for the proposed project. Motion carried unanimously. (18)

Commissioner Highberger said he thought this was an excellent example of an infill project. It had potential to benefit the neighborhood and strengthen the core of the City. He was glad the City was going in this direction and appreciated the investment in the City's core areas.

Commissioner Chestnut said there was good discussion and follow up because wrapped in their discussion was talk about public incentives, which was something they had been discussing and would continue to discuss. One importance issue was this was a TIF project that focused on the right type of development, infill development, which was inherently

incredibly expensive. The infrastructure investments typical in high density was going to be much higher. It helped attract risk capital to the middle of the City. He did not think if this was a project on the periphery, it would be as near as appealing. They had seen examples of TIF projects in other communities that were out in the periphery, and was probably not the intent of how that instrument was used. Even though they did not have a formal adopted TIF policy, many of the objectives discussed in the study session were met by this project.

He said there was a lot of discussion about debt and interest, but this was a performance type of situation. Whatever the TIF revenue spins off, it spins off and that was what was given to contribute to the investment of the project. The developer took all the risk of interest that exceeded it. Just looking at the split, if looking at all the total new taxes that were created from day 1 of this project, about 60% of those taxes went toward the TIF and 40% of those taxes came immediately to the City over a 20 year period. He said obviously the benefit would be more significant in 20 years, but it created some incremental revenue for the City now.

Moved by Amyx, seconded by Chestnut, to approve the rezoning and placed on first reading, Ordinance No. 8223, rezoning (Z-07-13-07), a tract of land approximately .746 acres, from CN1 (Inner Neighborhood Commercial) and RM32 (Multi-Dwelling Residential) to PCD-2 (Planned Commercial Development), property located at 618 West 12th Street. Motion carried unanimously. **(19)**

Commissioner Amyx said staff's memo dated February 7, 2008, regarding the conditions of the Preliminary Development Plan, he asked if those conditions were the entire list of conditions.

Corliss said one of the conditions was how to reinsure that what was built was following what had been approved. He said knowing with those approvals and if the TIF process proceeds, then the architect would be coming back with the final exterior plans and the City Commission would want to make sure those plans were in substantial compliance with what the Commission understood they were approving. He said the memo from Planning Staff dated

February 7, 2008, there was the height restriction, but what made sense was to see if the City Commission was interested in a condition that indicated the Historic Resources Administrator and City Commission would approve the final exterior construction plans.

Another option would be to delegate the approval of the plans solely to the Historic Resources Administrator and if there was a disagreement between the developer and the Historic Resources Administrator, then the City Commission could have the final approval. He said the exterior of the facility was an important issue and the fidelity to what had been shown and what was going to be built was important.

Vice Mayor Dever said there had been a lot of changes to this plan and people were concerned about another change. The City Commission needed to be sure they were consistent.

Corliss said regarding the demolition, in the resolution that was adopted, that resolution provided that no demolition permits should be issued for the project until the district was lawfully established and the redevelopment agreement was executed. He said that agreement was going to ensure that the project actually was going to be constructed. One of the comments heard was what happened if there was demolition and then nothing happened on that project. He said staff wanted to avoid that situation even though staff did not think it would happen. He said the City Commission might want to discuss establishing in the development plan and in the development agreement closing the loop of what had been proposed to be built and what the exterior façade was going to look like. He said there might be some changes, but the City Commission needed to be the arbiters of whether or not those changes were appropriate, based on staff's recommendation.

Mayor Hack asked if Corliss was suggesting putting that idea in as a sixth condition.

Corliss said it would be good to indicated in the development plan conditions that the exterior of the building, those final architectural plans, needed to be reviewed by the Historic Resources Administrator and approved by the City Commission.

Moved by Chestnut, seconded by Dever, to concur with the Planning Commission's recommendation to approve a Preliminary Development Plan (PDP-07-03-07) for Oread Circle (Oread Inn), a proposed mixed use residential and commercial development, located at 618 West 12th Street, subject to the revised following conditions:

1. Approval of the following waivers and reductions:
 - a. Area reduction from 2 acres to .73 acres
 - b. Waiver to allow direct access to a local street.
 - c. Yard Reductions along the north side to a minimum of 21' rear/peripheral yard setback;
 - d. Yard Reductions along the east side to 2' side/peripheral yard setback;
 - e. Yard Reductions along the south side to a minimum of 23' front/peripheral yard setback;
 - f. Yard Reductions along the west side to a minimum of 2' exterior side/peripheral yard setback;
 - g. Off-street parking to a minimum of 165 spaces as shown on the plan dated 09/10/07.
2. Provision of a revised Preliminary Development Plan to include the following notes and changes:
 - a. Provision of an exhibit of the approved waivers and reductions to be attached to the Preliminary Development Plan.
 - b. Provision of a note on the face of the plan that states that the terrace areas provide common open space for the development and shall not be enclosed without approval of a revised Preliminary Development Plan and approval of reduction in the required open space provisions as applicable.
 - c. Note and show the required off-street parking based on the applicable code of 1 space per 200 NSF.
 - d. Provision of a note on the face of the Preliminary Development Plan stating that a detailed list of use restrictions shall be shown and submitted with a Final Development Plan.
 - e. Provision of a note that establishes a time limit for organized activities within the terrace areas to not exceed 11:00 P.M. Sunday through Thursday and 12:00 A.M. on weekends (Friday and Saturday nights).
3. Provision of a revised Preliminary Development Plan per the City Stormwater Engineer's approval that shows:
 - a. Show the contour lines to accurately reflect the elevations of the site.
 - b. Specify that all curb inlets will be constructed per City storm sewer standard details.
4. Provision of a revised Preliminary Development to show the following changes to the pedestrian pathway circulation adjacent to the proposed development as follows
 - a. Removal of the angled crossing through 12th Street
 - b. Provision of a 90 degree crossing at the corner of 12th Street and Oread and the corner of the development.
 - c. And extension of the sidewalk through the driveway along the current alignment
 - d. Show the existing sidewalk extended along Oread Avenue along the west side of the street.

5. Provision of a note on the face of the Preliminary Development Plan that states; "The south elevation shall not exceed 105' in height as measured from the adjacent grade at the main south entrance to the top of the 7th floor deck parapet as shown on the south Elevation." (New condition proposed by applicant as suggested by staff).
6. "The exterior façades of the hotel structure shall be in substantial compliance with those elevation drawings presented at the February 12, 2008 City Commission meeting, attached hereto as Exhibit A [see attached PDF], and the exterior façades shown on the Final Development Plan shall be reviewed by the Historic Resources Administrator to check for substantial compliance with the façades attached as Exhibit A prior to the final approval of the Final Development Plan. If the Historic Resources Administrator finds there to be any substantial design alterations on the Final Development Plan, such alterations shall be reviewed and approved by the City Commission prior to issuance of a building permit."

Motion carried unanimously.

(20)

Moved by Chestnut, seconded by Dever, to close the public hearing. Motion carried unanimously.

Moved by Chestnut, seconded Dever, to adopt on first reading Ordinance 8234, establishing the Oread redevelopment district. Motion carried unanimously.

Corliss said staff would proceed as outlined in the different calendars on the various items to proceed with this project. If the City Commission had now or in the coming days any additional comments on what was in his memo as far as what staff recommended on the TIF reimbursable amounts and staff's recommendations as far as sharing those types of things, he asked that the Commission let staff know.

The City Commission took a 10 minutes recess at 9:55 p.m.

Conduct public hearing on the advisability of the construction of improvements at the intersection of Congressional Drive and 6th Street, including property acquisition, subgrade stabilization, traffic signals, and traffic calming devices south of 6th Street along Congressional Drive to the southern most points of Tract 9 and 10 and other necessary and appropriate improvements.

After returning from recess at 10:05 p.m., Chuck Soules, Public Works Director, presented the staff report. He said the improvements were intended for the intersection at 6th and Congressional, where a traffic signal would be installed. A traffic calming device, which

would be a median, would be at the southern boundary of the benefit district. He said because of driveway issues and access to Congressional Circle, the traffic calming would only amount to a short median in the existing road, narrowing those lanes to 10 to 11 feet. He said hopefully constricting those traffic lanes would slow traffic down.

Each corner of the intersection would be assessed for one-ninth of the total cost of the intersection improvements. The total combined cost for all four corners of the intersection was four-ninths of the cost of the improvements. By resolution, the City-at-large cost for the improvements was five-ninths. The agreement between the City and Wal-mart and 6WAK would cover the City's five-ninths cost for the improvements.

Estimated cost of the improvements was \$331,000 including design, construction, inspection, administration, legal, and bonding costs.

Staff contacted the property owners included in the benefit district notifying those property owners of this public hearing.

John Miller, Staff Attorney, said the 6WAK and the Wal-Mart property owners in that area had requested from the time they established the hearing until this date to remove a portion of property. When the hearing date was established for the improvement district, the improvement district included Tract 3, which was the property located next to Wakarusa Drive. He said 6WAK Land Investments, wanted Tract 3 to be removed from the improvement district. What staff was proposing with Resolution 6755 was to remove Tract 3 at the property owner's request. In case there were any questions, staff renumbered the tracts and took Tract 3 out in anticipation of this hearing date.

He said staff presented the change in the improvement district to bond counsel with Tract 3 being removed. Bond Counsel was comfortable in removing Tract 3 along with respect to the improvement district at this intersection. Staff wanted the minutes to reflect the change of Tract 3 was removed and did not benefit from the 6th Street and Congressional Drive improvement district. Bond Counsel did not have an issue with removing that tract and wanted

to make sure from the public hearing process, the City Commission considered it and it was within the governing body's determination to remove that tract because it did not specifically benefit from the 6th Street and Congressional Drive improvements.

Soules said the removal of Tract 3 would not affect any of the other 3 corners, but only affected the property's costs in the northeast quarter.

Miller said how the improvement district broke down the costs for the property owners in all four corners did not change as a result of Tract 3 being removed from the improvement district.

Vice Mayor Dever said what was the basis for a property being included in a benefit district and by removing that tract, he asked how did it not impact the other properties.

Miller said it did not affect the other properties because each corner was going to be assessed 25% of the 4/9. Each corner was going to be assessed 1/9 and would not change based on the removing of that tract. The concept was each property on those corners had to be equally burdened from the improvement. From looking at the information submitted by the property owner, 6WAK and bond counsel, the governing body could make the determination that Tract 3 did not benefit from the improvement at that intersection. He said when looking at the final development plan there was a frontage road that went directly across Tract 1 and tract 2. There was access to Tract 3 from the northern side, so that property could get access to Wakarusa from a right in, right out access. Tract 2 would have right in, right out but would also have access along the frontage road at the front of that property.

Mayor Hack called a public hearing on the on the advisability of the construction of improvements at the intersection of Congressional Drive and 6th Street, including property acquisition, subgrade stabilization, traffic signals, and traffic calming devices south of 6th Street along Congressional Drive to the southern most points of Tract 8 and 9 and other necessary and appropriate improvements.

Cliff Coan, property owner of Prairie Commons, said he objected to being included in the proposed benefit district. Their customer base was low to moderate income seniors. He had approximately 120 elderly ladies in their mid 70's. They were people who were living at a level 60% below median family income.

There were approximately 55 acres in the district that was outlined, and in that 55 acres, there were two residential tracts, his tract and Tract 8, and everything else in that district was commercial development.

He said a one month estimate amounted to about \$30,000 for his piece of property, essentially what that meant was over a ten year period of time, if they extended their payments, he had to raise the rent on his tenants a couple of dollars. His tenants were on fixed income and were very sensitive to the inflation sources they were now living with. In some cases, his tenants were making choices between whether to take their medicine or buy food.

He said he did not think it was an appropriate burden to signalize the corner of 6th and Congressional Drive and burden his customer base for the cost of that signalization when they were dealing with 49 acres of viable commercial overwhelming development that had the capability of producing an income stream where the amount of money charged to his development, would ultimately be passed to his customer base, was insignificant to that commercial development, but very relevant to the 128 people who would be paying that ticket for the next 10 years in his development.

Miller said all four corners of the intersection had agreements not-to-protest the formation of a benefit district. To anticipate one of Coan's intentions, which was previously discussed, was that Coan felt the agreement not-to-protest was not applicable in this circumstance, but in a phone conversation with Coan, he respectfully disagreed.

Coan said he thought the document spoke for itself. He said it did not say anything about a benefit district to produce signalization from the corner of 6th and Congressional Drive.

Moved by Dever, seconded by Chestnut, to close the public hearing. Motion carried unanimously.

Commissioner Amyx said in the language regarding 6th Street, he asked did it mean all inclusive including stop lights.

Corliss said staff's interpretation was to include all the necessary improvements to improve 6th Street. He said 6th Street was improved with City and Kansas Department of Transportation funding and a benefit district was not formed for the construction of the 6th Street improvements, but it was interpreted that if there were improvements to that street, signalization would be included. He said K.S.A. 12-6a06 was the statute that was the special assessment benefit district statute.

Commissioner Amyx asked if the other agreements not-to-protest a benefit district for stoplights on developed or undeveloped property, just say 6th Street. He said he saw a difference between 6th Street and a stoplight.

Miller said he had an agreement not-to-protest for one of the other corners. He said the language again, K.S.A. 12-6a06, which was specifically the protest petition section of the state statute, the construction of streets and sidewalks on the above described property for thirty years, which was a 1994 agreement. The language that was included in the 1995 agreement that affected Coan's property was consistent with the language for the improvement district and agreements not-to-protest a benefit district for the property owners in that area.

David Corliss, City Manager, said the language was not as specific as staff would like that language. He said Miller worked with Planning Staff in drafting those agreements not-to-protest, to make sure those agreements were more specific and descriptive as far as the improvements. He said the agreement worked out with Wal-Mart/6WAK was paying 2/3 of the cost. The City's budget did not have the money for 1/3 of the cost, which was why a benefit district was being discussed for the properties that benefited from those improvements. He thought the four corners benefited from the traffic signal.

Commissioner Amyx said the last agreement talked about streets and sidewalk improvements and he asked about that piece of property.

Miller said the property was the southeast corner of 6th and Congressional Drive.

Commissioner Amyx asked whether the agreements not-to-protest the formation of a benefit district for the property to the west where the Commission had approved a benefit district for traffic signal improvements for George Williams Way, included language regarding traffic signals.

Miller said he needed to check those agreements in order to respond. He would prefer to take a look at the agreements before he would respond to that question. He said it was something staff could look at and gather information.

Vice Mayor Dever asked if the property that Coan owned received any tangible or upgraded benefit from the improvements on 6th Street such as any right-of-way purchased from Coan or did Coan receive landscaping, sidewalks, any upgrades whatsoever when that property was upgraded.

Coan said yes, there was a combination of work.

Vice Mayor Dever asked if Coan was asked to provide any funds for 6th Street.

Corliss said 6th Street was financed by City taxpayers and State of Kansas taxpayers. There was no benefit district for 6th Street.

Vice Mayor Dever asked if the wording was consistent with all the agreements on the north and south sides of the street and there were no specific indications about signalization or traffic calming in any of the agreements not to protest.

Miller said he would have to check again with the agreements to the north side. Those agreements were contemporary with the improvements, so some of the language might be modified.

Coan said in looking at the configuration of the layout, they were dealing with approximately 2.25 million square feet notwithstanding the two right squares in the upper right

quadrant which was not included in the square footage. He said if taking a balance of the center of the intersection and took 2.25 million square feet and put in the center of that intersection, included would be a bunch of single-family homeowners. Obviously, it was not the appropriate thing to do. They were looking at the lopsided presentation of the benefit district, which were about 700,000 square feet on the south side of 6th Street and 1,553,000 square feet on the north side which did not balance.

Commissioner Amyx said he believed there was benefit to Coan's property which was access onto 6th Street. He said he questioned whether or not the agreements specifically related to traffic signalization on this corner and other corners to the west of 6th Street.

Corliss said the agreements did not specifically call out traffic signalization. The agreements talked about improvements to 6th Street. It did not mean staff could not go ahead and try to include Coan's property, but if he tried to protest and was successful in arguing he did not sign an agreement not to protest a benefit district, then this property needed to be counted as far as the protest. It did not mean there was a sufficient protest to kill a benefit district, but staff needed to see who else protested.

Bill Newsome, 6WAK, said to clarify the question asked by Vice Mayor Dever, he did not have the final development plan, but if he remembered correctly, he thought their agreement referred specifically to traffic signalization at 6th and Congressional, but their deal was done at the time KDOT was in the midst of acquiring property, so the 6th Street development was well underway. He was in the same business as Coan and was respectful of the position he took, but would say his property benefited from the construction of 6th Street. There were no benefit district assessments for that construction and in fact, most of the property owners received payments for acquisition of right-of-way or permanent easements.

He said to be clear, with taking out Tract 3, it did not change the northeast corner paying for 2/3 of the benefit district.

Moved by Dever, seconded by Chestnut, to close the public hearing. Motion carried unanimously.

Miller said to respond to Vice Mayor Dever's question, in looking at the Village Meadows property, the language from the planning staff report stated the provision of the agreement not-to-protest the formation of a benefit district for the geometric and signalization improvements for the intersection of West 6th Street and Congressional Drive. It was more specific than the agreements, but very specific just to that intersection. He said it was his understanding there might be other agreements not-to-protest the formation of benefit districts for that property, but the specific report that was sent to Village Meadows talked about the geometric improvements.

Commissioner Chestnut said he appreciated Coan coming to speak. There was some information important to remember, which was that there were payments for right-of-way. Also, frontage had been the criteria for benefit districts, which was discussed for the George Williams Way benefit district. He thought that was the precedent as far as making assessments; frontage dictated and not acreage.

He did not think there was any contention that there was no benefit to this property. He said it sounded to him the intent was not-to-protest the improvements on 6th Street. He said whether it included signalization or not, with the Northwest Area Plan being in place since 1996, it was not a mystery that there would probably be signalization at that corner at some time. He did not know if that would have been a decision with Coan or any other property owner.

They also had to think about the way those agreements were done and the time horizons. Certainly the language would get more specific as the development got closer, but if they were trying to put those in place in what they were going to do in the future, he did not know how specific staff could get because they did not know exactly what was going to happen. That agreement was executed in 1992 or 1994, so it would be pretty difficult to envision what was out there, but certainly what was in Horizon 2020 at that time, plus the Northwest Plan coming in a couple of years after, there was anticipation those improvements would include

signalization as well as additional improvements to that property. He said he believed the City Commission should move forward on this benefit district because if looking at the City's not-to-protest agreements, they were done far enough in the future, as they should be, and there should be some ambiguity and would be difficult to anticipate the specifics.

Vice Mayor Dever said it was unfortunate that 6th Street was not spelled out to include signalization. Coan had a good argument. Some of the impact was being mitigated by the fact the property extended north and included a parcel that did not receive a tremendous amount of benefit because that parcel had access to get out on several other roads. He said the impact was lessened on Coan's parcel by including the area to the north.

He said if estimating what Coan might have had to pay for 6th Street, he hoped that amount would be equal to or greater than what Coan was being asked to be pay now and Coan did not participate in the improvement of 6th Street because of the state's involvement in the upgrade being a state highway. The fact that Coan refused to protest for the upgrade of 6th Street and did not have to pay anything, he thought it was an in-kind or similar assessment on what Coan would have had to pay for the upgrade of 6th Street. Therefore, he did not think it was unreasonable for the City to ask Coan to participate in the signalization. He did the math, and it was \$30,000, which penciled out to \$2.00 a month per person for a 10 year period, including interest. He knew that was a lot of money and apologized for the impact, but thought it was a reasonable sum to ask of Coan.

Mayor Hack said Commissioner Chestnut brought up a good point that a lot of the agreements were based on what they knew at the time and not what they assumed for the future. She agreed with Commissioner Amyx that Coan's piece of property would benefit from that signalization and it would be important to do the geometric improvements for Coan's property and for the others. She supported the resolution.

Commissioner Amyx said he respectfully disagreed. Although there was a benefit to Coan's property because the geometric improvements were necessary for safe access on and

off 6th Street, he thought the City created an error by not having specific language that dealt with traffic signalization.

Moved by Chestnut, seconded by Dever, to adopt Resolution No. 6755, setting out the findings and determinations and ordering the improvements at the intersection of 6th Street and Congressional Drive, including property acquisition, subgrade stabilization, traffic signals, and traffic calming devices south of 6th Street along Congressional Drive to the southern most point of Tracts 8 and 9 and other necessary and appropriate improvements. Aye: Chestnut, Dever, Hack, and Highberger. Nay: Amyx. Motion carried. (21)

Consider request to annex property near K-10 and the Turnpike.

Jane Eldredge, attorney for the property owner said this was a fairly standard request as a result of City staff mentioning, over the last several months, that an industrial site would be nice to have in the City because it would create City revenues as well as County revenue. As a result, if their request seemed reasonable, they would ask to refer the request to the Planning Commission for their input and study and also ask the County Commission, by resolution, to make their proper findings. It would be an island annexation, so the County Commission would consider it as well as the City Commission.

Commissioner Highberger asked if this property was inside or outside the City's adopted urban growth area.

Eldredge said it was adjacent to the urban growth area, it was not within it.

Commissioner Amyx asked if there was a request from this property owner to the County Commission.

Eldredge said there was a zoning application that had been approved by the Planning Commission, and that was set to be heard by the County Commission in April.

Commissioner Amyx asked Eldredge to describe what the County Commission had to do as part of this annexation request.

Eldredge said if the City determined it was a good idea for the City, the County had to make findings. The findings principally were if they City of Lawrence were to annex this ground, it would not cause any harm to any other city within the county. In this case, it was within three miles of Lecompton.

Mayor Hack called for public comment.

Dave Ross, President of the Scenic River Way Community Association, said they were a neighborhood association that surrounded that piece of property. They felt the annexation request was inappropriate and premature at this point. They felt it was inappropriate because in December this applicant requested the Planning Commission to grant him the most intensive zoning allowed in Douglas County, short of the Westar Energy Plant. The applicant asked for the zoning and only after he received the zoning he would let everyone know what he would do with that piece of land.

The Planning Commission, at that time, recommended denial, but the Planning Commission voted to go ahead and ignore the findings and recommendation of the Planning staff and voted to proceed. As a result, the neighborhood organization filed a valid protest petition with 85% of the land owners within 1,000 feet signing that petition. The request at this point was scheduled to be heard on April 2nd before the County Commission and because of the protest petition, it would require a unanimous vote. He said they were not sure if the applicant felt uneasy about the success of that vote, but appeared to the neighborhood that the applicant was trying to circumvent the County process by bringing it before the City Commission at this point.

As for premature, he had lived in the Lawrence area and in Douglas County for 35 years. During that time, especially in the past several years, thousand hours of work and hundreds of thousands of dollars had been spent by citizens in the City trying to plan a long range vision for the growth of the City and County. The results show the growth of the City and infrastructure to support that growth should be directed toward the southern side of the City. The proposed

water treatment plant, the redevelopment of the Farmland Plant, future completion of the southern bypass, construction of the new Highway 59, possible interchange to the Turnpike east of Lawrence, and the related eastern bypass, the fact that the highway corridor was being designated for animal health and biotech studies, all pointed to the fact the growth and focus should be toward the south. This piece of property was outside of the urban growth area and on the opposite side of the City. It leapfrogged over nearly 3 miles of county property on the northwest boundary of the City and was not planned for infrastructure for nearly 20 years. They also felt the infrastructure that would have to be provided would drain the limited and much needed resources for projects that were already underway.

In conclusion, he said this developer was asking the City Commission to ignore all the facts and the years of the planning and expense that had been involved, they felt the applicant was single handedly trying to redirect the focus on the expense of the City to improve his return on investment and would respectfully request the City Commission deny the request for annexation to go forward until such time it fit with the plan and expenditures of the City.

Gwen Klingenberg, President Lawrence Association of Neighborhoods, said she would like to have four points discussed. First, the neighborhood was not notified of this agenda item and knew it was not a zoning issue; however, it affected many people and greatly affected this neighborhood that had come again for the third time in front of a government body since spring on this property. There needed to be a text amendment that required notification of neighborhoods for any issue worthy of being placed on an agenda, whether it be a Planning Commission or City Commission agenda.

The second point was before further approvals or instructions to send industrial sites to the Planning Commission, the City needed to sit down and discuss how much money had already been spent, how much more, and where that money was going to go. There was a large industrial area on the southeast side of town where they have already spent millions in infrastructure and they just passed an additional 300 plus acres of industrial. The City was in

the process of working with Farmland and improvements to Highway 50 were underway. They all knew the SLT would go underway.

According to T2030 draft pages 197 and 201, there was an eastern connection between US 24/40 and K-10 on the project and a south interchange east of Lawrence connecting K-10 to I-70. There were improvements to roadways in Lawrence with more than half going to roads east of Iowa, including Iowa, for better truck traffic management, on Tables 14.2 and 14.7. With the connections from K-10 to I-70 on the east side of town, they no longer needed a separate and far away industrial area to have the connection to I-70. Page 35 of T2030 and pages 162 and 166 stated the need to separate industrial sites from neighborhoods and so forth. This neighborhood had come three times since April because it did affect a neighborhood. According to T2030 page 69, transportation and land use planning should go hand in hand and it seemed this site did not go hand in hand because it did not separate industrial sites from neighborhoods.

The third point was the site would create sprawl. It had been stated that developments would follow industrial site development, yet on T2030 page 2 it said that balance land use, transportation, and environmental need to enhance quality of life, minimized the effects of sprawl.

The fourth point was the City needed to consider an area plan before annexation. Lawrence was trying to find ways to protect their growth from sprawl through new codes, such as the SmartCode, mixed use chapters, but by leapfrogging annexation and leapfrogging development, which went against Horizon 2020, this site would create sprawl and would damage the surrounding neighborhood. This industrial site more than likely will show that it would not work for T2030 or Horizon 2020 at this time. She said the developer had promised to pay for the cost of infrastructure, but in the case of the airport industrial site, she asked who paid to get the infrastructure to that site. Because of leapfrogging, infrastructure already in place was not nearby.

Last year, the City Commission cut city services because of financial problems, and this year the City promised to do the same again. We, as a City, could not continue to spend money for infrastructure for any and all who ask for it. As a City, they had to determine how they were going to spend money and what money they had for development.

Job growth was very important, but waiting 20 years from money spent on special assessment projects to be paid back was not money coming into the City coffers now.

Also, this was Lecompton's only gateway at this point from I-70 and just about anywhere else.

We, as a City, needed to defer this discussion of annexation until they have created a master plan for not just snowflakes on a map but for monies they were going to spend and also for when they were going to be able to spend it. They had to consider what they had already funded, what order they wanted to spend the money on new industrial sites. They needed to prioritize the City's industrial sites. One point could be the closeness of the infrastructure already nearby, set a time for that development to occur, and if that development was not going to occur for 20 years, then they needed to wait 20 years for the approvals.

A neighborhood should never be left out of the loop for issues important enough to be an agenda item for discussion at the Planning or City Commission levels. She asked the City Commission to defer this annexation until there was an understanding of whether there was a need, what cost would be incurred, and a report was presented.

Beth Johnson, Lawrence Chamber of Commerce, spoke in support of the request. She said it was a great gateway to the community and provided tremendous access on I-70 and K-10, which were tools needed at this point with sites that had both access to I-70 and K-10. Until they could continue to bring those sites on board, they did not have the opportunities to give to consultants when consultants come looking for opportunities. She did not have a day, a week, a month, a year, five years, 10 years, 20 years to get those sites ready, those sites were needed tomorrow. As long as they had to keep telling potential businesses they did not have

the sites, the more times this City was eliminated from the lists. She encouraged the City Commission to refer this request to the Planning Commission to start the process.

Lynn Ward said she lived on a farm and ranch with her family at 922 North 1800 Road, just east of the proposed annexation area. She also owned property in Lawrence. She and her family were not opposed to development or annexation of the property next to their property. In fact, they expected annexation in time, but did not think this was the time. It would be costly for the City and was not all ready in the long term planning for the City. There were other sites that were zoned for industrial use, but have not been developed by the City. She suggested the City focus on what it already had before it annexed land in the country.

Marguerite Ermeling said Commissioner Chestnut brought up the words 2020 and Northwest Area Plan. Those were plans that clearly had directed annexation to occur as close to City limits as possible. There was a lot of land that was previously pointed out between Lawrence and this particular land. There was nothing in either of the documents that suggested it was a good idea to go outside the urban growth area, even if it was adjacent to it, to bring in more land specifically. She said she requested again the process for changing the plans first if it was necessary that it was evolving to the act that they begin with the plan and the document that said it was okay, which would be Horizon 2020. If Northwest Area Plan needed to be revised or updated to include some information to say that tract of land was going to be involved in the Northwest sector planning, great, but so far there had not been a decision on how that would happen. While she appreciated the Chamber was looking for land, there was a lot of land, but there was an orderly process by which a community brought things in and could afford them. She implored the City Commission to go to the overriding document and begin the changes and amendments through that process and then go through the discussion on whether this was a good site or proper site. She said it seemed extraordinarily premature, although within legal rights to ask, it seemed incredibly premature without even basic discussions in those documents and any other process for what this area should be and how it should be used.

Commissioner Amyx said the request was for annexation contingent upon appropriate zoning being granted. He said looking at the zoning ordinance and the number of categories the Planning Commission had to address, he asked if it was important that properties go through a process in order to gain zoning.

Ermeling said she thought it was important to go through the process of gaining zoning.

Commissioner Amyx said Ermeling's concern was whether or not it was appropriate, at this time, to consider annexation by Lawrence City Commission, Douglas County Commission, and Planning Commission.

Ermerling said she was very open minded to a number of things, including development, but there was no direction and they started doing all of those things of the previous plans and Horizon 2020 was created to stop because it was a problem before in the decades past. She said it was prudent to consider why it was changed and what value that gave to the community in its planning process. If that was worthy of what change was made back in the 1990s, then it was worthy to be considered now. If it was no longer applicable, then she suggested changing it at that level first. She thought it was a process they would go through and the documents needed to be upgraded or evolved first. The community needed to identify where they were going to direct their funds and evolve it the way they all had learned through a lot of different avenues and how to do it efficiently. She said they did not have unlimited funds, and when they did apply funds, they needed to make sure those funds were used efficiently and get what they wanted as a community.

She said she did not have a problem with annexation, but did have a problem of not fitting correctly and someone not getting true consideration in the planning process. She said it was about use of productivity of the Planning Department. The Planning Department was busy in other areas of town and she was not sure this was the right brand new corner to work on. She said if it was the right corner to be working on, then the Planning Department should be busy working on that area and directed to do so. She said the Planning Department did not

even have this request on their plate to consider and it might be that annexation was premature just for that reason. It would be helpful to have the applicant come forward with beginning an area plan, again, for the advent of a request for annexation some place or any place in that area which seemed to be more logical.

Eldredge said she wanted to clear this issue up quickly and easily, but the property owners, which there were 16 different owners in this matter, were not requesting any City funds. She did not think that had been well understood. The property owners were responding to far sighted staff who suggested annexing that area. The reason being, the City was strapped for money. If there was going to be something industrial at that location, they should bring some of that money into the City coffers. The property owners had talked and said they were happy for their property to come to the City and if it was helpful to the City and something the City wanted, then it was great. Again, they were not asking for any City money.

Rick Stein said his presumption when a property was annexed into the City, there was a commitment on the City's part to provide services. In response to Eldredge's comment, he thought that while in the immediate time frame there was no request for money, they were not asking for services. He asked how they could not presume that annexation implicitly presumed that, at some point in the future, there would be services provided at a cost to the community. That was why it was premature because it was way out in the future.

Commissioner Amyx said if the City Commission proceeded with the annexation request and it went to the Planning Commission, the Planning Commission would have the opportunity to make decisions on whether or not area plans had to happen based on all the decisions of T2030 and then the County Commission would also make a determination.

David Corliss, City Manager, said he anticipated a staff report that looked at not only the items that had been discussed this evening, but other items they were familiar with. One of the issues with those types of requests was if they should take it out of the hands of the Planning Commission. Some members of the Commission might remember when there was a request

west of K-10 for a residential development. There was a residential development and it was a discussion with the last Commission if it would even go to the Planning Commission. He said the request was eventually sent to the Planning Commission and they indicated the request was premature. The Planning Commission, in his opinion, was the body to review those items. The County Commission had jurisdiction for this type of annexation, not because it was unilateral because in this case the property owners were consenting to the annexation. The annexation statutes provided that when annexation was not contiguous of the main body of City boundaries that the County Commission had to make a finding. The main findings in the statute were K.S.A. 12-520c which was used a few times over the years when the City had to annex property that was not contiguous to City boundaries. It was basically a finding that the annexation did not harm the orderly growth of the county or other incorporated cities within the county. Usually, the County Commission asked that they make that finding after the Planning Commission review. Infrastructure issues would need to be discussed and reviewed at the Planning Commission and the City Commission levels.

Commissioner Highberger said he realized this was just a request for referral to the Planning Commission to look at annexation, but this area was outside our urban growth area. He thought if they referred this request to the Planning Commission, it made their whole urban growth area meaningless. This was the area the City set aside to look at their growth for the next 20 years and it seemed premature and out of sequence. If they were to consider annexation of this area, they needed to look at the urban growth area boundaries first to see if those were done appropriately. He was not opposed to annexation in principle, but this was so far from being contiguous and outside the City's urban growth area boundary. He suggested that it might be inappropriate to even refer this request to the Planning Commission. Even if there was no request for funding of infrastructure or anything right now, the City was committing to provide services, such as fire, police and trash pick up. He thought the request was premature.

Commissioner Chestnut said he was reliving their discussion of Chapter 7 on industrial lands in Horizon 2020. He said they had the discussion about industrial sites specifically and had a discussion specifically about this piece of ground. One of the things referred to as the snow flakes and had this on going discussion about inside the UGA and outside the UGA. He believed the City had industrial sites south of town. There was no doubt that corridor needed to be developed, but there was also no doubt that industrial property adjacent to I-70 was absolutely critical. He did not know where that was going to be, but it was absolutely critical. The bypass went through, but very contiguous to I-70. He thought it was something they had set out and looked at it in the planning. He supported moving forward for several reasons. One was he agreed there was a presumption of City services, but what he did not know what the costs were. Part of it was trying to be transparent and go through the process if the project, application or land use make any sense and he would like it investigated. They had a discussion about industrial sites in the UGA and also talked about South 59. He asked if they were going to consider any of that when the road improvements went in. The document talked about the fact that the sites were recommended and an overall direction the City was going, but no one knew where the sites were going to turn up based on land ownership, opportunities, economy and so on.

He said one thing he thought that needed to be discussed about 2030 was there was not an eastern connection in 2030; not the recommended route. The recommended information was that was one of the considerations, but in the adopted 1a, it was the 32b and the eastern route was not a feasible alternative. That connection was not there or in T2030, but was in the document as one of the alternatives considered, but not the recommended one. He wanted to see where the process took them. There were a lot of unanswered questions and could turn out that the land use was wrong or the infrastructure costs were too expensive, but would like to see that process take place. Everyone had to get on board with this, so he thought there would be a lot of ability for input.

Vice Mayor Dever said the City had been planning along time and preparing documents. He said it was time to identify the fact that there were not many options as far as developing sites for new businesses to come to the City. He said he would like to see the places where people could come and bring jobs and growth to this community. He was not anticipating anything happening in that part of the City for a while, but they needed to anticipate and put the planning and execution together to anticipate the needs as a community. They needed to see where it would take them, what it was going to cost, when it could happen, how much a developer would have to pay to do these kind of things. If they waited until they miss out on the next opportunity for a business to come to Lawrence, it was another lost opportunity because they did not execute quickly enough. He did not see or foresee any specific land use or company, but they needed to get together and see where it was they were going to have jobs and businesses that were going to be capable of supporting the kind of community they wanted to have. More control was better than less control, and annexation gave them powers they would not have otherwise on what actually occurred on land that surrounded the community. They needed to have that kind of control. For him it was an opportunity to look at what it would take. It did not infer any action, but a request for people who knew a lot about this to take a look at it. Because they did a plan 10 or 5 years ago, did not mean they could not or did not need to change their plans to try and anticipate what would happen over the next five years as far as economy went.

Mayor Hack said the concerns brought up would be addressed by referring the request to the Planning Commission because that took it to staff. The issue of the urban growth area, whether it was appropriate for industrial, whether the Nodal Plan, the Northwest Area Plan needed more work, those kinds of things were only addressed if they sent it through this process. There were no guarantees the process would result in a positive recommendation, but there was a guarantee they would not meet the industrial needs of this community if they did not start deciding if they wanted a better relationship between the residential and non residential tax

base or not. She said they also had to consider if they wanted the tax base for the kinds of things the community wanted or not. Those were the kind of questions that needed to be answered, but the specifics would only be answered if they moved through the process. She was in favor of referring the request to the Planning Commission.

Commissioner Amyx said for the last three years he had the opportunity to hear Commissioner Highberger visit about aggressive annexation and it caught him off guard about whether or not it was the time to annex a piece of property. The City Commission was asked to start the process on whether or not it was appropriate to annex this piece of property, the City Commission would not make that initial finding, but the Planning Commission, along with staff and people involved around this piece of property. He was not going to suggest, at this point, it was appropriate to talk about any specific land use on that property because they had process in place and that process was important to go through. Process had been questioned a little bit over the last several months and thought it was appropriate and believed everything received its day in court. They had a request before them to request annexation and he would honor that request at this time and recommend it go before the Planning Commission.

Moved by Dever, seconded by Chestnut, to refer the annexation request to the Lawrence-Douglas County Metropolitan Planning Commission. Aye: Amyx, Dever, Chestnut and Hack. Nay: Highberger. Motion carried. **(22)**

PUBLIC COMMENT: NONE

FUTURE AGENDA ITEMS:

02/19/08

- Receive annual report from the Lawrence Citizens' Advisory Board.
- City Commission consideration of revised Preliminary Development Plan for Bauer Farm development at 6th and Wakarusa, submitted by the applicant on November 29, 2007.
- Receive request regarding the design of the University Park detention area.
- Adopt Annexation Ordinance for Bauer Brook Estates.

- 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)

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 RM12 (Multi-Dwelling Residential) 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 RM12 to RM12-PD and adopt on first reading, Ordinance No. 8227, providing for the rezoning of approximately 80 acres from RM12 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)

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

- e) Discussion of possible Queens Road special assessment benefit district formation.

ACTION: Direct staff as appropriate.

- 02/26/08 • Consider the following items related to the proposed Oread Inn project (12th & 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.
- 03/04/08 • Receive status update on Lawrence Freenet proposal for "Freenet-Kids".
- Presentation of Transportation 2030 Plan
- 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
- 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.) *City Commission is awaiting additional comments from the County Commission before placing this item on a City Commission Agenda.*

- 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.
- 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 9th 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).

- Sidewalk dining regulations and guidelines.
- Rural Water District contracts.
- Economic Development study session follow-up items.
- Adopt revised truck route ordinance, removing Kasold Drive, Michigan Street, Peterson Road, and Riverridge Road from the schedule until completion of the Iowa Street Bridge. The City will place No Truck signage on these streets.
- Consideration of ordinances to change the composition of the Convention and Visitor's Bureau Advisory Board.

Moved by Chestnut, seconded by Amyx, to adjourn at 11:30 p.m. Motion carried unanimously.

APPROVED:

Sue Hack, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF FEBRUARY 12, 2007

1. Purchase Agreement - Property interests W Baldwin Creek Sanitary Sewer project, Graham for \$21,139 & Swan Mgmt for \$48,251.
2. Bid – 35 radio headsets for Police Dept to Atlantic Signal LLC for \$20,608.
3. Bid – 1 rotary mower for Parks & Rec Dept to Turf Prof Equip Co. for \$35,851.23.
4. Bid date – March 11, 2008 for Comprehensive Rehab Projects, 1729 Louisiana; 2225 Barker; & 956 Lawrence Ave.
5. Bid date – March 18, 2008 for Kaw Water Treatment Plant high service pump replacement project.
6. Ordinance No. 8057 – 1st Read, rezone approx. 85 acres from RS7 to PRD at 1511 Haskell Ave.
7. Ordinance No. 8231 – 1st Read, annexation (A-04-03-07) of approx. 40 acres, City owned property N of Folks Rd extended & S of I-70.
8. Resolution No. 6754 – Application for 2008 Emergency Shelter Grant from City to State of Kansas.
9. Engineering Services Agreement - Wilson & Co, preliminary engineering & plan preparation for 31st St., Haskell Ave to O'Connell Rd, Street, Storm Sewer & Waterline Improvements to Wilson & Co for \$209,330.
10. Authority to Award Contract/Commitment of City Funds with KDOT for improvements on Harper St for \$62,400.
11. Downtown Sprinkler Incentive Program – recipients 731 Mass & 732-34 Mass.
12. Federal funding requests - members of City's Congressional delegation.
13. Sign of community interest - Pilot Club.
14. City Manager's Report.
15. Resolution No. 6752 – establishing Mayor's Task Force on Climate Protection.
16. Historic Resources Determination (DR-07-06-07) demo 1140, 1142 & 1144 Indiana Streets & 618-620 W 12th.
17. Certificate of Appropriateness, 1140, 1142 & 1144 Indiana Streets & 618-620 W 12th.
18. Resolution 6753 – no feasible & prudent alternatives exit for Oread Development.
19. Ordinance No. 8223 – 1st Read, rezone (Z-07-13-07), .746 acres, CN1 & RM32 to PCD-2.

20. Prelim Dev Plan (PDP-07-03-07) Oread Inn, 618 W 12th.
21. Resolution No. 6755 – Benefit District, ordering improvements, intersection of 6th & Congressional.
22. Refer to County – annex request, property near K-10 and the Turnpike.