



City of Lawrence

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CITY COMMISSION

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

March 4, 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 Amyx, Dever, Chestnut and Highberger present.

REGULAR AGENDA ITEMS:

Receive presentation of Transportation 2030 Plan.

Scott McCullough, Director of Planning and Development Services, said this had been an effort that had been in the works for a while. One of the key points was the official 40 day comment period was complete but it was nice to be able to go to the County Commission last week and Planning Commission in late January. They had the benefit of some of the communications and could expand on those comments. The next steps would be to get the T2030 committee back together between now and when this was scheduled to go to the MPO at the end of March to work through comments and communications to come up with revisions to the plan. He said they had made a lot of changes to the transportation map and a lot of people put a lot of weight on that map because it puts a lot of direction on rights-of-way widths and design.

Davonna Moore, Transportation Planner, said the transportation plan had to be updated every five years. They had been working with KDOT, federal highways, and others to get the plan together. She said she wanted to show the thoroughfares map that came from T2030 and give some of the highlights. They made some changes to connect an east and west area to make it a principle arterial. There were changes to a collector close to George Williams Way.



She said one of the bigger changes made was to the eastern connection. In T2025, the amendment would show the 1600 Road and the River Bridge Crossing connecting into Franklin Road. They decided to smooth them out a little bit further to make the connection to the South Lawrence Trafficway further to the south. They extended 19th Street to the proposed Franklin Road and made the rest minor arterials. They wanted to come up with a strong arterial network, but wanted to preserve the traditional part of Lawrence which was why there were more arterials in that area.

Jim Tobaben, Planning & Engineering Manager for Parson's Brinkerhoff Americas, presented the highlights of the draft T2030 plan. The formal public comment period had ended but they were willing to accept more comments tonight and take those to the steering committee as well. The long range transportation plan fulfilled a federal requirement and served as a guide or framework in making transportation decisions now throughout their horizon year. In this case they chose the year 2030. It was fiscally constrained, meaning they developed a budget. It was a multi modal plan and was looking at more than just personal automobiles. The area had seen continuous growth since the 1950s and was growing at something over 2% a year and expected that trend to continue in the future. It was not only growth and population, but employment as well. There was a lot of commuter traffic in the region. Almost 10,000 people a day leave Douglas County and commute to somewhere else for work. A large percentage of those go to the Kansas City area or Topeka. They also saw about 6,500 people commuting into the area, which were KU students and people coming into work. From a safety standpoint, they were seeing about 3,500 motor vehicle crashes per year. Bridge conditions within the county changed from T2025, with a little bit of good mixed in with a little bit of bad. The percentage of bridges that were in very good condition had come up, so work done within the county was producing benefits. At the same time, some of those bridges that had not been addressed yet have dropped their condition ratings. They now had 7% considered to be deficient, which could be deficient from a structural standpoint or from an operational standpoint. The operational

standpoint may mean the bridge width. The Steering Committee established 10 goals for the T2030; among them, supporting economic vitality of the region; maintaining and enhancing the existing street network; adopting the level of service and traffic operations standards that they should own for protecting the environment and promoting energy conservation; emphasizing safety and security in making sure the transportation system itself was as secure as they could make it. There was a need to coordinate land use planning with transportation planning. They were trying to preserve existing facilities and also promote their efficient use. Before they looked at expanding a facility, adding lanes, say to a highway, they asked if there were some things they could do on how the lanes were managed or how traffic was managed that would promote efficiency. It would be the first step before they looked at widening a roadway. They also addressed pedestrian bicycle issues and took a look at public transportation. There was considerable public involvement and community involvement effort made as part of T2030. A newsletter was developed early in the process and distributed in the area. A website was developed and hosted by the City. Some of the surveys done were initiated by the City, some by the transit agency that gave them a good foundation on public opinion and what the public really thought was important and issues that should be addressed. They had a number of stakeholder interviews where they met one on one with people who had an interest in transportation and had three public meetings, one involving the City, one in Eudora and one in Lawrence. They heard that roadway improvements were needed to address congestion. There was a feeling that a route was needed around Lawrence to take some of the traffic that was using City streets now but was really just passing through and put on a facility that matched up a little bit better with their trip helping to alleviate congestion.

He said congestion on City streets and K-10 as going through Douglas County was a concern. There was growing traffic on county roads as well. Cut through traffic, traffic passing through the City, was another concern and impacts of an automotive facility near Gardner, Kansas. He showed a map of roads that were not congested, were becoming congested and

were congested. 23rd Street east of Iowa, Iowa Street north of 23rd Street and portions of 6th Street were congested during the peak times of the day. In current conditions they had congestion on 23rd Street, and without improvements most traffic would divert and use 19th Street and 31st Street. Those roadways were becoming congested as well. There was a desire for traffic to go to and from I-70 on the west of the City to K-10 to the south and east. Some of that traffic was using the existing South Lawrence Trafficway and 31st Street and Haskell Road. Some of that traffic came down from the other Turnpike interchanges and filtered through town, eventually getting to 23rd Street and heading east on K-10. It was not a problem for Lawrence because they had drivers using local streets instead of a highway system to complete their trips. The City of Eudora saw a similar problem with traffic coming from the Turnpike, going to the county roads, crossing the river, and making the way through Eudora to K-10. That would increase in the future with the Turnpike building a new interchange south of Tonganoxie.

Another issue was the inter modal facility being built in Gardner, Kansas. Freight would be brought in by train, transferred to truck, and dispersed throughout the system. The studies done so far were that most of the traffic would go to I-35 and disperse. His concern was if the traffic wanted to head west, why would they go back to the east and north into the Kansas City area, fight that congestion, and then find a route westward. It seemed more likely they would come west on US 56 and either come up the county roads or US 59 to come through Lawrence to catch the Turnpike on I-70. It was something they wanted to keep an eye on and was a facility that was going to open up in a few years.

They developed three different roadway scenarios. The first contained a South Lawrence Trafficway that was completed on a 32nd Street alignment. A second scenario looked at moving that towards the south of the river. The third alignment provided an eastern connection for the turnpike south across the river down to K-10. They chose the scenario of the South Lawrence Trafficway as a freeway on I-70 on the 32nd Street alignment to K-10. It seemed to have the biggest impact on the congestion in the City of Lawrence and was most

cost effective. He listed various improvements of roads that were planned in the City of Lawrence. One of the big changes from T2025 was that widening Iowa Street to 6 lanes might have too big of an impact on the community because when you go from a four lane facility and about another three lanes of traffic for the left turn lanes, they would be changing the characteristics of the roadway. Instead, they looked at improving the intersections.

He said they heard a lot of comments on transit during the public meeting. They heard a desire for additional services from the public. The wait time for buses would be reduced, longer service hours going more in the evening, continued coordination with KU on Wheels, and a desire to see that service extended out to Douglas County. The commuters were something they needed to look into the future.

He said safety was a new chapter in the plan. There were 3,500 crashes a year and about 10 of those involved fatalities and about 800 involved an injury. KDOT developed a strategic highway safety plan but it was a strategic roadway plan for the state. There were opportunities there to work with the state to make improvements on safety.

He said there would be some impact on the floodplains and wetlands. With the South Lawrence Trafficway, there was a considerable environmental study done as part of that project. Anytime there was a project coming up, there was a piece of it in the early stages of the project, they had to look at the environmental impacts and determine how they want to deal with those. They also took a look at historic areas and few of the projects would have an impact on areas designated as historic. One of the final chapters in the plan talked about they would implement the plan and which recommendations would get implemented in the near term and long term. 72 action items were recommendations covering all modes of transportation.

Commissioner Highberger asked if the projections were based on a 2% growth level.

Tobaben said a little more than that; they worked with the Planning Department to take a look at their projections for the region. The need for the roadways was based a little over 2% and especially the Lawrence area was a little greater than that.

Vice Mayor Dever asked if there was real time monitoring in doing the actual assessments of the roadways at a certain time of the day and how reliable were the computer models.

Tobaben said they calibrated the model and go through quite a process of taking a look at the model's output compared to actual traffic counts that had been taken throughout the region. They would put the land use in, use the model, and go through a process of saying there were 11,000 vehicles used in this roadway and an actual count showed there was 12,000. They did some adjustments and tried to match them up the best they could. There were different rates for different roadways. They would be more accurate on an arterial street than they would on a minor street because it was more critical. They would have a process to go through and try to match up with existing counts as well as they could and calibrate it as tightly as they could to count as existing traffic.

Vice Mayor Dever said the options of using ITS options obviously the less roads they had to improve or build, the less they would have to spend to maintain them. If they could focus on making sure the roadways they had were well maintained and the signals were sufficiently timed and/or connected would help solve a lot of the problems, at least in the near term. He asked what the cost/benefit was in general to implementing a strategy like that versus building new roadways or widening roadways that were there now.

Tobaben said as they moved through the process of determining when a roadway needed to be widened, one of the first steps would be to look at the other options available to buy them time. It was hard to put just one number on the improvement or benefit/cost ratio, but typically they could squeeze some extra capacity out of a system if they did things to make it more efficient, like coordinating traffic signals. They had done a fair amount of work on that, but their recommendation was to look at the management techniques and get the most they could out of the system before they made that step into actually widening a roadway.

Commissioner Chestnut said there was a lot of discussion about that very question and it was about the modeling. He would say that it was pretty behavioral and tried to anticipate if certain arterials got clogged up, what choices people were going to make. One of the reasons going back to the map was on Iowa Street they tried not to have 6 lane. It was a combination of character disruption. They were trying to recognize if their goal was just through put or was it recognizing servicing the neighborhood. They recognized the fact that one of the things that was not there was what they could do on design of intersections and such. They talked a lot about access management, especially on 23rd Street. There were a lot of things they could take from this and how they would do the cost/benefit before they looked at a major road project. They have identified a lot of intersections and other things saying here was where they saw this becoming a problem. He knew several people on the Planning Commission were keen on that and there was some data there for them to do as they reviewed these things as they came up.

Commissioner Amyx said he noticed in the land use section of Chapter 5 and also in the implementation section in Chapter 16, it seemed like the top implementation talked about combining the planning cycles and he could see where if it would be number one, the first thing to do would make a lot of sense. He said in developing cycles of the region's Comprehensive Plan and Long Range Transportation Plan into a maximum five year process, it did not take long to get to five years. He asked how outdated did these plans get if they did not start implementing these.

Tobaben said as far as the transportation side goes, the long range transportation plan was required by the federal law that it be updated every five years, so that was a given. The plan was trying to look out to 2030, but if they were to say five years ago they knew all the details about the Gardner Inter Modal Facility, no they probably did. It was good the plan was updated every five years because if there was constant change, there was always something that came up that no one expected. Maybe five years from now gas costs \$10.00 a gallon and people are going to be demanding a transit system. It was important to keep that current and

the reason for the recommendation to tie the two planning cycles was that decisions made on the land use side had a large impact on transportation and vice versa. It was important there was good communication between those two planning efforts. The recommendations and action items were not only under priority order, but the bottom line was it was good practice to incorporate land use planning and transportation planning to make sure the two sides are talking to each other.

Commissioner Chestnut said they spent a lot of time on the southeast and northwest and they were using a lot of what planning information they had to think about grids in particular and up in the northwest especially, Peterson Road having to make that curve because of some limitations on what they could do going straight through there, there was a lot of benefit having people from Planning talking about this and know what the potential zoning might be. He agreed that they were integrated. They got down to a lot of looking at the northwest and looking at a lot of things. A lot of times they had to refer back to the zoning and going back to 2020 and discussions about where they thought this was going to go. If they were hooked together, they fed off of each other.

Mayor Hack asked Tobaben to review the next steps.

Tobaben said the next steps were to take a look at the comments received and review those comments with the Steering Committee. They would decide how to address those comments and the final document. Then they would finalize the document itself and take it to the MPO for adoption.

Mayor Hack asked for public comment.

There was no public comment.

Commissioner Highberger said he wanted to thank the committee because obviously a lot of work went into this. He appreciated the decision on the six lanes road and shared the concern that was not the way they wanted to go. He encouraged the MPO to look at the comments because there were some good points made about alterations and there were some

good points made about the future. It was impossible to predict the future and did not know what would happen 20 years from now, but did not know what else to expect that the culture would be the same now with concerns of global warming. He would have liked the transit section fleshed out a little more and especially more detail and mention of regional transit. He was disappointed with the street standing and thought there were traditional street signs and there were ones way too high. It needed to focus more on pedestrian needs.

He said it was his understanding that it was unusual for the MPO to not have any elected officials on it in terms of a best practice. He said there might be a need for a study session to make sure they were comfortable with the structure and position of the MPO.

Mayor Hack said there had been some discussion on the Planning Commission; they were directed to serve as the MPO and became that, but it was unusual and they have talked about that. They talked about rectifying that. There would be the Planning Commission and the MPO would exist as elected officials with the fiscal responsibility.

Moore said she wanted to add that they would look at the MPO organization issue and would be brought up at the meeting for the Planning Commission as well.

Mayor Hack said the Commission would recess and resume the remainder of the meeting at 6:35 p.m.

At 6:35 p.m. the Mayor called the meeting back to order.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Hack proclaimed Tuesday, March 4, 2008 to be "Friends of the Park Day."

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve the City Commission meeting minutes of February 19, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive the Planning Commission meeting minutes of January 28-30, 2008; the Convention and Visitors Bureau Advisory Board meeting minutes of January 22, 2008; the Mental Health Board meeting minutes of January 29, 2008; and the Lawrence Memorial Hospital Board meeting minutes of January 16, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve claims to 410 vendors in the amount of \$3,441,767.19 and payroll from February 17, 2008 to March 1, 2008, in the amount of \$1,827,792.23. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve Drinking Establishment License for Allstars, 913 North 2nd. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to concur with the recommendation of the Mayor and appoint Lori Hutfles and Ken Albrecht to the Sister Cities Advisory Board, to terms which will expire December 31, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to set bid date of March 25, 2008 for Stoneridge Drive, Overland Drive to 6th Street, street, storm sewer, and waterline improvements (Section 1), and Overland Drive, Queens Road to Stoneridge Drive, street, storm sewer and waterline improvements (Section 2). Motion carried unanimously. (1)

The City Commission reviewed the bids for contract mowing for the Parks and Recreation Department. The bids were:

DISTRICT 1, AREA 1	
BIDDER	BID AMOUNT
Tom's Mowing	\$13,960

Cut-N-Edge, Inc.	\$38,540
DISTRICT 1, AREA 2	
BIDDER	BID AMOUNT
Cut-N-Edge, Inc.	\$87,350
DISTRICT 2	
BIDDER	BID AMOUNT
Vernon's Lawn Mowing	\$16,260
Cut-N-Edge, Inc.	\$27,376
DISTRICT 3	
BIDDER	BID AMOUNT
Rockn'c Lawn & Landscape	\$5,296
Cut-N-Edge, Inc.	\$9,250
LANDSCAPE	
BIDDER	BID AMOUNT
Rockn'c Lawn & Landscape	\$11,730
Cut-N-Edge, Inc.	\$18,764

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to District 1, Area 1 to Tom's Mowing for \$13,960; District 2 to Vernon's Lawn Mowing for \$16,260; District 3 to Rockn'c Lawn & Landscape for \$5,296; Landscape Division to Rockn'c Lawn & Landscape for \$11,730; and reject bid from Cut-N-Edge for District 1, Area 2 for \$87,350. Motion carried unanimously. **(2)**

The City Commission reviewed the CBX parts and maintenance service for the Information Systems Department. The bids were:

BIDDER	BID AMOUNT
Innovative Services Solutions, Inc.	\$19,562
Allegiant Networks	\$24,170

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to Innovative Services Solutions for an annual cost of \$19,562. Motion carried unanimously. (3)

The City Commission reviewed the bids for City Bid No. B08002, Ohio Street, 6th Street to 8th Street, brick street reconstruction (Project No. 21-BS1-607(C). The bids were:

BIDDER	BID AMOUNT
Engineer's Estimate	\$839,259.00
GSR Construction	\$669,988.92
Paver's Inc.	\$962,564.91

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award bid to GSR Construction for \$669,988.92. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt on first reading Ordinance No. 8235, establishing the City Commission quorum at four (4) Commissioners, pursuant to Charter Ordinance No. 25, the City Commission quorum of four (4) Commissioners must be annually re-established by ordinance by March 31. Motion carried unanimously. (5)

Ordinance No. 8197, condemning certain property interests for the West Baldwin Creek Sanitary Sewer Project, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8239, enacting Chapter 5, Article 19 of the Code of the City of Lawrence pertaining to Underground Wiring Districts, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (7)

Ordinance No. 8240, enacting Chapter 5, Article 20 of the Code of the City of Lawrence pertaining to Siting of Utility Facilities, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (8)

Ordinance No. 8225, providing for the annexation of approximately 81.13 acres (A-11-07-07) for The Links at Lawrence, located at the intersection of Queens Road and Wakarusa Drive, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (9)

Ordinance No. 8226, providing for the rezoning of approximately 80 acres (Z-11-28A-07) from A (Agricultural) to RM12 (Multi-Dwelling Residential), located at the intersection of Queens Road and Wakarusa Drive was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (10)

Ordinance No. 8227, providing for the rezoning of approximately 80 acres (Z-11-28B-07) from RM12 (Multi-Dwelling Residential) to RM12-PD (Multi-Dwelling Residential Planned Development Overlay), located at the intersection of Queens Road and Wakarusa Drive, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (11)

Ordinance No. 8236, rezoning two tracts of land totaling approximately 4.41 acres (Z-10-69-05) from RM24 (Multi-Dwelling Residential) to RSO (Single-Dwelling Residential-Office), located north of West 7th Street, west of Wisconsin Street (south half of 1803 W. 6th Street and 1710 W. 7th Street), was read a second time. As part of the consent agenda, **it was moved by**

Amyx, seconded by Chestnut, to adopt this ordinance. Aye: Hack, Dever, Amyx, Highberger, Chestnut. Nay: None. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the City Manager to enter into an Engineering Contract with BG Consultants, Inc. for \$14,614.50 for completion of Engineering Design Plans and Specifications for the proposed Traffic Signal at the intersection of West 6th Street and Congressional Drive. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve request by George F. Paley, property owner of 740 Ash Street for a variance from 19-214B of the code which states that a private sanitary sewer service line shall not be located in a City public right-of-way for greater than 15 feet. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive 2007 Annual Utility System Development Charges Report. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive the Police Department's Annual Racial Profiling Complaint Report for 2007. Motion carried unanimously. (16)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said the Citizen's Survey would be going out to Lawrence citizens about the possibility of residential curbside recycling services. This survey would be an important tool in their deliberations as a City the Sustainability Advisory Board recommendations that might come and discussions at a community level as the next steps towards recycling. One of the issues that came up was would citizens pay more if they

got curbside recycling. They were not deciding that with the survey, but learning from citizens about that issue. The survey was being conducted by ETC.

Chuck Soules, Director of Public Works, updated the Commission on the 2nd and Locust project. He said the Kansas Department of Transportation opened bids for that project and it was a five year plan project that the City and State shared. The state had a maximum participation of \$1 million. They received no bids. They talked to several contractors and 12 plan holders. Some were subcontractors and could have been traffic control only or water main type of contractors only. They talked to a couple of contractors and one of the concerns they had with the project was the time frame. They had put in there they wanted it completed in October with some substantial penalties if it was not. If they got it done by September, they would give an incentive. They felt the area and the construction that was needed would take longer than the time. A couple of the contractors did not want to disappoint the community and did not know if they would not get it done in that schedule. The soils in North Lawrence were sandy and unstable. If the water table increased next to the river, which happened a lot, they had one deep excavation where they were replacing a storm sewer. They wanted it to increase the capacity of the storm sewer so they could provide better drainage to the underpass. They knew that was going to be tough, but the contractors felt that in order to do it safely, they needed more time. The other issue was traffic and trying to maintain traffic adjacent to an excavation like that might cause problems if they ended up with water problems or issues, which was another major problem. One of the reasons why they brought that construction schedule in was the Turnpike projects that were going on and the closing of the North Lawrence interchange. They wanted to try and minimize the overlap as much as possible as access to North Lawrence and emergency access specifically. With the North Lawrence interchange closed, and only having one lane of traffic in each direction through the construction project, it would have severely limited access to North Lawrence. Originally, this project was scheduled for a 2009 time frame. They switched that a couple of years ago with Kasold from 6th to 15th.

They tried to get a bid earlier in the year as well, but really all they would have had was a big hole. With the weather they would not have been able to get it anywhere; they would have had it excavated and there were several projects where they have not been back to them yet because of the cold weather. This was an ideal time and they needed to get with the contractors and sit down with the engineers to see what they could do to get this project to work. It would take a few months. They could bid this in a few months, but that was their concern with the Turnpike schedule. It was prudent to figure out what the issues were, how they could get a project that was better constructible, and work toward that end to try and get a bid as soon as the North Lawrence interchange was reopened.

Commissioner Highberger asked if the continuation of state funding was a problem.

Soules said he had several discussions with KDOT and the federal highway, and while the transportation programs were ending, they were telling the City they should assume they would be continuing at some point in the future. They had typically received a million dollars annually and that was what they were using for this project. There were no guarantees if the money would be there in three or four years. At this point, they were saying the City needed to submit. They saw on the Transportation 2030 plan, they were assuming the federal programs would continue at the same level of funding.

Commissioner Amyx asked if there was any part of that project they could do now.

Soules said the parts they could potentially do would not be eligible. They had to do the storm sewer and those types of things before they put the pavement down. KDOT was not participating in those and they were City costs. He did not know if there was anything they could do other than maintenance, but was not eligible for maintenance from the state.

Commissioner Amyx asked about the age of the various utilities that would be replaced.

Soules said the water main was from 1934. The storm sewer had been there since the railroad underpass was in. It was very deep, since they were going to dig it up, they were going to improve some aging infrastructure.

Vice Mayor Dever said the memo stated the concern about the ability of the existing work or repair they did in the intersection to stand the time between now and the period of time they could actually do the final work. He said they needed to talk about the ramifications of that and see the impact of that failing and what transportation issue that was going to cause.

Soules said if the same issues occurred they had previously, they did have the road shut down for a couple of days and were anticipating having to do that prior to having to rebid this again. The repairs were made and the street department did a good job, but was not meant to last four or five years to get them by. They would monitor it and be prepared to go back in and temporarily close it.

Commissioner Chestnut asked how confident they were about the KTA schedule.

Soules said they needed to check on that as well. The bridge project on Iowa did not look like it was going quite as fast as what they had done on Michigan. He was assuming that was because they had not made much progress in the last three months. They would check on that to coordinate that.

Commissioner Chestnut said the front end of the project too and the possibilities of it getting pushed back. He asked if there was any wisdom in going back to see if they created a reasonable time for contractors to go through that process in case they found out in 6 or 8 weeks the whole KTA thing was going to get delayed for a period of time. (17)

REGULAR AGENDA ITEMS:

Receive report from Health Care Access

Nikki King, Executive Director of Health Care Access, presented the report. She said this was the 20th anniversary for the clinic and they have helped more than 13,000 Douglas County residents since they opened. She said in the next month or so, they would be hearing things in the media because they were celebrating some of the stories of former patients on how Health Care Access helped them. More than 76% of their clients were below 100% of the poverty level. They accept patients up to 185% of the poverty level and were helping a lot of

people at the lowest end that they serve. When people were coming to them brand new at the clinic, they were usually very ill with multiple conditions and a lot of chronic conditions. 89% of their clients reside within Lawrence proper and the rest are out in the county. Their 2007 revenues, it was a record year for them last year in both the revenue and number of patients served. The more support they had the more people they could help. Only 26% of their budget came from government sources. The clinic joined the National Association of Free Clinics last fall. They were able to bring their news to D.C. last week and share with them as what they could do as a community without federal funding. For every \$1 that was invested in their clinic, they were turning it into \$8 of service for the community for the uninsured community. They had more than \$3.8 million in kind services for their patients. That was free medication, the services the hospital writes off for them, almost every physician in town volunteering, and the City giving them rent of \$1.00 a year for the facility they have. For every dollar they were returning into patient services instead of expensive overhead costs. They were reaching to more people showing them they could be their medical home instead of the emergency room. They were also looking at extending operating hours to look at serving more in the community who were uninsured.

Mayor Hack said King had their unending gratitude for the work she did for the community. Sometimes words fail when you look at the magnitude they dealt with and preventative actions taken were such a help to so many people. The more the word could get out that this facility was there and they could help people at the early stages of these illnesses, the better off the patients were and healthier they were as a community.

The City Commission received the report.

(18)

Receive status update on Lawrence Freenet proposal for "Freenet-Kids".

Diane Stoddard, Assistant City Manager, introduced the item. She said on the City Commission meeting of January 29th, 2008 the City Commission received a proposal from

Lawrence Freenet related to their Freenet Kids project. As part of that meeting, the City Commission requested to have staff provide initial evaluation and report back. To summarize, Freenet was proposing the City guarantee a private bank loan of approximately \$4.9 million in order for them to expand their infrastructure in the community and in return provide free internet for children in the community and also make its wireless system use to the City staff at no cost. Additionally, Freenet proposed transferring some of its fiber optic cable system to the City as part of the project. They had a report relating to various issues relating to the proposal, specifically a preliminary review of the financial and legal issues and comments related to the City's procurement procedures. She said this was meant to be a preliminary review and probably a great amount of information they could provide on these topics. As part of this review, they visited with the City's Bond Counsel. In their discussions with Randy Irey, Gilmore & Bell, Bond Counsel, he indicated that in order to accomplish what Freenet was requesting, there would be a requirement for the City to first pass an ordinance that would make a finding guaranteeing this note would be in the public interest. This guarantee would be subject to the cash basis law. The cash basis law was a requirement that the City budget for any anticipated expenses. There would be a need for there to be a budgeted amount. There were also a couple of alternatives that would get rid of the cash basis law requirement. One being an election and the other being a lease purchase structure which would modify what the proposal was that had been presented. In response to the potential cash basis issues that would at least require the City to budget a year's worth of debt payments should the company not be able to fulfill its obligation on the loan, Mr. Montgomery submitted a letter that addressed this issue indicating they would be willing to provide a letter of credit for a year's worth of payments, or \$700,000 on this issue. They believed that would address the cash basis issue, but thought it was important to point out while this valid letter of credit would reduce the obligation by \$700,000, there would still be substantial amount outstanding with the City's guarantee. Whether or not that would have to be paid over time, or due at once, would be on how the

transaction was structured. They felt it was important to note if the City had to be in the position of covering this guarantee, given it was a substantial amount, it may be something the City Commission would want to consider with other priorities for funding.

She said there was risk with this transaction. What they did not know was what the risk was at this point without doing some further analysis. While there was some general information provided in the proposal, they did not have any understanding at this point without a thorough examination of the financial standing of the three entities that would be ahead of the City in the guarantee. Also, they did not know much about the collateral that would be involved in the transaction and what the potential depreciation of that collateral might be over the loan period. She wanted to make it clear that City staff had not evaluated this in any detail, but would suggest that if the City Commission would like to look further at this issue, a good next step might be to have a third party evaluate this proposal in more detail that could accept financial documents and review these kinds of issues on behalf of the City and also perhaps make some recommendations to the City about how the proposal would be structured most favorable to the City. She said in her most recent discussions with Mr. Montgomery over this issue, he indicated a willingness to pay for this third party financial analysis.

City staff also believed that a formal agreement would need to be in place outlining the benefits that would be to the community and also the City would be involved. It would also have to outline all the specifics of the guarantee and a variety of those details.

She said with regard to purchasing issues, they did have purchasing procedures and those procedures did call for competitive bidding of all services that were greater than \$15,000. She raised this issue because it was mentioned by Sunflower Broadband at the meeting several months ago the desire for them to bid on the kinds of services outlined in the proposal. Additionally, it may be important to consider that Freenet was not the sole internet provider and wireless provider in the community. It may be perceived by some that assisting Freenet would be assisting them over other wireless providers.

She said in the proposal, there was some general information about the digital divide. There was not a great amount of specifics regarding how many children in Lawrence might be able to benefit from this and that might be something the City should request additional information on.

There were many potential benefits to the City. The intelligent transportation systems (ITS) were an application of technology to the transportation infrastructure that would help reduce construction and improve efficiency in the transportation system. They were currently working on developing the ITS architecture and the goals of the program and various projects they planned to implement. The City did receive a grant for beginning this process which would begin with the establishment of some ITS infrastructure along 6th street. It may be possible the Freenet project could help the City's ITS project related to the fiber optic cable they indicated they were willing to provide to the City. They did not know for sure if it would be along the stretch they were talking about providing their fiber optic cable and other details that were important to work out, for example the timing of their project as it related to the City's planned ITS project on 6th Street and whether because of the timing, if the timing were to be moved up, what were the budget implications for the City with perhaps coming up with their share or match required on that project earlier than they anticipated. She said there were some other issues they did not know the details about but what might be the fiber optic specifications that were going to be installed with the Freenet project. None of those details had been discussed with Freenet at this point. She said probably the largest benefit to the City would be the wireless access for City employees, which was something they had been looking at for sometime in evaluating themselves and having the wireless internet in the field would be beneficial to staff and also having it at no cost would be substantial cost savings to the City. There may be some departments that might be not interested in this either for security issues, needing to have this access outside of the Freenet area and those kind of things. Those were some things that would need to be looked into further. It was likely related to the public safety agencies that the

future infrastructure related to wireless would need to be compatible with the 700 megahertz spectrum that had been reserved for public safety entities. The purpose of that spectrum was to make sure that the communications between public safety agencies were interoperable and they believed that would also be an important consideration.

She said at this point in the process they have not spoken with representatives of Sunflower Broadband and did not feel it was the appropriate time in the process to do that. This evening there were several options to look at. One was perhaps to seek consultants that would conduct a more in depth financial analysis in evaluation of the proposal. The second would be to perhaps issue requests for proposals for wireless services that would allow any interested vendor to provide a proposal. The third would be to consider this proposal with the capital improvement plan items during the budget process coming up this summer, take no further action, or develop alternatives.

Mayor Hack called for public comment.

Kevin Kennedy, Board of Directors, Lawrence Freenet Inc., said he wanted to talk about health care access. It was a fantastic program as a person who works in healthcare in Kansas City Children's Mercy, it was phenomenal to have a program that was supported by the City like that and was important to families to have that kind of access. He said he was the designated cheerleader, lobbyist, or whatever term they would like to use. He was on the Board of Directors for Lawrence Freenet and was present to reiterate some of the key points to kids and to the community that he thought was of real value for this program. He said the whole thing was based on a meshed network and thought it was good for the community to understand what a meshed network was. Right now Lawrence Freenet had a meshed network over part of the City. The concept of the meshed network was to cover the whole City of Lawrence with a wireless network where anyone with a computer in virtually any part of the City would have access to the internet. The Freenet meshed network was at this point right now one of the largest meshed networks in the world and they would double the size of that meshed network in

Lawrence. The goal and important goal to him was education. He spent a lot of time advocating for education and thought the Freenet Kids proposal made a huge leap in access for every child in Lawrence to have access to the internet through anywhere in the community. He said one might think it was real simple for a child to be living in some part of Lawrence in a home where they assumed they had internet access and they did not. This provided universal access for every child and provided access anywhere in the City to places like the Lawrence Public Library. They would provide wireless access to City staff anywhere in Lawrence. They were currently in discussions with Lawrence Public Schools. Right now they were talking to them about how the school could help Freenet and how Freenet could help the school with this proposal. A key point was that it also provided access for students and educators anywhere in the school. Right now most teachers assumed access to the Internet and with this proposal from Lawrence Freenet students would be able to get that anywhere. The key part of that, they were committed to computer distribution; 375 laptops and up to 2,000 rehabilitated desktop units. A key component all worried about was safety for the kids and security. They heard all the time about how difficult it was to keep computers safe from viruses and those things, but also predators who try to use the internet. One of the great components about this was it provided access for those 10,000 school kids in Lawrence, but they would create with community support, input and feedback a community advisory committee and create a filtering system based on what the community agreed should be filtered out so that all kids would have unlimited access in Lawrence but they would go right to a filter that would keep them from getting access to the things they did not want the kids to have access to. Another key component was that Freenet Kids would be a model for other communities across the United States. There was not a model like this anywhere and was a model that communities would come to Lawrence to understand and businesses would come here to try and get more information about it. It was a tremendous boost for Lawrence in people's awareness of the

progressive nature and approach they would be taking to internet access and to access information making it as common as any other utility in the City of Lawrence.

Joshua Montgomery, President Lawrence Community Wireless Communications, Inc., said he was the founding member of the Lawrence Freenet Project and often times acted as the Lawrence Freenet spokesperson. A vast majority of the people they saw day to day driving trucks, running bucket trucks, running around the community making sure this network stayed up and stayed active, work for Community Wireless Communications and that was because they were the organization they were provided the \$2.5 million in funding it was taken to bring this network to the point it was at today. The reason they were proposing the Lawrence Freenet Project was primarily infrastructure. In order to provide improvements to the quality of the service and provide improvements to the coverage area, they needed to make a significant investment and infrastructure in the community. They did not necessarily compete with other local players, however, by building additional coverage and capacity in the network, they increase the number of choices the members of the community had when they chose to get onto the internet.

He said the Lawrence economy was currently not in a tremendously good state. One of the things they did was canvassing within the neighborhoods. He was very surprised to see the number of for sale signs that had been there for a very long time and a number of vacant homes within the community. Real estate was sitting out there unsold and real estate prices were currently dropping and as a result the municipality's budget was being adversely impacted. They read about in the paper every day about continued economic impact to the City because property tax revenue was dropping. It was his understanding that departments just this past month were asked to reduce their overall budgets by another 6%. It was a tremendous decrease in the overall capacity of the spending within the City. In addition to educational benefits, in order to address this, this project was a significant economic development opportunity for the City of Lawrence. The information technology and intelligent traffic system

was going to require significant fiber optic cable capacity within the City of Lawrence. He heard numbers like 6 strands of fiber optic cable for each intersection in Lawrence and there was right around 80 traffic controlled intersections within the City. Final plans were not in place so they did not know how much capacity would need to be added to each one of the corners. Freenet Kids could save the City of Lawrence \$250,000 in this fiscal year by shouldering half of the costs of the 6th Street fiber optic cable run and providing the matching funds for the \$250,000 in KDOT money they City already received. In addition, the project could make government more efficient. By providing high speed remote access to City workers, they would be able to give them access to e-mail and the file servers, which was one part of what the City government meant. They already built the capacity on City Hall and linked City Hall into three major tunnels within the network. The high speed access would allow City workers to turn on a laptop or PDA and get online anywhere within the City of Lawrence. It would also enable a number of new technologies that could save taxpayers money. Right now the water department spent a significant amount of money having people walk around town and read individual meters from every single house. Other communities have used WiFi networks to put in automatic meter reading systems where they could read every meter in the City instantaneously. Digital parking meters were another example and giving people the opportunity to pay their parking with a cell phone or credit card as opposed to just with quarters and dimes as well to pay their parking fines with a credit card. Digital tours and public access were other advantages about making a WiFi network available. It was already saving the City money by significantly reducing the work load for the water department. The City Commission over time has allowed a number of different cellular and data providers access to the various different water towers in exchange for a monthly lease. As part of that, they were provided 24 hour access. When Lawrence Freenet came on the scene and started to build their infrastructure, one of the things they identified was they were spending a great deal of time having people drive back and forth from the water department to the various different towers to unlock the towers. They proposed to the water

department the installation of a system that would allow them to have video surveillance at the base of the water towers as well to unlock the gates and allow access once they had been validated. They put that system in and since that time they made significantly fewer trips to the tower sites. They were able to buzz people in at the gates and increased the level of security for the water supply within the City of Lawrence.

One of the other things they could provide in terms of economic impact was attracting businesses. Pulling hundreds and hundreds of strands of fiber optic cable gave the community the ability to offer businesses, carry class data access at the fraction of the current prices. Right now Community Wireless Communications leased an office in downtown Kansas City that had 1,400 square feet. In that office they had a folding chair and folding table. The reason they rented that office was because they could buy Enterprise Class Data for \$10.00 a megabit. That same amount of data in Lawrence would cost \$300 a megabit from incumbent players. As a result, if he had a business that was data intensive, a technology business that provided great jobs, salaries and was up and coming, he would have to locate his business somewhere it was inexpensive to buy data and where he had access to the information he needed or in downtown Lawrence where it was \$300 - \$500 a megabit and if he needed 400 – 500 megabits a day, it would become a significant cost. It was clear businesses were choosing downtown Kansas City more and more and real estate prices there were going up. They had a significant boom in that area. Data was not the only reason for that, but one of the reasons technology businesses were locating there. They would be pulling a significant amount of underground fiber optic cable and spending that money locally with local electricians and local excavation crews. It was a significant boom when housing was down and they were looking for jobs. They would create 15 new technology jobs within the City of Lawrence that had great pay, full health benefits, and those people would come into town and buy houses and spend money within the community. The revenue neutral proposal sent a clear message to incoming businesses that the government in Lawrence was not only forward thinking, but was also fiscally conservative. They

were not interested in pursuing this project if they could not do it in a revenue neutral way. They were not interested in digging into the taxpayers' coffers at a time when they were making decisions about whether to provide the homeless center with money they need to transportation through the bus system. They were interested in pursuing it if they could do it without impacting the taxpayers' pockets, but if they could not figure out a way to do that, they would withdraw the proposal on their own terms. He said it was important to note that revenue neutral did not equal risk free. It was not what they were saying here and to achieve success, the project needed about 6,600 paying members by 2010. Right now the project had 1,319. He knew that number was interesting because they started out that number with 1,309 and added 10 new members just today. Over the last 20 days, they have increased the membership by 6% and the reason for that was they got back into the marketing cycle. They have turned on service for 2,790 members of the community and there were 25,423 KU students at the University of Kansas, who wanted to use wireless broadband as part of their college experience and many who want to use service where they could turn on a laptop and be online. A lot of those customers were choosing Lawrence Freenet. The reason for the discrepancy between the 1,300 and 2,700 was primarily because the KU students leave every August and when they sign back up they got credited a second time.

He said in terms of the economic impact they already had in Lawrence, Community Wireless invested \$2.5 million in the City of Lawrence. Their goal in Lawrence was not necessarily magnanimous, it was to break even and to expand in new communities. The proposed financing method for the Freenet Kids set a precedent for expansion communities, which was tremendously important. By taking the idea they could do this in a revenue neutral way and the City could help leverage the money they could help make the project successful and provide a community service, they encouraged other communities like North Newton, Manhattan, Baldwin City, Ames, Columbia, and Stillwater, Oklahoma to look and use the same model to put networks in their communities. When that happens, all the high level jobs flowed

into Lawrence, Kansas where their organization was based as they expanded into new communities. Wireless broadband was where cable was in the 1960s and was a new industry. There were 30,000 charter municipalities within the United States and only 300 had WiFi networks. Over the next 20 years, wireless broadband would expand into the rest of the communities and community wireless tended to be a regional player in that and to provide service to a number of cities not only in Kansas but outside the State of Kansas.

He said Community Wireless Communications volunteered to establish a \$700,000 loan guarantee fund and provide a letter of credit to the City of Lawrence to offset the cash basis accounting requirement. This lowered the overall debt obligation of \$4.2 million and they were also pledging the existing network. In addition to volunteering to guarantee the project of this ahead of the City and he personally volunteered to guarantee the project ahead of the City, which meant before the City shelled out one penny in relation to this project, he was in Chapter 7 bankruptcy and was putting his money where his mouth was and was backing it up with his own full faith and credit. The note they were proposing was fully collateralized. They were looking at to provide \$5.12 million worth of collateral for the project and what was important was a 3rd party evaluation of this collateral would be necessary before they could put that number on the board. They were asking the City to send this project to a 3rd party consultant and they would pay for the evaluation by the 3rd party consultant, and let the consultant come back and provide the City with a full review having done all the detailed financial analysis that was required for a project of this type. They were not asking the City of Lawrence to take their word, and a third party would be required to investigate the proposal. City Commissioners have this as their job to view this proposal with skepticism and knew that having talked to many of the City Commissioners, that they view it with skepticism. Having a third party come in and provide an evaluation of the project provided more solid basis on which to make a financial decision. Though Community Wireless Communication received \$100,000 in funding from the Kansas Technology Enterprise Corporation and received significant investments from managing

directors of organizations like Lehman Brothers, and Bank of America, without a non disclosure agreement, the company could not publicly disclose all assets and all of its backing. An independent evaluation would solve this problem by allowing a qualified third party to make an informed judgment as to the actual level of risks with the project and the actual level of rewards the City would receive.

He said the goal of the project was to better serve the City of Lawrence and provide significant economic impact for the community. The project team was only interested in pursuing the proposal if it was revenue neutral to the City. If it was determined not be revenue neutral to the City they would withdraw the proposal on their own terms. The paying members were the foundation of their financial model and growth was proceeding rapidly. They were seeking an independent third party evaluation of the project that would thoroughly evaluate both the risks and rewards with the project and would voluntarily pay for that third party. He said he heard there were additional financial cuts coming down the lines and not heard any number about the financial cuts.

Mayor Hack called for public comment.

Patrick Knorr, Chief Operating Officer World Company and General Manager Sunflower Broadband, said he had spoken on this issue in the past and expressed concern on the City showing bias towards a particular provider. He had respectfully communicated what they had done for the community and expressed those concerns. Freenet had recently turned this into a public political debate, which he thought was forcing him to go a little further and highlighting the key facts that were running counter to many of Freenet's claims that were central to the proposal. One of those was that there were unmet needs in the community that they have defined. They defined a need for wireless internet, which they often make it appear they were the only ones capable or currently providing, a need to serve the unserved, and also to provide free wireless internet access. Most recently, they made a claim to provide free internet access to every student. All were noble causes. The facts were approximately 70% of Lawrence

based on studies Sunflower Broadband did internally of November 2006 already had high speed internet access. It was well above the national average making Lawrence possibly one of the most connected cities in the country. The majority of that access came from DSL and cable modems. As far as serving the unserved, the fact was Sunflower Broadband was providing over 300 free and discounted connections today, many dating back to 1995. The recent lifeline internet program had over 50 participants and they were adding more everyday. They were recently recognized by the Governor with a Distinguished Community Service Award. They were the only corporate entity to receive such recognition this year. They did look at Freenet along with other programs around the state and found his program to be more credible. It was also a fact that as far as wireless options go, not only did they provide wireless access, but many sellers provide wireless access with more stable and reliable technology that was available to the community. The only free community wireless network that was completely free was the one Sunflower had been operating in public areas for the past 6 years including downtown. Another central claim was that the proposal was revenue neutral. As outlined in the staff report, it was not revenue neutral and greatly depended on the success of their business plan, which was outlined to add approximately 5,000 paying customers in the next two years. In a saturated market, this was an extraordinary business success that was required for them to achieve what they have outlined was necessary to service the debt they were asking the City to guarantee. While it was noble and Mr. Montgomery was willing to put himself on the line, any entrepreneur would do the same to fund their enterprise. He said taxpayers would have to pay for this if it failed. It was unprecedented to have the City back you up and taxpayers being liable. The only way it was revenue neutral was if they succeed and what was required for their success was very extraordinary.

He said another item was that Freenet claimed they existed to serve the community and not trying to compete with the existing businesses. It was something Mr. Montgomery reiterated this evening. They were in fact a for profit enterprise which was something that they have

reluctantly disclosed but did not think they have cast it in the true light. He said in a letter he received as part of the discussions with Freenet, Freenet outlined and provided a letter they sent to their investors. Item two in outlining the reason why municipal WiFi projects fail as outlined to their own investors were greedy municipalities; City government that wanted free service for the municipality. It was a road block to get a project up and running. He found that in large contrast to where they were this evening. Furthermore, as they talked about where they would achieve success, they discussed once their subcosts for the core network were in place and something they were looking for the City to help finance, they will be able to deploy additional services like TV, phone service, online backup, video surveillance, traffic control, allowing them to be the dominant player in the broadband width land. On down the line, this market would change as new protocols and technology was yet to be developed and would be there with the infrastructure to support it, which was something else they said in the past and outlined themselves to their own investors was that the technology they were using was changing. This investment was a drop in the bucket. The technology they were using today, WiFi, was on the verge of being obsolete, especially for the purposes of wide area networking. The reason why this was one of the largest WiFi mesh networks was because most technologist across the country, including Earth Link, Google, and other small companies have found this was not good technology to provide a community wireless network. There were better technologies coming down the pike. This investment would likely be a stranded technology solution that would require additional massive investment or would leave them with a dinosaur as technology advances.

He said the success or failure of the enterprise really rested on the ability of the organization to market the service and prove the product and lastly builds long term profitable relationships with outside organizations such as KU, the City of Lawrence, and public schools. There was no doubt to him as to the true purpose and intention of the enterprise. He thought it had been misleading to the community and misleading to many of the members and supporters

of Freenet. He said as this had gotten more political and more of a public policy debate of where they put their funds, he thought getting more facts into the record was essential so the public was aware what was truly going on.

He said the community had some of the highest broadband take rates in the country. It was already one of the most wired and connected cities in America. They had the programs already in place to provide access to those who could not afford it and already with or without Freenet a free, wireless network covering most public areas. He said the question was if the City had the funds to provide internet to those who could not afford it and if it was more important to schools and all day kindergarten or to the City than roads, sewers and job creation. He asked if it was a true economic investment. He said if the answer was yes, then he asked that an RFP be issued and let everyone submit a proposal based on the identified needs that the City identifies, not the needs that had been identified by an interested party that had conflicting interests and trying to profit from a community's desire to do what was right. He asked the City Commission to take no further action on this proposal or other proposals that fall under this category. He said he had no problem competing with another provider. If the business model was supported, they should be able to get financing like any other business and would be happy to compete with them. That should be determined in the marketplace.

Brett Sayer, representing AT&T, and a Lawrence resident, said he urged caution in the matter of guaranteeing the loan of a private company. He said it was likely that unintended consequences would result. AT&T was not against competition, even though AT&T questioned the appropriateness of the City of Lawrence allowing Lawrence Freenet to place its equipment on City owned infrastructure. AT&T did not oppose that. AT&T believed that market functioned best with multiple choices for consumers, however decisions for expansion and growth by competitors in a market should be based upon sound economics. It was suggested that the City possibly examine why private investment had not committed to this project. Consideration for a potential City involvement of a new WiFi project might be wanted if high speed internet was not

already available in Lawrence. However, high speed internet was not only already available, but there were numerous service providers and Lawrence citizens had multiple alternatives. For example cable, DSL, Wi-Fi and even wireless cellular. If the City of Lawrence decided to favor one service provider over another, investment by other service providers would be discouraged. He said the track record for municipal wireless internet projects was not good. Numerous City projects were eventually derailed by spiraling costs, higher than predicted maintenance, and poor service quality. Ultimately, this matter was for the City to decide. If it was the will for the City Commission to move forward he would urge caution and ample study before the decision was made.

Montgomery said he wanted to address the issue of need. He said the World Company came up and said they provided service to 70% of the community. In a community like Lawrence, Kansas many people needed access to broadband access, but wanted to put it in context. Recently the Association of Kansas Libraries met and they put together a statement talking about what broadband access meant to the community. He quoted from their proposal on section two. By saying that 70% of the community had broadband internet access, what they were saying was 30% of the community did not have broadband access; if they lived in a community where 30% of the community did not have access to running water or power that would be a travesty. That was the same context they needed to be having this discussion. He said he also wanted to bring up the lack of availability of private funds. They raised \$2.5 million and could raise the \$5 million for this project. He raised \$110,000 in the last 30 days and would raise another \$200,000 - \$300,000 in the next 60 days. He gave a great deal of his time giving presentations all over the country bringing money from outside the City of Lawrence so they could spend it inside the City of Lawrence. The reason they approached the City Commission was in order to make the costs of the money cheaper and provide services to the municipality, if they have to raise the money privately, then they did need to make money by providing services to the public. It meant if City staff wanted access to the network, they would be forced to charge

them. It meant that if children in the community and public schools wanted access to the network, they would have to charge them because investors wanted their money back. He was aware of that and was his job to best represent those investors. By the same token, as a founder of the project and someone that truly believed everyone should have access to the internet, not just at home but also in a parking lot, by simply turning on a device that came with a WiFi card standard that was what they truly believed.

He said another issue brought up was Earth Link and Google had abandoned WiFi. Earth Link had stepped out of the municipal wireless market, but when they were involved in it they were using the same mesh networking technologies used now. Google had deployed one of the largest municipal wireless networks in the world using the exact same technologies used in Lawrence.

Commissioner Amyx asked Stoddard whether the \$700,000 payment would be enough to satisfy the cash basis law and was a carry over amount until that obligation was paid for. He also asked how long that would last.

Stoddard said it would all be dependant on how the financing was set up. It would not satisfy the cash basis requirement. For example, if the financing were set up in the case of a default that it would require full payment of the note. If it was simply a situation where the City might assume the payments on it and it was a valid letter of credit, there would be that money there to make a year's worth of payments.

David Corliss, City Manager, said Diane's comments were correct. As they understood cash basis law and talking with other municipal counsel, if there was a guarantee the City was signing for \$4 million, they either had to have that money in the bank unencumbered for that purpose or had to have a debt instrument where they had a general obligation to pay or dedicated revenue to pay. Those were the only ways they could sign that note. If there was a separate guarantee for that, it would take the place up to that amount and there was the rest of that guarantee. He assumed the capital costs would be to put the entire network in and that

would be the \$4 million amount and those costs would need to be paid. That obligation would be due and owing at the front end of the project. If it was \$700,000 payment per year and there was a default on it, there would be subsequent years they would be obligated to pay.

Commissioner Amyx asked Montgomery how many more members they would need to make this project work.

Montgomery said they have 1,319 as of right now. They would need about 5000 members, which would represent right around 10-12 members a day and was a very achievable rate considering the amount of marketing they have in the field right now. They were finding it would cost them \$60 to add each additional paid member to the project and their members have a lot of loyalty once they saw the good work their monthly fees were being put to.

Commissioner Amyx asked Montgomery if KU students and other college students were their primary target.

Montgomery said college students were their primary target. They wanted to use their cell phone for voice access and wanted to use their laptop for both television and for internet access. It was one of the reasons the incumbent cable providers have put in place broadband limits. As television became more and more accessible on the web, there was no reason to subscribe to the cable service. They have put in place bandwidth limits that only kick in when you do video because they did not want you to watch TV on the web. College students make up about 50% of the paid members of the project and currently working with the KU WiFi club on campus with a proposal to provide service for the entire student body for one fixed fee. He was sure the incumbents would come out against that, too. That was where they would identify the costs for providing the service for the individual kids, which was right around \$7 per child.

Commissioner Chestnut asked what situation KU was in now and whether it was student fee driven.

Montgomery said it was his understanding the University had put in place a student fee to provide \$2.4 million so they could provide internet access in academic areas. It did not

include the offices of the various different professors or residential areas. There was strong demand among University students to build wireless coverage specifically in the residence halls and one of the things they were looking to help provide service for.

Commissioner Chestnut said at least KU had a limited plan to provide that service in certain areas, but pockets were not provided.

Montgomery said specifically, and only on campus. The service they provide KU students was generally in their apartments or homes.

Commissioner Chestnut said first of all thanks. He said he supported the concept of the municipal wide access and one of the things he found ironic was that as he was researching this subject this weekend, he was doing it at home with high speed internet access. He too was one that took it for granted and understood that and appreciated the fact that they had to work toward closing the digital divide. He really saw this and viewed it skeptically. He thought it was highly improbable that this proposal would be revenue neutral in perpetuity. He went back and reviewed on his own looking on what was going on out there on the market. It seemed like there were two models; one was the municipality deciding they need this because providers were not providing that level to service. The project in Minnesota was a project they took on themselves as a result of the fact they were not getting the level of service to their school district. At this point in time, they had \$1.5 million of capital that they have expended for that project that to this date had not had any revenue to pay for it and they were spending about \$750,000 net to provide that service to the municipality. It was a conscious decision made as a community. He thought it was appropriate that be pointed out that it was a model of success of penetration, but was not a model of success of being revenue neutral. The other model that seemed to be adopted was one where there was a public/private partnership. It was the only thing he could see out there where the public was surrounding it with some kind of guarantee. He agreed that the results of that have been very uneven. He said he already read the Philadelphia and Earth Link situation that had turned out to be a situation where Earth Link

walked away from the project and no completion in site, and essentially there was a lot of fiber in the ground that was not producing anything. St. Louis Post Dispatch reported on February 7th that talked about their relationship with AT&T. AT&T also had a recent decision to back away from that. They also had a broader discussion about nationwide and reports that success stories have been rather limited. He did not see a model out there that had been proven to be successful, which was why he had a high degree of skepticism. He turned to the pro forma that had been provided to the City and the debt service for this project was twice what the revenue for what Freenet was in 2007. That was the step leap they were talking about. In the pro forma they provide 10,000 numbers which was 1,000% growth or 900%. He agreed they had a pretty saturated market right now. Another issue that had come up was asking the question of was the guarantee of a loan in the public interest. From his standpoint he thought the risk was very great and very skeptical of it. He thought some of the budgetary offsets spoken of were addressed and ITS was one that had come up. He thought there were two issues; one was they could find other ways to fund that. Secondly, they were also taking the public issue of public/private funding in fairness, but would start to build a backbone that would be dependent on safety systems like ITS on a network they did not have control of. That might be good for this generation, but as technology changes, they would become more interdependent upon that to work. That did concern him that they would be forming situations where they would be dependent on an infrastructure backbone of a place they did not control or network they did not control directly and having some of their safety systems on there. He thought that was problematic.

He said as far as the public service, there was a lot of literature out there that would dispute the findings that municipal WiFi in and of itself created economic development that could be tangible. He could see some benefits there, but the results around communities have been uneven. He thought it was problematic that they would be entering into a relationship with other competitors out there in the market. The public policy issue was pretty concerning to him.

He was not in support of moving forward, but if they supported this in a way as a majority of the Commission to look at it from their due diligence part, he would also support the fact they would need to open it up as an RFP. From a fairness standpoint, that was the way it should go. He loved the concept and the ideas, but the revenue neutral for the community he did not see right now. He did not know where this could go and shared some concern the gaps were being defined for them and they were not defining the gaps. He said if there was a consensus on that, they needed to start assessing what their needs were and go out in the community and find from their procurement policy on how to do that.

Commissioner Amyx said he appreciated Montgomery coming forward with his proposal. He said he agreed with Commissioner Chestnut about the digital divide. He said as he looked at the \$4.9 million they had been asked to guarantee, the one thing he had to look at this particular time were the priorities they had in the City right now. They have been asked to look at their transportation system and all the other things they fund. They were letting out information they may be asking departments to cut their funding. The truth of the matter was he did not see the City of Lawrence entering into an agreement backing a loan when there was a profitable part of the company that could take care of it. The comments made led him to believe he appreciated what Lawrence Freenet was trying to do to be able to provide wireless internet service to kids throughout the community, but the truth of the matter was if there something were to happen it equaled 5.7 mills in property tax. That was something he was not sure the community could afford to do right now.

Mayor Hack said she echoed the comments about the genesis of Lawrence Freenet. She said her concerns were not with the goals of the proposal but the financing. She said she agreed with Commissioner Amyx that the 5.7 mills was something they could not do at this point in their economic situation and was not feasible. They had questions about their purchasing policy and setting up an RFP process for providers. If providing those kind of connections with their City services as well as the security issues with Fire/Medical and Lawrence Police

Department, if that was a priority it needed to go out to multiple providers. In doing this, they would be providing favoritism of one provider over another. Competition did occur in the free market and that was where this needed to happen. She said Montgomery said he could out and raise the \$5 million, which she encouraged him to do because if the business plan was that good, he should not have a problem doing that. In a sense the taxpayers were their investors and they would want to make sure their investment was protected as well. In this particular situation, she thought the risks were too high for them to do it even aside from whether or not they could do it. She did not think they should and did not think they could legally do it. She was not opposed to the goals, but could not support this arrangement.

Vice Mayor Dever thanked Joshua Montgomery for being a part of this community. He said he was impressed with his zest for this concept and trying to provide Lawrence and make Lawrence a special place when it came to technology. Part of his business was in the technology world and he understood what it was like to have an idea maybe before its time. It was hard to force people to do things and get ideas out there when there was hard and fast providers in the business world. He appreciated what the Lawrence Journal-World and the World Company did for the City of Lawrence. He was not confused at all about Community Wireless or their business concept. Before he arrived in Lawrence, he spent a lot of time and money helping Community Wireless provide internet access to low income families. As he looked at the proposal, he looked at it as an opportunity to continue to provide services to the community. His questions were more about going forward and they were not asked to vote on this, but the viability, the legality, and the opportunities they would have for this community. The last time he spoke on this issue he asked the World Company and Lawrence Freenet to try and get together to come up with a great idea where both could co-exist and they could provide this kind of service the community wanted. There was always a better technology and always something new coming down the road. He thought the World Company knew that better than anyone else. They were in the print business, moved onto cable business and moved onto the

internet world and that was the direction their company was going. As you start a business you start with one level of technology and move forward. They were fortunate to have someone who wanted to come to their community and provide value. His questions were about the value of the service they would get from the City and tangible costs they would be getting by getting this service for free. He wanted to know the benefits to the school district and what kind of money they could save and value the fiber optic cable would have. He wanted to add up the benefits and not just look at the costs. He understood there was impropriety by perhaps by allowing a vendor to present to the City Commission about what they need or thought they needed. He appreciated that but did not think it was right, but also thought it was a great idea and great concept, which was why he wanted the community to work together to try and salvage this concept. It put them in the forefront as a community and provided great public relations. In an economically squelched environment right now, they needed all the assets they could get and if they could provide companies for lower cost bandwidths so they could relocate in Lawrence, Kansas, he was in favor of that because it was business development at the lowest level. He looked forward to a time when they could offer those kinds of costs and savings to companies. He thought there was an opportunity here and definitely thought it should be looked at and would be in favor of moving forward to analyze it, but understood he was in the minority. He wanted to see them do something and take this concept to the next level, if at all possible. He understood there were rules they had to follow and there was a lot of money at stake, and was not interested in backing a private enterprise with the City's money, but wanted to take a hard look at what they would get in exchange for this potential guarantee. Overall, he would have been in favor of evaluating or looking at this further, but also knew that based on the feedback from the City, they would have had to bid this out and open it up to public discourse. He encouraged them to do that if it was appropriate.

Commissioner Highberger said he agreed with the other Commissioners that it was important to close the digital divide. He said he agreed with Vice Mayor Dever that having a

real, city wide wireless network seemed like it could attract people in technology businesses and have an economic benefit. He really thought before they moved forward they needed a better idea of the need. He wanted to know how many children in Lawrence did not have internet access and where they were located. Maybe there was a simpler way to meet some of those needs instead of a full fledged City wireless network. He said in just looking at numbers, he did not see any way for this to be revenue neutral. Even if it was not going to be revenue neutral, they needed to analyze it with all the other things on their plate right now. He concurred with Vice Mayor Dever that he would be willing to move forward with the financial analysis even though he was skeptical about the numbers. In a saturated market, he would be surprised if there were that many potential new subscribers to make the model work, but would be willing to move forward with that. He agreed with the rest of the Commissioners that if they identified a need, he did not see any way to do this without putting out an RFP and opening it to all bidders. One of the parameters would be how much public service would be provided. He mostly concurred with Commissioner Dever on this one.

Mayor Hack asked if they were interested in the financial evaluation as well as the RFP for wireless services.

Vice Mayor Dever said clearly there was an interesting concept that everyone would want to have in place if it was free, which was part of the problem that occurred in other places. He said the question was if they needed it and wanted a third party telling them they needed it. He thought it was a good idea, but it was a great concept to consider and did not know if it passed the smell test.

Commissioner Chestnut said if there was some interest in looking at the City's needs that would be a different discussion. That was where the City's infrastructure was at and what technology needs they had. If there were potentials to look at possible synergies with entities in the community, it was like the model was inverted. He thought it needed to be done in the context of one of the things they had not had in this whole discussion was where the City was at

and what was their technology grade card. If anything, he did not know he would support a financial evaluation of this proposal, but would support an overall analysis from City staff about the City's technology roadmap. He did not know if he wanted to do that and did not know if he wanted to do that in the context of this proposal.

Mayor Hack said if she understood the Commission's direction, perhaps they would want some additional information on what the City's capacities were and the projections for the future as the City. She knew they talked about the ITS, but perhaps some further investigation and elaboration on that was needed. She was also not hearing three votes to take further action on this proposal.

Commissioner Amyx asked if that was an item they would have to take at budget time because there was going to be a cost involved in trying to figure out what the City's needs were and where they were.

Corliss said it was likely to be a capital budget item. He understood the direction was to get a staff report on where the City was on technological items. He said there might be a capital budget request on the next steps on the ITS. (19)

Consider approving, subject to conditions and use restrictions, PDP-03-02-08, a revised Preliminary Development Plan for Bauer Farm. The proposed planned commercial, office and residential development contains approximately 43.71 acres, located on the north side of West 6th Street (U.S. Highway 40) between Wakarusa Drive, Folks Road, and Overland Drive.

Paul Patterson, Planner, presented the staff report. He said the current use of this particular area was vacant and had been used for agriculture uses and crop production of corn recently. The preliminary development plan did act as a preliminary plat for the property. There were three component of this; a planned commercial development portion, which was the western portion, a planned residential portion, which was the eastern portion, and the very southeastern part was a planned office development. Within the planned commercial development, was a pull through auto service, at the corner a pharmacy with a drive thru, two

retail stores, two restaurants with a drive thru, two sit down restaurants, and a smaller coffee shop type drive through restaurant. All these buildings would be along 6th Street and were one story buildings. Up to the northwest part, what they previously saw two years ago when they developed the primary development plat on January 10, 2006, an area was designated as a future hotel and the direction was that would not work and should come back with some office or residential use in that area. There were two, three story residential buildings at this location. It would have a total of 108 bedroom apartments with 74 underground apartments underneath the buildings. There was also a club house and swimming pool. Further to the east there was a two story office, four retail buildings with retail on the first floor, office proposed on the 2nd floor, and the 3rd floor would have apartments. There would be a total of 26 apartments and 26 underground parking spaces. Further to the east was a two story building with retail on the first and office on the second floor. To round out the 21 buildings in the planned commercial part of it, there was a three story community theatre building. Within that commercial area, the total gross floor area was 308,250 feet, which broke down to 72,000 commercial retail, 54,400 office, 41,500 in the community civic building, and 137,250 residential which was contained in 134 two bedroom apartment units.

He said in the residential portion there were 6 different types of residential. There were 15 custom homes. The custom homes would have a detached three car garage. Above the three car garage were 15 carriage house units. A person that would own the lot or rented out would have a dwelling unit in the main house and also a dwelling unit above the detached three car garage. There were 22 starter homes with detached garages, which were two car garages. There were 117 row houses which were two stories with two car garages in the first floor. Those were composed in 20 separate buildings. There were also 7 mansion houses which would be 4 -6 dwelling units in the mansion houses with a total of 38 dwelling units. A club house and fitness center were also located there. The clubhouse would have four residential apartments on the 2nd floor. On the southeast corner was the planned office development

portion which was proposed to be a bank with a drive thru. In Bauer Farms were several detention basins. They proposed to have a wet bottom detention pond.

They needed to be aware of one change. The main access into the properties at Champion Lane, there would be a stop light into it from West 6th Street. In 2006 there was an improved right-in lane, and the applicant was now requesting a right out and right in where the pharmacy site would be. Previously there was a right in and right out on Wakarusa Drive and now they were proposing to have a right in and right out and also a double left at the stoplight. There were four two way accesses onto Overland Drive. There was a two way access onto Folks Road.

He said staff was recommending approval of the preliminary development plan with the addition of the drive thru restrictions coming from two drive thrus from the restaurant portions to three restaurants with drive thrus and subject to the five conditions as listed in the staff report. This preliminary development plan was under the old zoning code prior to July 1, 2006 and the applicant would like to continue under the old zoning code, which meant the final development plan would go to the Planning Commission for their approval. The applicant was showing seven phases over a four to five year time period for this particular project. There was also a final plat that would go to the Planning Commission for their approval and on the final plat the dedication of rights-of-way and easements would come back to the City Commission for their approval.

He said the first of the five conditions from staff were that the additional driveways not shown on the previously conditional approved on January 6, 2006 be removed on the plan as addressed by the January 1, 2008 memo from the City Engineer concerning additional access driveways. If there were additional access driveways, based upon the 2002 agreement with KDOT on the widening of Highway 40, they needed to get the written approval of the Secretary of the Kansas Department of Transportation for this additional access point. There was a little bit different form for the second phase of the residential part as for the alley ways and road rights-of-ways. They were requesting before the second phase came forward with the final plat

or final development plan, the applicant meet with the utility providers to go over where the placements of the utilities would be in relationship to the alley ways and roadways so they did not have conflicting utility providers as far as placements for those utilities. The third item was that there was a provision they had new owners of the residential portions. They wanted to make sure the new owners were on board with the widening of Overland Drive and Folks Road and they did sign the agreements not to protest benefit districts for the widening if the widening was actually required. The fourth recommended condition was if additional landscape easements and additional rights-of-ways were needed and were appropriate along Overland Drive and Folks Road, those would be provided and a note on the face of the preliminary development plan. The last was an additional note to the preliminary development plan. Their agreement would be executed between the City and Bauer Farm owners to extend the public/private areas and maintenance facilities within the private development prior to the final development application. There were some rights-of-ways on Bauer Farm Drive. Public Works and the applicant needed to discuss who would be maintaining the angular spaces and who would be doing the maintenance and snow removals in that case. Also, over the residential areas, the alley ways snow removals and how those would work and function was something Public Works wanted to address.

Commissioner Highberger asked if there had been any changes to the plan since it was last before the Commission. It seemed to him at some point the building in the southwest corner had been up against the street.

Patterson said they moved the pharmacy to the southwest corner and the bank building to the southeast corner where there had been an office space before. Previously there was a future hotel use in the northwest corner and now there were two three story apartment buildings at that location. There was a rezoning request approved in August 2007 to increase the commercial retail component to 72,000 square feet. There was also a use restriction to allow for the licensed premises in the restaurants and a liquor store to possibly go on.

Commissioner Highberger asked in the previous plan did the building in the southwest corner have similar setbacks to the buildings next to it.

Patterson said he thought on both locations there was a decorative wall with the project's name. The bank location was between parking lots and the streets before and a decorative wall about 3 feet high to give some screen between parking lots. That was consistent throughout where the parking lots were. He said it was from a 2006 approval.

Tim Herndon, LandPlan Engineering, said there were five conditions of approval and generally was in agreement with all of them. Obviously with the additional access points that were being provided they were being proposed, but asked that condition 1 be removed. They asked that condition 3 be removed only on the basis that it requests two agreements not to protest formation of a benefit district and both those agreements had been submitted to the City, which were submitted in July 2007.

He thanked the City Commission for this opportunity because Bauer Farms was a project they had been working on for a while. He showed them a copy of the 2006 plan. He said access was the main issue he wanted to discuss. In two years, this plan had been viewed by a number of businesses. One of the reports they got was that access was awful. He said in 2006 when they had been conditionally approved, they were approved with a 3-2 vote and knew they did not have the privilege to argue over a detail of access.

He said the current proposed plan showed a full service intersection at Champion Lane and 6th Street. The conversion to the right in to a right in right out there and an addition to the right in to the corner pharmacy and conversion of what was a right in right out to now a right in right out and left out were other changes made. They knew that this development would have walk ability, homes pushed closer to the streets, everything was a four lane intersection and knew there was social interaction that was much more easily and readily accessible than the standard post suburban type of developments. There was on street parking which served as traffic calming. There were alley ways typically. One of the things they saw in the old town

developments they did not have as much of in contemporary style planning was access. There was access in all directions in this development. The intersection of Kentucky and West 6th Street was the highest traveled intersection in the City of Lawrence. The volume of traffic there was greater than 23rd and Iowa and other intersections in their town. He showed other features they would incorporate into Bauer Farms to deal with the development being at an area next to an arterial street. He said Bauer Farms was very successful in enclosing the parking areas than other developments.

He said he wanted to focus on the commercial component of Bauer Farm. In the commercial town center they had ground floor retail, second floor office and third floor residential. One of the things they had to talk about was the southwest corner of the project which was where the pharmacy would be located. A CVS store, the project anchor in the 72,000 gross square feet commercial development, was very key and important. Its success was paramount to continue to build upon the energy they hoped would occur in this development. It was a very standard and corporate model that was necessary for CVS to maintain its visibility and accessibility and what that equated to was readily available products for the pass by motorist and quick turn around convenience shopper. Pharmacies were originally located in downtown areas. Pharmacies today were almost exclusively located on corners. Because pharmacies want these corners, they are willing to pay the highest amount for the property. This requires high volumes sales which required great access and high visibility. They were working with CVS to determine the vernacular of the architecture that would be suitable in Bauer Farms. He said there were other reviews and screenings and this project was subject to those. He showed pictures of buildings for the pharmacy that were proposed for this development.

He said another thing they talked about was how developments were suited to be adapted to the future. One of the things they did not see in the larger scale planned commercial developments in Lawrence as a rule that they had not seen up to now was modular City block

grid system commercial developments. They knew in years from now that the fast food restaurant, the convenience store, or whatever it might be, the demands of the public in the society were going to change. The ability to be able to transform over time was important. He gave the Hobbs-Taylor development in Lawrence as an example of this.

They were under the old code and did not have to have sidewalks on both sides of the street but did. They had bump outs where the street crossings were to shorten the distance that the pedestrian would be in the driving lanes. There was also a commercial center, the community theatre location, and on the east side on the retail component they had a park and the neighborhood center there. The development would have far more trees on it than it did not and would be preserving open space. They were taking the standard suburban open space and considering how the trees, sidewalks, and cross walks would work with it and converting it by placing the homes oriented to the open space so the open space enjoyed the face of its surrounding neighborhood. The development conformed to the City's Comprehensive Plan, Horizon 2020, and subjected themselves to the public review. They offered a variety of price points with their housing and residential. Bauer Farms would be an equal opportunity development. He said in the top ten principles of smart growth, they had community and stakeholder collaboration and submitted no less than eight submittals to the City for review. This was their fourth public hearing and they have had numerous meetings with the neighborhood organizations in West Lawrence and other organizations.

He said if they designed West Lawrence the way they designed the neighborhood they tout as being the neighborhood in Lawrence, they would have besides Folks Road and Wakarusa, they would have 9 other access points. They would not be here tonight complaining about the access situation they had. He said they were also up against the access management policy. It told them when two arterials cross one another, you could not have any driveways within 600 feet of that intersection. He explained the various guidelines that kept them from replicating the environment they wanted. The arterial today was a principle arterial

with no on street parking, with average daily trips of 32,000 – 40,000 vehicles per day with an average speed limit of 45 miles per hour. The intersection spacing should be 1,250 feet; a quarter mile intersection spacing. They were trying to lower the speed limit, widen the sidewalks, add street trees, have places for bus stops, and target an operating speed of 35 miles per hour instead of 45 miles per hour. An interesting component was signalized intersections spacing at 400 feet and consolidated driveways or mid block pedestrian signals to create crossing opportunities. He said they were there to tell them they wanted to work in that direction and Bauer Farms more closely accomplishes that sort of interactive traffic and pedestrian circulatory success than what they were accustomed to seeing in commercial development proposals. The way their plan worked today did not work because there was no access to get out.

He said another thing Bauer Farms had a challenge on was the anchor and gravitational force to pull motorists into the development and the pass by trips they had to have to make a 72,000 square foot retail development work. They were deficient of that feature and had to have spaces people wanted to go to, convenience, accessibility and visibility to make up for that. They were asking for it not so they could have more, but they were asking for one full access intersection. They wanted one right in right out to the full access intersection. They were asking for significantly less than other developments. The standard of development limited the driveway as the eastern most access into the development until one got to Folks Road.

He said the development must offset significant infrastructure costs, land donation costs, retail limitations, off site improvements, and special assessments. He said it also had to be tenant friendly. Businesses had to want to go there and do business and if it had no access no one would want to go there. It also had to be public friendly and a place people enjoy. Finally, it had to be accessible; walkable, driveable, convenient, and visible. He said good access was good planning.

Mehrdad Givechi, Traffic Consultant for this project, said when he joined the team he was asked to look at the proposed access modifications for this development site and see if they were feasible, safe, and from an operational point of view they would work for the development. He said as a traffic engineer, he would like to see more balanced traffic to the development instead of the traffic only having one or two limited points. He said on the southwest corner were retail and commercial uses. Commercial and retail use had two types of trips. One was a pass by trip and the other was a non pass by trip. The pass by trips were the trips where people were attracted to the site and for those people that were not actually destined for that site and diverge from their route to conduct business before going on to the original destination. The non pass by trips were trips that were destined for that destination. When they looked at the retail and commercial component of this project, which was mainly on the south side and southwest corner, they had two types of trips. The pass by trips were the ones he would be focusing on mainly to tell why the modification of access was beneficial for the project. Significant portions, 50 – 60%, of the trips were to these sites. He showed a copy of the proposal of access points. He said in the old plan traffic would have to back track to get out of the development. He said there were two things about the development that concerned him. One was the limited access in the southwest quadrant that created a lot of the back tracking. It sent a lot of the traffic that could leave the site by the proposed new access points, forced through other intersections to head west. They also had a high school on the north side of Overland Drive and he would prefer not to mix the two types of traffic together; the retail commercial with the high school traffic. He wanted to have a balance and segregate those two movements as much as possible.

He said under the new proposed scenario they would have additional access and convenience to the three sites on the southwest corner which would take some of the traffic away from the intersection of 6th and Wakarusa. It might not be a significant number, but there would be traffic movement not reaching that intersection and would reduce traffic at that

location. He said for the outbound traffic for these buildings they had two options; people going south and west on 6th Street and two options going down Champion Lane north or the access point to the west of the intersection and then south and west. The buildings would have a new option of leaving the site and having access right out option so they did not have to back track. These locations enhanced the operational point of view and enhanced the level of service of some of the intersections, specifically Overland and Wakarusa Drive. Also, it did not have a negative impact on the operation of these intersections. The analysis contained the traffic volumes for the year 2025 that was forecasted in the previous traffic study that was done by Tran Systems. The afternoon peak hour, which was the critical peak hour of the typical peak day, of the year 2025, which was the worst case scenario, would work under satisfactory conditions. There would be a reduction of delay, congestion, traffic and no negative impact on the two access points.

He said from the safety standpoint, the location was set back far enough from the worst stacking they would get at the intersection. It was not interfering with the operation of that intersection. The worst case scenario was the 95% of stacking for the right turn movement was 70 feet west of that proposed access point. The traffic could maneuver into the dedicated right turn lane and get into the site without interfering or waiting for the light to turn green. Ahead of the location where the access points were, they had a dedicated right turn lane that would take the right turn movement out and away from the main flow and help traffic on 6th Street in the westbound direction. He said the only issue was the separation between the two access points, which was shy of 300 feet. He said he wanted to point out the idea and concept behind the 300 feet was if they did not have dedicated right turn lane for those two driveways, assuming they had no dedicated right turn and two consecutive driveways, the two would interact with one another. They created “bubbles” that would prevent southbound right turn movement into getting into the right turn lane. They were forced to get into the traffic and get back into the right turn lane. They were reducing a number of conflict points at both those intersections. The fact

the intersections were separated by less than 300 feet, it was semantics. They needed the driveway to be there because it was a focal point to the town center. They could not move it to the east because it would change the concept and layout to the site. He said there was an issue brought up that the right out would cause a problem, but they were putting the right out where there was only two through traffic lanes. People would not have to cross two or four lanes to negotiate a left turn. If they were headed west, they would make a right turn and headed south would only have to cross one lane to get to the east side lane. Once they would get to the widened area, they could turn left and negotiate their turn. They were not proposing a right out where the intersection was widened because they did not think it was a safe practice.

He said he also looked at the crash history because the City staff had a concern about crashes and how they would know if they would not have crashes at these locations. He looked at three different sites in town similar to the characteristics of these two intersections. The first one was 6th Street and Lawrence Avenue at the Dillon's store parking lot. There were two access points to the parking lot of Dillon's. The one on the left side was within a dedicated right turn lane. The other one was actually on the outside of the dedicated right turn lane. They were a little bit different than what the developer was proposing because they were fully directional access points with left in left out and right in right out. He looked at the crash history for three years and the records he received were on 6th Street between Lawrence Avenue and Schwartz. The next location was 10 Marketplace, Harper Road and 23rd Street. There was a dedicated right turn lane to the site and two driveways within the turn lane. He said the intersection of Clinton Parkway and Kasold Drive had a right in only with the exception they did not have the southbound dedicated right turn lane. It was a little worse than what they were proposing for the CVS site. He showed a summary of what he found from crashes at these sites for the last three years. The right out movement they only had one crash in the three year period at 6th Street at the driveway to Dillon's. For the other two locations there were no crashes reported for a right out condition. For the right in, they had three for three years and one for three years at 23rd and

Harper and no crashes for the right in only. In conclusion, the right in access had no crash history and the other ones only had a nominal number of crashes reported for the types they were proposing, which was the right out at the second access point.

He said the median opening also raised a number of issues from safety and operational aspects. In his report initially he recommended a signal at this location. He said they could do this in two steps. They were looking at the worst case scenario afternoon peak hour and all the numbers were speculation. Based on that, they may need a traffic signal but at the early stages they did not necessarily need to have a signal. They could open the median with one lane of traffic out and have one left turn lane out and have that intersection as a stopped controlled intersection. They could come back at different stages of development and look at the traffic volumes and see if the signals were warranted. He would not recommend having a signal at first because there was nothing worse than having a signal and if the warrants were not met, it was hard to take the signal down and created a safety issue. His proposal was to have an initial opening for the left out movement and operate it as a stop controlled intersection and evaluate the situation at different stages. Chances were they may never need a signal at that location, however, if they did, in the worst case scenario he realized there would be a challenge in coordinating the three signals, but it was possible. Also, there was not stacking in having that signal into the intersection upstream. Assuming it was a stop controlled intersection with a left out, he wanted to look at the crash history in some other similar locations in town. He found two locations in Lawrence, one was 23rd and Iowa at Hastings. They had two access points off of 23rd Street, approaching Iowa Street. One of the access points was right in, right out, closer to the intersection and the other one was a right in, right out and a left out through a median opening. The next location was Rockledge Road and McDonald Drive. It was a little bit different in nature, but there was a left out through a median opening and a right in and right out. It was somewhat similar to what they were proposing on Wakarusa. The three year crash history there were only three crashes at each of the locations that had to do with the left out.

There were four for the right out and two for the right in. At Rockledge Road there were no crashes associated with the right in or right out. The traffic volume was also an indicator. At 23rd Street and the driveway to Hastings, there were about 4,253 cars going in both directions on 23rd Street. There were about 14 cars leaving the Hastings site and making a left to go through that median opening. The volume on the main road was high and the volume off the site street was low. He said the year 2025 projected volume showed that in the peak hour they would have 2,200 cars going both ways. He was predicting somewhere between 130 – 200 cars in the worst case scenario leaving the site and making a left turn. It was pretty compatible with what they had at those two locations. In looking at the crash history, the numbers did not jump at him saying they were creating a hazardous situation or something that should be a red flag.

He said by looking at the operational aspects of the access modifications and safety aspects based on the crash history they had in Lawrence at similar locations, he went ahead and proposed the access modifications and felt comfortable with the where they were from an operational point of view and also from safety aspects.

Mayor Hack called for public comment.

There was no public comment

Commissioner Amyx said he thought this was one of the best plans that he had seen come before this body since he had been there. He liked every piece of it, but as he had told the developer before, he could not support the cut of the median on Wakarusa Drive. With the development to the west, he did not question the figures, but thought the traffic coming from the north during peak times was going to be high school drivers and thought they had all kinds of situations there. He had real trouble with that access. He thought the rest of it was fine. It was a beautiful plan.

Vice Mayor Dever asked Herndon to explain the value of the left turn egress on Wakarusa Drive.

Herndon said it meant everything. They would get people in there and they had to go all the way out to Overland Drive and do a U Turn. They would have to go up to the entrance of Free State High School. He talked to the Free State High School Principal about it and he did not care for it. He said they should imagine the Mariso's, McDonald's, A&W, Scotch Cleaners access with directional control. They should picture how much better that would be. They had an opportunity not to do that yet provide access and convenience to the commercial development to the north. From a commercial standpoint it was extraordinarily important.

Vice Mayor Dever said the traffic engineer did a great job of highlighting all the traffic patterns inside the facility and development and highlighting the points of what type of traffic was coming there. He did not share the concerns that Commissioner Amyx had only because for about 6 or 7 years he used that left turn out off of Rockledge and never experienced anything. They had a little bit of back up occasionally but it was only for 10 – 15 minutes a day during the peak times. It was a scary concept if you were a new driver, but in general he thought it worked pretty well. For now it would work fine as development increased and it might be a problem later and might require signalization. He thought the engineer did a great job indicating the safety statistics. The other left turn out, though, onto 23rd Street was a whole other level and perhaps that intersection will become that because of the tenant to the northwest of the intersection, but did not see as much traffic. The statistics, if they were true, verify it was a fairly safe maneuver given the proper engineering controls. Although he could understand the potential problem of doing it, he could see if done right it was much better than having people drive north, then west, and then south creating additional traffic flows. If they could get people in and out quicker, it would be better for pedestrians, which this development was for and better for the casual passerby to get to and from this site they were trying to get to casually. At first he did not see the negativity of closing that off but the traffic engineer did a great job of illustrating that. He was in favor of especially the engineering controls in place on 6th Street. KDOT's vision of life was to move traffic through in spite of them being there. Their vision was to

facilitate people to get in and out of there and both the indentations and the design of the right turn in lanes looked reasonable on paper. He would be in favor of the left turn out on Wakarusa, barring proper traffic signalization controls.

Commissioner Highberger said he thought they did a good job of pointing out the weaknesses in the access management guidelines. He had some serious problems with them himself so he did not have any quarrel with the requested access. He said Mr. Givechi did a good job on how the access management guidelines made people drive much longer than they would otherwise, increasing the traffic problems. He assumed other concerns and would withhold his judgment on the whole project. He wished they could improve access in the residential portion, too, but it was a little late at this point.

Commissioner Chestnut said he agreed with the concern about breaking the median on Wakarusa, but thought they had a couple of things to keep in mind. One was that he was guessing as they started development, the signalization at Wakarusa and Overland was going to happen sooner than later. It was going to act as some control at that intersection. Secondly, as to this development, along with what development would occur soon across the street, one of the things about Free State High School traffic was that it may change its patterns as well. Right now Wakarusa Drive was a wide path with nothing around it. It was the straightest shot out of that parking lot. There was all the access to the east as well, and not used as much as it was now. To some extent, what would happen was as this project moved forward, they would see some diversion of a lot of traffic that was going down Folks Road and using that light. They may be talking about what improvements they would need at the intersection of Folks Road and 6th Street. He shared Commissioner Amyx's concern as it stood right now, but as it filled in it would become less of an issue and agreed that access points were not only commercially required, but did improve the traffic flow in the interior that was crucial to some of the goals they wanted in development.

Mayor Hack said the community was going to have to get used to the grid system because they love it downtown but were not used to it in some of the newer areas. She thought they liked it, but did not have it. She lived in one of the spaghetti neighborhoods and forcing everything to that one bottleneck was not productive for anyone. The original plan forced the traffic to two areas that they knew did not work. This provided an alternative to that. They did not have the large anchor but would have smaller stores and make it more walkable. The bad part of that was that it had to be financially viable and this project had to be financially viable not only for the people who had a financial interest, but the community as they moved forward on the Smart Code and new urbanism. They had to have successful projects because they were right and the right thing to do. She had some concerns about navigating that break on Wakarusa, but the examples shown her she had done them when she did not know she was doing them and managed to do them safely and as the numbers showed most of them could. The engineering modifications for the right in and right out would be very successful and would improve the access and action at 6th and Wakarusa which had been a huge concern for people who were afraid if that became congested, the only way to get rid of it would be to go through the neighborhoods. They wanted to make that a very safe functioning intersection so that did not happen. She was fine with the access points on the proposal, including the median break on Wakarusa.

She said the next thing they needed to talk about was the issue of private or public maintenance, which was condition number 5.

Corliss said what they were forecasting was it would likely be an issue. The City did not snow plow alleys and that was an issue where the access would happen. They did not maintain decorative street lights. There were a few things they highlighted in the memo and did not know if they had to talk about those details now. Their concern was allowing a plan to proceed; they needed to recognize that issue was outstanding. He had not heard anything from the development responding to those issues. He said they were precedent issues for City staff.

Vice Mayor Dever said in regards to setting precedent, they were going to encourage the traditional neighborhood design and these types of tactics. He thought they all agreed it was something they would like to move forward with and probably set a precedent to determine what that was and then everyone would know that was what they were responsible for. He did not want to plow alleys, but that was his take on the situation and fortunately that was where people were parking their cars, in their garages in the alleys, unfortunately did they did not currently plow the alleys of the City. There were people getting along with that problem for 100 years.

Corliss said they were concerned if they did not have that on record, they would have problems on the details of managing that. He thought the conditions were written that way and they had to look at the issues.

Vice Mayor Dever said the original intent was for the developer to own and operate these and part of why this was new and why it had come up. He asked about the actual details of the development district.

Mayor Hack said as they moved toward the SmartCode and assuming that moved forward, if it moved forward, they would have to think about how they would take care of their alleys because as they directed some of the maintenance kinds of issues to alleys, they would need to be taken care of.

Corliss said they could be taken care of by the property owners.

Mayor Hack said correct, but they knew how well that worked sometimes. She asked what details Vice Mayor Dever wanted to know more about.

Vice Mayor Dever said they needed to know more about the TDDs.

Mayor Hack said they still had work to do on the request for TDD.

Corliss said he thought so too.

Mayor Hack said they did not need to have that conversation because they did not know what the details were, did not have the information up front of the analysis of it. What they were framing their vote on that evening was the approval of the preliminary development plan and the

request had been that conditions 1 and 3 be removed, 3 having been already submitted and 1 being reflective on the plan that was presented this evening.

Corliss said the issue on 3 was they needed to have the current owners sign it.

Herndon said they would be perfectly content with leaving that condition because if there was any question at all, it was a bit of housekeeping they could agree to.

Mayor Hack said that condition 3 would stay and condition 1 would change to reflect on the plan the access points that were presented.

Commissioner Highberger said he believed the streets should be public streets just because they would be kept in the public domain. He thought the maintenance requirements ought to be the same here as anywhere else and as far as costs go the people living there would be paying property taxes and have the same services as everyone else. He said he thought it would impede their ability for public acceptance of the Smart Code and traditional neighborhood design if this was what New Urbanism was. He did not like the moving of the building in the southwest corner from the street side to where it was surrounded by parking lots on both sides of the street. He thought it was contrary to the commercial design guidelines. As Herndon pointed out, it was a standard corporate model. There were communities who enforced the commercial design guidelines and in Lawrence they got the standard corporate model a lot of the time. He could not support that element of the plan.

Moved by Dever, seconded by Chestnut, to concur with the Planning Commission's recommendation to approve a Preliminary Development Plan (PDP-03-02-05) for Bauer Farm, a proposed planned commercial office and residential development, containing approximately 43.71 acres, located on the north side of West 6th Street (U.S. Highway 40) between Wakarusa Drive, Folks Road and Overland Drive, subject to the following revised conditions:

- ~~1. The additional access driveways not shown on the conditionally approved January 10, 2006 Preliminary Development Plan be removed from the plan as addressed by the January 31, 2008 Memo from the City Engineer concerning the additional access~~

driveways. City Commission recommended approval of the access points as presented by the applicant (revision 1.18.08).

2. For the area covering the Phase II Planned Residential Development portion of Bauer Farm, the applicant shall meet with each of the utility service providers, (gas, electric, telephone and cable) to coordinate and determine appropriate locations of the underground service lines in relation to the municipal water, sanitary sewer and stormwater lines, prior to the submittal of either a Final Plat or a Final Development Plan Application covering Phase II to the Planning Commission.
3. Provision per Sheet 4, General Note No. 4 for the current owners of Bauer Farm to provide written Agreements not to Protest the Formation of a Benefit District for the widening of Overland Drive between the intersections with Folks Road and Wakarusa Drive and the widening of Folks Road between the intersections with Overland Drive and W. 6th Street.
4. Add the following note to the Preliminary Development Plan, "Additional landscape easements and additional right-of-way(s), where appropriate, will be provided on Overland Drive and Folks Road if existing right-of-ways do not provide sufficient space for road improvements as designed."
5. Add the following note to the Preliminary Development Plan, "A written agreement will be executed between the City and Bauer Farm owners to specifically identify the extent of public/private areas and maintenance responsibilities within the development, prior to the submittal of a Final Development Plan application."

Motion carried 4-1 (Commissioner Highberger voted no).

(20)

Discussion on Snow Removal Ordinance.

Jonathan Douglas, Assistant to the City Manager, presented the staff report. He said the current Sidewalk Snow Removal Ordinance required sidewalks to be clear within 24 hours at the end of a winter weather event. If they get a complaint, they inspect the property and then a notice would be mailed. If the sidewalk was still not cleared within five days of the notice, the City would forward the case to municipal court for prosecution. The ordinance provided for a \$20.00 fine for violators. The major complaints they heard were from pedestrians who did not think the ordinance resulted in sidewalks getting cleared fast enough and also from property owners who were upset when they did their part to clear the sidewalk and then City snow plows go by the street adjacent to the sidewalk and plow snow back up onto it. Some of the major

changes for City Commission consideration were outlined in the memo and included the following: First, making the enforcement staff initiated rather than complaint driven as it was now; second, adding a provision to allow the City to remove snow and assess the cost to the property owners, which some other cities do. The third was shortening the compliance periods and fourth increasing the fine amount. Another option was not to make any changes and continue to enforce the ordinance and get the word out to property owners about their responsibility to be good neighbors. He thought staff would recommend if they were to make any changes, shortening the compliance period and increasing the fine could be done without needing any more staff resources dedicated to the program. He would not want to give anyone the impression that it would get all the sidewalks cleared in town, but would give a little bit more effective tool to address some of the problem areas they experienced.

Commissioner Highberger asked if the model where the city contracted out with some private entity to remove snow in the City would acquire additional staff resources.

Brian Jimenez, Codes Enforcement Manager, said the way it would require more resources was they would have to make that additional contact with the contractor, do that administrative part of it just like the weed and grass mowing. Shortening the time period, it would require additional resources because they were going out a second time. It would be more if they wanted it to be a shorter time period than what they currently had right now. The way he saw it was if they contracted it out, they would take bids and would probably have several contractors that could provide that service to the City when there were the snow events. That would still entail the second inspection to verify that it was not in compliance. They would make that phone call and contact and after that there would be some administrative work done.

Mayor Hack called for public comment.

Bill Mitchell, Lawrence, said he had not seen all the proposed changes to the ordinance so he was speaking in general. He spoke to Commissioners in 2001 when this ordinance was first being considered. It was poorly conceived then and obviously had not improved with age.

Legislating neighborliness was generally doomed to failure but especially when such a law was without teeth. After the snow, five days after a complaint and notification was lacking any will to enforce failures assured failure. He said credit was given where due. Originally, the 24 hour period was 48 hours. He said 24 hours was still too long and five days to clear after a complaint and notification was silly. He said a fine must be meaningful. Complaint based enforcement was slow, removal of rentals or code violations was ineffective and most importantly the responsible agency must have the will to enforce. If the will was lacking, and seemed to him it was, they were finished before they started. He said they should either fix this or get it off the books. While they had snow removal on their minds, they should please consider the long standing complaint of those who had sidewalks abutting the street on only one side of the street. Over the past 40 years or so Public Works had from time to time and place to place thrown the snow to the sidewalkless side of the street, but more often than not they plow it repeatedly on the soon to be cleared sidewalks. He said to quote from his 2004 letter, it was a particularly unkind cut for the City to undo the work that conscientious residents had done and to threaten with fines if they do not clear the sidewalks of Public Works snow as well as mother nature's snow. He renewed his plea for the establishment of a City wide policy of throwing snow to the sidewalkless side of the street wherever sidewalks abut the street.

Clifford Harding, Lawrence, said while the City Commission was amending the Snow Removal Ordinance, he suggested they also put in there about no sprinklers between 6 a.m. and 8 p.m. He had gone up 6th Street many times and people were jogging and walking out in the street because the sidewalks were wet. Summer was going to be coming soon, but thought they needed to put that in the sidewalk ordinance so people could walk on sidewalks.

Hubbard Collingsworth, Lawrence, said they were supposed to be a bicycle friendly town. 19th Street was supposed to be bike friendly and had a bike lane down the right hand side. The snow removal equipment took it from the center to the shoulder which meant it closed

the bike lane off and forced the bikers to be either on the sidewalk or on the main arterial. He wondered if there was a way they could address this point.

Chuck Soules, said Tom Orzulak was the expert on this. There were a lot of these issues and would love to address everybody's issues; keep it out of their driveways, keep it off the sidewalks, keep the streets clear. They had the snow problem and had to put it somewhere. They push it to the other side where there was no sidewalk worked in some cases and sometimes it did not. Storm sewers may be on the other side and if they push it on one side and it melted, they would deal with freezing streets. If they pushed it over to the other side, they had a pile twice the size in front of everyone's driveway on that side. The neighbors were not always on the same page with where they wanted the snow to go. They knew there were several areas and Orzulak's crews tried very hard to remember when everyone was calling because they were stuck on the hills or the Police Department needs responses or there was an accident. The crew was running around trying to get the roads open and clean, but they were responding and trying to remember where to put the snow. They would love to respond to everyone's concerns if they possibly could, but with the resources and the time available, if they had a week to remove the snow they might be able to do more than this, but the community expected a better response. The crew started on call when they saw the word snow forecasted. If they did not get the snow, they were patching potholes in the middle of the night. The crew was there and was trying to do everything they could. He said if the Commission wanted to give definite guidelines they wanted to proceed with, they would obviously follow them and would do everything they possibly could that they know of.

Tom Orzulak, Public Works Streets Division Manager, said the biggest problem was they had to put the snow somewhere. The bike lane was one and 19th Street was not redesigned when it was redone and was not bigger. Some of the projects done recently like North Michigan, the street was wide enough to where they could get the bike lane open. On 19th Street if they got everything all the way up to the curb, they would get into the mailbox problem because once

they get it off the street, it would start knocking mailboxes down. Some of the areas around campus had more pedestrians and made an effort to try and get the snow on one side or the other. On a one way street it was pretty easy but on a two way street, they were taking the snow from the direction of the lane the trucks were in, and putting it against traffic. A lot of those streets it would take three people; one person to block the street off and try to control the traffic, and two trucks trying to get the snow moved over. Sometimes they could do it and sometimes they could not. He said 6th Street in some places was 90 feet wide. It took 5 trucks to plow half of 6th Street. If there were 14 intersections between Massachusetts and Iowa on 6th Street, they would have to open every one of those intersections. It was all done under traffic and there was never a time in Lawrence where people were not driving around. The trucks had to back up into traffic so it was not as easy as it looked. As much as they tried, there were still times it would get up on the sidewalk. At some point in time they go back and try to mitigate some of the problems they cause but it took them a minimum of 36 hours to clean the whole streets. A lot of the problem was it took so long to get some of the residential streets, when it stopped snowing but not when it started. A lot of people had their driveways and sidewalks cleaned, and then 24 hours later the snow plows come and people had to shovel it again.

Soules said the good news was that it was an exceptional season for snow and typically did not see this kind of snow accumulation so they did not have as many complaints. He knew everyone got a few complaints, but on the grand scheme of things he did not know it was an excessive problem.

Commissioner Chestnut asked whether there was any merit to a grid plan. He said on this street they were going to try to push it to one side. He said what it sounded like was they had a lot of mental notes in their mind about what they normally do, but really did not have anything committed to a process. He said it was reasonable to ask the question because when the public complaints come in, a lot of times it was a trade off. They could say that was a

priority choice made. He understood there were always trade offs. He asked if that was something they had ever considered.

Soules said they did have a snow plan and plowing route, but was basically priorities but going down to a specific street saying which way the snow would be pushed they had not done. It would take a tremendous effort because they would have to have neighborhood meetings on every street to figure out where they wanted that snow and he did not know how practical that may be. To get consensus from everybody was tough, even on small projects.

Commissioner Chestnut asked if the City came up with a plan based on what they know.

Soules said they could sit down and tell which ones they have attempted to keep track of.

Orzulak said they had a plan like that already written down.

Commissioner Chestnut said they had storm sewers on one side, sidewalk on the other, and had to make a priority choice. If it was vetted out to that point, he could see where they say it was on the sidewalk because they had to keep the storm sewers clean. He said maybe that was too granular and could not get to that point, but thought that would address some of the problems. They were making priority choices and if they could commit that to structure it made it easier to answer the questions.

Commissioner Amyx said Orzulak and his crew did a great job. They got calls and concerns about when the snow was left in their drives and up on the sidewalk and every time they knocked down a mailbox. It seemed like they had a policy to take care of everything. He said it seemed like when he was younger they did not do residential streets until the 5th or 6th day or when it hit three inches of snow. He remembered having rear wheel drive cars and they did not go anywhere. He thought the service was increased and did a good job providing the additional service where over the course of a 36 hour period they did every street in Lawrence to make sure the driving public was taken care of. He said if they had a problem with the sidewalk, they had a policy in place that said within 5 days after a complaint was filed that thing

had to be taken care of. He said the only way they would take care of this was if they put the snow on the sidewalk, they would have to come up with a way to have someone from the City to go out and clean it. He said they needed something to address that if the City put it on there. If they were going to go off of the complaint driven procedure, they should keep the fine the same. It seemed they had taken care of individuals who might not be able to physically take care of themselves because he did not want anyone to have a heart attack out there lifting snow, especially snow the City put on the sidewalk. If they wanted to shorten it down where they would go on complaint basis from the public and if staff saw something and could contract with someone to take care of the complaints they got, if staff needed to get the streets taken care of first, they needed to look at something like that and go on. He said they should have staff and public complaints, the fine would stay the same, shorten the time down to 24 hours, make sure they had the program in place right now for the safe winter walkways to make sure they had adequate volunteers to help with that, and address how they would contract to take care of the snow. Public Works could not go out and take care of removal of snow on sidewalks because they did not have time to do it when they were taking care of everything else.

Soules said they have received complaints about snow when the City had thrown it back on the sidewalk, but the City had not cited anyone when it was the City who had thrown the snow back on the sidewalk.

Jimenez said just like they got complaints where the driveway was blocked or crosswalk was blocked, they issued letters from their office for a sidewalk that had been covered, and the person had called him and said they cleared it and the plows covered it. City staff would tell them to disregard the notice and have worked through it. It was one of the situations where they did not have the perfect answer for it. He said a good example was on 9th Street. From Highland Drive all the way down to Emery, the sidewalk was literally where the curb started, except for the one area where it jutted in for the bus pick up. That was a very high traveled area. They had snow a week ago Sunday morning and the temperature rose pretty quickly that

morning. He went out and took pictures of that Wednesday last week after they had two fairly mild days and the area in front of the huge retaining wall was treacherous. The snow was not snow anymore but three to four inches of ice. It was not smooth, it was jagged and dangerous to walk on. There was a situation where the snow was not removed and they received complaints on it. The snow then turned to ice and was something unique because if there were sidewalks on the south side of the street that did not get any sunlight, just because it warmed up did not mean the snow was going to go away. It may mean that it may thaw a little bit, but it may freeze up at night and do the same thing over and over again. When they cleared 9th Street, he doubted there way any way to prevent that from happening because the sidewalk was right there on the curb.

Mayor Hack said it might be good to see how much it would cost to contract out for the removal of snow from sidewalks like 9th Street and 6th Street that they knew were heavily traveled. She knew they did not have the money to do it, but those were areas they heard the most about. She thought it was difficult and agreed with Commissioner Amyx that shortening the compliance period would be a good idea, but was not sure the fine increase should remain the same.

Corliss said it was very unlikely they would prosecute anyone for violating this ordinance. They had other things they would devote their resources to. They were going to send the letter, but not initiate anything other than that letter.

Todd Thompson, Lawrence, said he received a notice of violation from the City this year after cleaning his walk and having the City bury it with large chunks of ice and snow. He talked to Jimenez about it and Jimenez did a terrific job and handled it very well. Receiving a notice of violation when you have not violated the ordinance was upsetting. It was not a letter but a notice of violation. He came down tonight because the first speaker said they would get a complaint, they inspect and send a notice of violation. That was not an accurate statement. Notices of violation were sent out based on anonymous phone calls, and that was not a good

policy for City to follow and was not lawful. As they worked through this, he hoped they would adjust that. He hoped that a true letter explaining what their responsibilities were and what they were subject to if they did not comply was highly appropriate. A notice of violation set the wrong tone, especially when someone had been up at 5:30 or 6:00 in the morning cleaning your walk only to have it buried at 7:30 or 8 when the snow plow went by. He said they should get away from the notice of violation and send a letter. He was in favor of enforcement, but it should be handled in a different way than it had been historically.

Vice Mayor Dever asked how many complaints were received a year.

Jimenez said it varied, but in 2003 they received 132; 2004:250; 2005: 125; 2006 they had 5, which were carried over from 2005. In 2007, which was the month of December, they had 172 and thought they were over 200 this month alone. The more snow they had, the more complaints. A lot of the complaints were repetitive with the same locations. They did go out and inspect every complaint, and went back for re-inspection.

Vice Mayor Dever said he was not around when they wrote this code and did not know what the original intention was, but for him they had to figure out what the intent was and whether or not they needed a rule like this and if it was achieving its goal allowing people to walk on the sidewalks and be pedestrians.

Mayor Hack said as she recalled, Commissioner Highberger was on the City Commission at the time they talked about the concerns if they were going to stress walkability they had to have the ability for people to do that safely and talked about a volunteer program for people who were not able to do it themselves, they would have a group that would. That did not work as well as they hoped. It was a no win situation because if they pumped up the fine and shortened the time, she was not sure that was the way they wanted to do business.

Vice Mayor Dever said the goal was to get the sidewalk cleared and anything short of getting the sidewalk clear was not achieving the goal. He was not sure what to do except clear the sidewalks if that was what people wanted and let people know there was going to be a cost

associated with it if they did not. It seemed like a lot of administration but if the goal was to promote walkability and allow people to use the sidewalks, it was not happening if they were just sending letters and no one was complying. If they were actually achieving something, it would be good but it did not sound like that was happening. They were just getting complaints and people were getting upset by them.

Commissioner Amyx said they could not afford to do all the sidewalks in town. He did not see where they had the administrative time to assess back all the costs.

Vice Mayor Dever said they needed to take it off the books if they were not going to enforce it.

Commissioner Amyx said they needed to come up with a way in a complaint driven world whether it be by staff or individuals who called in to be able to take care of the problem and that was it. If it was their responsibility to do that, it was fine but there had to be something there that was going to take care of the problem because it was people's way to work and exercise and those things.

Mayor Hack asked Jimenez if they had a response rate on the citations or letters. She agreed the letters would be a better way to go.

Jimenez said he could probably get that information, but would have to look at each individual case and compile that. There were some ideas he had where they could change their certain type of case codes where they could track things a little more detailed. It was something he had thought about in the last month or two. One thing he thought about was they were physically going back to the office and sending a letter out to each person. He knew some jurisdictions that he researched did not do that, but had a door hanger notification. That was one way they could cut down on time. Staff may go out and spend a vast majority of their day looking at the complaints and spend a lot of time entering the case information and mailing the letters. It was a possibility and knew a lot of cities there was notification at the door or personal contact. As far as the education, they did have education. Every year the Journal World

contacted him about an article or Channel 6 news. One key problem was the time period and the five day period. Their goal was to remove it and did not think what they had right now been doing that, which was where they got the most of their complaints.

Mayor Hack said shortening the time period to perhaps three days was a little bit better.

Jimenez said that was a possibility. He simply provided the City Commission with things they experienced in enforcing it and possible solutions.

Mayor Hack said she liked the door hanger idea because it would save time and money and also part one of the notifications would be that if they went to someone's house that snow plows had done it, they could put that on the door that there had been a complaint but were sensitive to the fact that the City covered up what the resident had cleared off.

Jimenez said it was an education process. He talked to staff about trying to recognize when they thought that had occurred and thought they were identifying those areas such as 9th Street where they got significant snow fall it was going to happen and there was no way to avoid that. They worked through those situations and there were many things that came up that they could not make everyone happy on.

Vice Mayor Dever said 6 out of the 8 cities they gave examples of, the cities removed the snow if it was not taken care of. Literally, the other cities that were smaller than Lawrence did it and billed the customers for the job. He did not want to get into that business, but also did not want to have a rule on the books that they did not enforce and did not achieve the goal of walkable sidewalks.

Commissioner Amyx asked if they wanted 24 hours or 48 hours with door hangers.

Mayor Hack said 48 hours and a door hanger was not a bad compromise. She was a little reluctant in getting into the business of removing it themselves because she did not think they had the resources to start that.

Commissioner Highberger said it was something they had to do better and could do better. Madison, Wisconsin was easier to get around after a snowfall there than here. He did

not think there was a good excuse for that. He did not know if it was through stricter enforcement or laws or a civic culture that supported people cleaning their sidewalks, but the next day after a snowfall in Madison, Wisconsin the sidewalks were clear. This was something that had gone on for a long time and appreciated the work of Public Works in keeping the streets clean, but found it frustrating to be driving along the clean streets of 9th Street and Iowa and seeing pedestrians sloughing along through the snow. He thought this was telling pedestrians they were second class citizens. It should not be that way here and thought they should shorten the time and agreed that they should raise the fine and make it much more like the examples they were given. He said places where they had sidewalks abutting the street where the City was routinely burying them with snow, they needed to look at the City taking the responsibility for cleaning the sidewalks to keep pedestrian routes open rather than making them worse which they did now.

Mayor Hack asked if the City of Manhattan contracted out snow removal.

Stoddard said the City operated very similarly to how Lawrence did. There was a notice sent to the property owner, they would need to respond within a certain period of time and if they did not, there would be a fine that would be assessed.

Mayor Hack said if they did not comply the City removed it and the cost of removal was assessed back. She asked what the process was if you contracted out to have that removed and assessed back. She asked if there was special equipment that the City had.

Stoddard said the City of Manhattan did not remove in some corridors but Anderson Avenue near the campus was one place where the City did remove. There were unique situations with the plows and so on.

Corliss said he did not want to promise something they could not deliver. There were a lot of provisions in a lot of City Codes that aspired to a lot of snow removal on sidewalks and in his conversations with municipal managers over the years, they had the same problems Lawrence had as far as the ability to get compliance with private property owners. In

communities that got a lot more snow, it was a lot more attention, a higher priority and probably higher resources. He wanted to make sure what they were promising to the public was something they could deliver. They had something in the code books now that said they were going to fine people, but did not have the administrative mechanisms to do it at that level and would be unfortunate for some people on a complaint basis to get a fine. He had a problem enforcing it that way. Maybe the idea of additional door hangers while they were out there to make sure people knew about it. They needed to make it clear when the City plowed and put it back on the sidewalk, it was a defense and were not going to cite for that location but would not clean up the sidewalk because they did not have those resources. If the community wanted to devote the level of resources to clear major sidewalks, they could do it.

Mayor Hack said they should have 24 hours to remove snow and 48 hours after a complaint. They would keep the fine the same and move to door hangers.

Commissioner Highberger said he thought it should be tightened up more.

Mayor Hack said if they had a different proposal they should consider it.

Commissioner Amyx suggested 24 hours after the complaint instead.

Mayor Hack they would be sensitive to the City plows putting snow back on cleared sidewalks.

The Commission then directed staff to come back with more narrowed list of options for possible modifications to the snow removal ordinance. (21)

Consider natural gas franchise Ordinance for Atmos.

Toni Wheeler, Director of Legal Services, said the proposed franchise ordinance was similar to the one they had with Aquila, another natural gas provider. It gave at most the right to occupy the City right-of-way, subject to certain restrictions in exchange for a fee. The fee in the proposed ordinance was 5% of gross receipts and the term of the franchise agreement was 5 years, which may be renewed. There were other provisions regarding termination and holding

the City harmless in certain circumstances. Atmos currently served East Hills Business Park and areas east of Franklin Road and outside the City limits and outside the river.

Commissioner Highberger asked why this was written at 5% of gross receipts instead of at a volumetric rate.

Wheeler said in this particular case, because Atmos had fewer customers, they had a provision that after they got 10 customers in the City, they would renegotiate at a volumetric rate.

Corliss said it was a bookkeeping issue with Atmos. If they did volumetric with such a small amount of customers, it would be a bookkeeping issue on how they would calculate that.

Jim Bartley, Public Affairs for Atmos Energy Corporation, said what Corliss was saying was correct. They had so few and would to have liked to take over the Aquila properties, unfortunately they were not the successful bidder. They had less than 400 residential and had 7 transportation customers right now. He said if they reached a point where they would have the 10, they would go to volumetric once they got those transportation customers.

Corliss said Atmos had most the territory around the City of Lawrence.

Bartley said as Lawrence grew out and started annexing land into the City, they would pick up more. He said they had a certificated area that the Kansas Corporation Commission gave them and was in the northwest sector that Kansas Gas Service wanted and did not have pipe to that area so they allowed Kansas Gas Service to take over that area which was the major growth area to the west they now wished they had not given up.

Moved by Amyx, seconded by Chestnut, to place on first reading, Ordinance No. 8237, adopting a new franchise agreement with Atmos Energy Corporation. Motion carried unanimously. **(22)**

FUTURE AGENDA ITEMS:
03/11/08

- Receive report from ECO2.
- Receive briefing from attorneys on the City's attempts to acquire the Farmland Industries property.
- 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.
- Consider County request regarding special assessments in the East Hills Business Park.
- Consider the following items related to Wastewater Utilities:
 - a) Advertise an RFP for Professional Engineering Services for a Wastewater Facilities Master Plan
 - b) Advertise an RFP for Professional Engineering Services for Design-Bid-Build of the Fours Seasons Pump Station Improvements.
- 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.

TBD

- Fire/Medical Department Apparatus Replacement Plans
- Receive follow-up staff report on sales tax options
- 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.*

- Discussion of City/County funding relationships
- 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.

The Airport Business Park items: A study session on this item will be conducted on March 26, 2008 from 4:00 p.m. to 5:30 p.m.

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.
- Consideration of ordinances to change the composition of the Convention and Visitor's Bureau Advisory Board.
- Receive 2007 annual report from the Convention and Visitors Bureau.
- Receive update on the Lawrence Community Shelter UPR
- Oread Neighborhood Study Session follow-up items.
- Receive staff report regarding a request for a roofing contractor licensing ordinance.
- Consider initiating a text amendment to the City's development code classifying transient and homeless shelters as permitted uses by right in industrial zoning districts, or consider initiating a text amendment to the City's development code classifying transient and homeless shelters as special uses in industrial zoning districts, if appropriate.

ACTION: Initiate a text amendment to the City's development code classifying transient and homeless shelters as permitted uses by right in industrial zoning districts, or initiate a text amendment to the City's development code classifying transient and homeless shelters as special uses in industrial zoning districts, if appropriate.

COMMISSION ITEMS:

Moved by Amyx, seconded by Chestnut, to adjourn at 11:15 p.m. Motion carried unanimously.

APPROVED:

Sue Hack, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF MARCH 4, 2008

1. Bid Date- March 25, 2008 for Stoneridge Dr., Overland Dr. to 6th St. & Overland Dr. Queens Rd. to Stoneridge Dr. improvements.
2. Bid – Contract mowing for Parks & Rec. Dept. to Tom's Mowing, Vernon's Lawn Mowing, Rockn'c Lawn & Landscape for District 1, Area 1, District 2, District 3 & Landscape Division totaling \$47,246 for all areas.
3. Bid – CBX parts & maintenance for Information Systems Dept. to Innovative Service Solutions for \$19,562.
4. Bid – Ohio St, 6th St. to 8th St. brick street reconstruction to GSR Construction for \$669,988.92.
5. Ordinance No. 8235 – 1st Read, est. City Commission quorum at 4.
6. Ordinance No. 8197 – 2nd Read, condemning property for W. Baldwin Creek Sanitary Sewer Project.
7. Ordinance No. 8239 – 2nd Read, enacting Ch. 5, Art. 19 of Code of City of Lawrence pertaining to Underground Wiring Districts.
8. Ordinance No. 8240 – 2nd Read, enacting Ch. 5, Art. 20 of Code of City of Lawrence pertaining to Siting of Utility Facilities.
9. Ordinance No. 8225 – 2nd Read, annexation of approx. 81.13 acres for The Links.
10. Ordinance No. 8226 – 2nd Final Read, rezone approx. 80 acres from A to RM12.
11. Ordinance No. 8227 – 2nd Final Read, rezone approx. 80 acres from RM12 to RM12-PD
12. Ordinance No. 8236 – 2nd Read, rezone two tracts of land approx. 4.41 acres from RM24 to RSO.
13. Engineering Contract- BG Consultants, Inc. for \$14,614.50 for completion of Engineering Design Plans & Specifications for Traffic Signal at intersection of W. 6th St. & Congressional Dr.
14. Request from property owner of 740 Ash St. for variance from 19-214B of the code.
15. Receive 2007 Annual Utility System Development Charges Report.
16. Police Dept's Annual Racial Profiling Complaint Report for 2007.
17. City Manager's Report.
18. Report from Health Care Access
19. Status update on Lawrence Freenet proposal for "Freenet-Kids".

20. Revised Preliminary Development Plan for Bauer Farm.
21. Snow Removal Ordinance.
22. Ordinance No. 8237 – 1st Read, Natural gas franchise for Atmos.