



# City of Lawrence

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## CITY COMMISSION

MAYOR  
SUE HACK

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

March 11, 2008

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

## RECOGNITION/PROCLAMATION/PRESENTATION

With Commission approval Mayor Hack proclaimed Monday, March 17, 2008, for the day of the "Twenty First Annual St. Patrick's Day Parade."

## CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City Commission meeting minutes from February 26, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive the Lawrence Douglas County Housing Authority meeting minutes of January 28, 2008; and, the Public Transit Advisory Committee meeting minutes of December 9, 2007 and December 13, 2007. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 450 vendors in the amount of \$1,155,919.73. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment Licenses for Yokohama Sushi, 1730 West 23<sup>rd</sup>; J.B. Stouts, 721 Wakarusa, Ste: 100; Marisco's 4821 West 6<sup>th</sup>; Chili's Grill & Bar, 2319 Iowa; and the Eldridge Extended, 201 West 8<sup>th</sup> Street. Motion carried unanimously.



The City Commission reviewed the bids for one dump body and hydraulic system for the Public Works Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
American Equipment Co.	\$21,595
Kranz of Kansas City	\$23,233

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to award the bid to American Equipment Company, in the amount of \$21,595. Motion carried unanimously. **(1)**

The City Commission reviewed the bids for one tandem axle truck for the Public Works Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Kansas City Freightliner	\$66,567
Merrell Kelly Ford Sterling	\$68,136
Diamond International of Kansas City	\$68,340
Midwest Sterling Truck Center	\$71,327

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to award the bid to Kansas City Freightliner, in the amount of \$66,567. Motion carried unanimously. **(2)**

The City Commission reviewed the bids for one drop deck lowboy trailer for the Public Works Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Berry Tractor & Equipment	\$43,131
Holden Industries	\$45,705
Murphy Tractor & Equipment	\$47,700
Victor L. Phillips	\$50,252
Key Equipment	No Bid

Martin Tractor	No Bid
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As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to award the bid to Berry Tractor & Equipment, in amount of \$43,131. Motion carried unanimously. **(3)**

The City Commission reviewed the bids for one 15 foot paver for the Public Works Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Halco, Inc.	\$88,931
Kirby-Smith, Inc.	\$100,647
Victor L. Phillips	No Bid
Murphy Tractor	No Bid

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to award the bid to Halco, Inc., in the amount of \$88,931. Motion carried unanimously. **(4)**

The City Commission reviewed the bids on a four year lease for two fairway mowers, one tee mower, and one utility vehicle with sprayer, for the Parks and Recreation Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Van Wall Equipment	\$103,172
Van Wall Equipment, 4 yr. lease	\$26,954.89
Van Wall Equipment, trade offer	\$20,000
Great American Outdoors	\$107,771
Great American Outdoors, 4 yr. lease	\$29,629
Great American Outdoors, trade offer	\$17,500
Turf Professionals Equipment Co.	\$114,432
Turf Professionals Equipment Co., 4 yr. lease	\$30,862.30
Turf Professionals Equipment Co., trade offer	\$15,800

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to award the bid to Van Wall Equipment, 4 yr. lease for \$26,954.89 a year totaling \$107,819.56. Motion carried unanimously. (5)

Ordinance No. 8235, establishing the City Commission quorum at four (4) Commissioners, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to adopt the ordinance. Aye: Amyx, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8237, adopting the new franchise agreement with Atmos Energy Corporation, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to adopt the ordinance. Aye: Amyx, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx,** to concur with the Planning Commission's recommendations to approve the Preliminary Plat (PP-12-10-07) for Lower East Side Addition, located at 927 & 933 Delaware Street; and accept the dedication of easements and rights-of-way subject to the following conditions:

- 1) Revision of the preliminary plat with the following changes:
  - a The property owners, Robert and Molly Krause must be listed on the Plat as 'Owners' and Matt Jones should be listed separately as 'Developer'.
  - b The note regarding the variance being requested should be revised to read as follows:
  - c "Variance requested from Section 20-809(d)(2) which requires that each lot conform with the dimensional requirements applicable to the property through the Zoning District Regulations found in Section 20-601(a), specifically the minimum lot frontage/lot width and minimum lot area requirements.
  - d The revised Preliminary Plat must list the revision date.

- 2) An Agreement Not to Protest the Formation of a Benefit District for future street and sidewalk improvements to Delaware Street must be executed by the property owner and provided to the Planning Office at the Final Plat stage.
- 3) Review and approval by the Historic Resources Commission.

Motion carried unanimously.

**(8)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the request for rezoning (Z-10-26-07) and place on first reading Ordinance No. 8223, rezoning a tract of land approximately 15.171 acres, from RSO (Single-Dwelling Residential-Office) to RM15 (Multi-Dwelling Residential). The property is located at 4000 West 24<sup>th</sup> Place, Inverness Park Addition, west of Crossgate Drive and south of Clinton Parkway. Motion carried unanimously.

**(9)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to concur with the Planning Commission recommendations to adopt the findings of fact; approve a Special Use Permit (SUP-12-10-07); and place on first reading Ordinance No. 8242, for a cabinet shop which is "Limited Manufacturing & Production Business" at 714 Vermont; subject to the following conditions:

1. Provision of a revised Site Plan with the following changes:
  - a The following general note must be added: "Per City Code Section 9-902, the outdoor dining area will be managed to prevent stormwater pollution. Food waste, trash, cigarettes, and other solid wastes will be collected and disposed of properly. Fluid waste, including wastewater from pavement or furniture cleaning, will be collected and discharged to the sanitary sewer system."
  - b The sidewalk dining area must be shown and labeled on the plan.
  - c Note 1.3 under 'Project Summary' must be revised to reference that the CD (not the C-3) Zoning District is exempt from the off-street parking requirement.
  - d Project Summary notes 1.2 and 1.3 for current and proposed uses must be revised to change 'office' to 'tattoo parlor or tattoo shop' and to include 'parking garage'.
  - e The following note must be added to the plan:

"The granite shop is subject to the following conditions: Employment may not exceed 20 employees, no outside storage of materials or products is permitted, and if goods are displayed or sold on-site, this must be a subordinate part of total sales."

2. The property is located within the environs of properties listed on the National and Lawrence Registers of Historic Places and is also located in the Downtown Conservation Overlay District. The change of use must be approved by the Historic Resource Commission before the SUP Ordinance is considered by the City Commission.
3. An Agreement Not to Protest the Formation of a Benefit District for Street Light Improvements must be executed before the Special Use Permit Site Plan is released for building permits.
4. A photometric plan must be provided and approved prior to the installation of any exterior lighting when exterior lighting is proposed.

Motion carried unanimously.

(10)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve an Open General Services Agreement between the Airport Sponsor and Consultant for Professional Services with Airport Development Group, Inc. for Lawrence Municipal Airport, and approve Work Order No. 2008-1 in the amount of \$40,000 for specific Land Acquisition Assistance in conjunction with the Airport Improvement Plan (AIP). Motion carried unanimously.

(11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve extension of a parking agreement with Sunflower Broadband to use City Lot 16 at the monthly rate of \$10 per metered space for 43 spaces, totaling \$430 per month, until May 1, 2008. Motion carried unanimously.

(12)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize the City Manager to execute a lease for City owned property at 234 North 8<sup>th</sup> Street to Gary D. and Jan Unfred. Motion carried unanimously.

(13)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize a change order to RD Johnson for \$50,000 to remove lime residuals at the Wastewater Treatment Plan, totaling \$170,000. Motion carried unanimously.

(14)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to negotiate a contract with Black & Veatch for design and construction phase engineering services for the Kaw WTP Disinfection Conversion – Chlorine Gas to Sodium Hypochlorite Liquid. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to concur with the recommendation of the Mayor and reappoint Lydia Leon and Dave Reavis to the Citizen Advisory Board, to a term which will expire March 1, 2011. Motion carried unanimously. (16)

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

During the City Manager's Report, David Corliss said he wanted to recognize the passing of the City's former Police Chief Stanwix and also a good friend, Krista Wagner, wife of Scott Wagner who works as a Management Analyst in the City's Legal Services Department. He said he appreciated the City Commissioner's thoughts.

Mayor Hack said it was nice to point out the Transportation Award in the \$2 million – 10 million category from the Kansas Chapter of the American Public Works Association for the Kasold Reconstruction.

Commissioner Amyx said regarding the \$1.9 million that was collected in the sales tax in January of 2008, he asked if that amount reflected the entire month of December, or part of November and December.

Ed Mullins, Finance Director, said there was two month lag, for example, the distribution in February was primarily December's sales tax.

Commissioner Chestnut said the City was showing below where the City thought it would be, but those project numbers were approximately 4.5 percent over last year for 2 months. He said the City was actually up 3.1 percent from last year. If the trend continued, the City was actually higher than planned.

Commissioner Chestnut also said on the Planning Report regarding the Farmer's Turnpike, there should be some discussion about how to work the process as far as pursuing a sector plan. At some point, the City Commission needed to provide some input about how those things were coming together. He said he wanted to make sure the Commission had identified alternatives and possible infrastructure costs across a lot of those sites and its practicality versus going through the process of annexation.

Mayor Hack said all that information would be part of staff analysis as the area plan came through.

Scott McCullough, Director of Planning and Development Services said hoped to conduct a comprehensive plan for the area. The boundary map was aggressive, but put in phases in order to focus and place resources in an area where those resources were needed. He said infrastructure, utilities, and roads would all be part of that planning effort.

Commissioner Chestnut asked if he was talking about infrastructure for a particular site or would the City have the ability to do some comparisons on other sites that were available.

McCullough said staff saw this effort as a couple of plans that needed to happen as the City expanded. Utility Planning would be another element and hoped this plan looked at some of the transportation and land use issues, not necessarily a detailed analysis of the cost benefit, but certainly an element to look at what would be appropriate to have in place as that area developed. (17)

#### **REGULAR AGENDA ITEMS:**

##### **Receive report from ECO<sup>2</sup>.**

Trudy Rice, Chair of the ECO<sup>2</sup> Commission, presented the ECO<sup>2</sup> Report. She said during the course of the development of the plan, over one hundred community members were involved in addition to the ECO<sup>2</sup> Commissioners working in different work groups and most recently, implementation committees to oversee the opportunity to implement that plan in Douglas County.



She said the purpose of ECO<sup>2</sup> was to develop a long term plan for the advancement of industrial/business parks and open space preservation in Douglas County.

Another primary focus was to continually build consensus among the community to ensure the success of that plan. They had worked in all incorporated areas of Douglas County as well as the rural areas.

She said the guiding principles of ECO<sup>2</sup> were voluntary land owners; public private partnerships; and open space preservation and economic development, both for the betterment of the community.

The plan components were the evaluation criteria for the open space as well as business/industrial parks; implementation process, public education and outreach; funding options; and, bylaws. This plan was available on the Douglas County website to view along with matrixes with model projects that were not actual projects, but both open space and business industrial that were used as tests and to show how those criteria might apply.

She said two committees were started in December. The first committee was the Business/Industrial Implementation Committee which consisted of three ECO<sup>2</sup> Commissioners as well as five community members that were either active in the plan at some point or had indicated willingness to become involved in the process.

The criteria outlined in the ECO<sup>2</sup> plan included transportation; total potential acreage; average slope of the site; extraordinary cost; existing Local/Regional Plan; and number of owners.

She said twelve different sites were looked at and evaluated, but only three of those sites were actually reviewed by the Open Space Committee for potential conflicts because geographical boundaries needed to be found. The three sites that were reviewed were the Farmland, I-70 Interchange, and Airport tracts. Two potential conflicts were noted, one was prime agricultural land on all three sites and a few floodplain issues on two of those sites.

The Open Space Implementation Committee with City and County approval issued a Request for Proposals (RFP) for proposed open space projects in Douglas County which was issued in December 2007. In response to the RFP, their committee received two applications and a third inquiry from an organization that was not quite ready to move. Of those two responses, only one of the responses had approached landowners and had willing landowner consent which was one of the major principles that ECO<sup>2</sup> was built upon. She said their committee felt there was a need with direction of the City and County Commissions to continue that RFP process either annually or on an on-going basis because of the interest in potential projects.

The criteria used to evaluate open space was water quality protection; multiple conservation values; floodplain; proximity to intact natural areas; high risk of urban and rural development; accessibility to the public; proposal with partner funding; the size of tract; and, high quality natural area.

She noted the criteria for open space for the Baldwin Woods proposal which scored a 4.10 and was reviewed by their committee and saw no potential conflicts.

The next steps of ECO<sup>2</sup> for 2008 and beyond, were to continue the implementation of the ECO<sup>2</sup> Plan; review and adjust the plan; and continue the public education and outreach.

The proposed actions steps was a secure funding source; and agreement on the funding ratio and management plan; and clear criteria of when ECO<sup>2</sup> applied.

Finally, she said their committee would define success as completed open space and business/industrial projects; on-going commitment to the ECO<sup>2</sup> Plan through future projects; and a prosperous and vibrant community.

Commissioner Highberger asked about next steps and if the committee had a proposal for how that should happen or more concretely, what needed to be done next.

Rice said the City and County Commission needed to decide how to use criteria for the business/industrial parks. She said their committee felt the Baldwin Woods proposal was

appropriate for an open space project and encouraged the Commissions to consider negotiating with the applicant which was the Kansas Land Trust for that project.

Mayor Hack said regarding the revisions mentioned by Rice, she asked if there would be a revision process on the criteria for the industrial space segment, every two years or six months. She said in looking at the I-70, the prime farmland was something Rice mentioned that needed adjustment and also it was in the process of an area plan. The planning number did not reflect what actually happened.

Rice said at their April 2008 meeting, their committee would begin that discussion on revising the plan. The plan outlined that it would be reviewed yearly for minor adjustments and there would be a major review at least every five years. Also, in the business/industrial and open space sections spoke to the fact that the criteria might need to be changed overtime and as projects came up and became part of the process, then the criteria might need to be looked at again. At the Commissions request, the ECO<sup>2</sup> Commission would be happy to have the Business/Industrial or the Open Space Implementation Committees review those sites.

Mayor Hack asked when their committee would make presentation before the County.

Rice said March 26, 2008.

Commissioner Amyx said everyone would agree that if business/industrial or open space areas were going to be successful, continued public education and outreach conducted by the ECO<sup>2</sup> Committee was essential. He said regarding the criteria for ranking proposals, he suggested clearly defining the criteria for those applications to be reviewed by the ECO<sup>2</sup> Committee.

Mayor Hack the City Commission needed to work through this issue with the County Commission and receive input.

Mayor Hack called for public comment.

Nancy Thelman, Citizens for Responsible Planning, said she first wanted to congratulate the ECO<sup>2</sup> Commission on their presentation. She said she would specifically limit her comments to two of the six criteria which were transportation proximity and extraordinary costs.

She said the Industrial Committee scored a proposed site by its proximity to major transportation thoroughfares. The airport site was given the highest possible ranking which was a score of five because it was located just a mile away from the I-70 Interchange as opposed to being located several miles away. However, being close to the highway and actually being accessible to the highway were two different things and this might be one of the things that needed to be tweaked.

She said she was not meaning to split hairs, but this went to the real world experience or the success or failure of a trucking company's ability to make a quick and easy trip in and out of the hub located at a site near the airport. Such a truck leaving the airport site for a mile long trip to I-70 would cross two local residential roads, need to merge twice into heavy local and commuter traffic on two interstate highways. Along the way the truck would need to stop to at least three different stop signs or stop lights before finally approaching the east I-70 interchange. The trucking industries lived or died by its ability to operate quickly and efficiently and so congested traffic, local road crossings, stop lights, and stop signs make for neither quick or efficient operation, yet the ECO<sup>2</sup> score gave the airport site its highest possible ranking for transportation based purely on its proximity to I-70. The trucking industry, she suspected, would disagree with this score. Simply being close to a highway was not good enough, ease of access should be considered as well.

Second, she questioned the extraordinary costs criteria as it related to the proposed airport site. ECO<sup>2</sup> stated it estimated cost to the City for industrializing an airport site would be just over 4.5 million dollars whereas the City's own published estimate for the full build out of the airport business park was over 8 million dollars. She said she was not sure how ECO<sup>2</sup> arrived

at its figures, but that nearly 4 million dollar difference was significant and had a substantial bearing on the final scoring of the site.

It was important to note that page 7 of the score card series, the final scoring and ranking, listed potential open space conflicts at the bottom of the page with asterisks. The airport site had 3 asterisks and stated the entire site contained prime agriculture land, some of it floodplain.

By ranking, the soil was ranked by slope alone which allowed for only a very small part of the picture. She said she was grateful for the folks on the Open Space Committee who saw fit to make mention of prime agricultural soil and grateful to hear discussion of making some adjustment to the criteria regarding prime soil. She suggested those factors were important enough on their own to warrant being actual criteria and not being left to the bottom of the page with an asterisks.

She said she was asking the City Commission to ultimately consider removing those “k’s” around the airport site that promoted industrialization of that area.

On March 26<sup>th</sup>, the City Commission was planning a study session, including City staff, the developer, and concerned public.

Charles Novogradac, Lawrence, said he owned three properties, two properties in Jefferson County and one property in Douglas County. He said his property in Douglas County was the jewel and focus of his operation, the Chestnut Trail Orchard, one mile north of the turnpike on 59 Highway. He said when he heard about the airport industrial park, he started to get interested in the proceedings and tried to contact the ECO<sup>2</sup> Committee for input into their process. He said at that time, he was under the impression it was pretty much cooked already and there was no forum for comment. He said what he wanted to relay to ECO<sup>2</sup>, to take a look at soil maps.

He said he had been interested in buying properties, for investment, since the early 1980’s when the Savings and Loan crisis caused property values to dip.

He said he had a soil survey which was a resource and was available at the County Office. He found that realtors in developed areas that were removed from farm matters were not very interested in soils. He said he suggested that everyone get more interested in soil so that if rankings properties that included farmland, everyone would know if the soil was good farmland or garbage farmland and if it would support industrial type farming. The property north of the river was extremely deep, well drained, and had all the attributes if farming high value or specialized crops. Also, the City Commission should be aware of the availability of water in the north bottoms. He said the web soil surveys were available and put out by the USDA Soil Conservation Service. He said he recommended the soil surveys in addition to ECO<sup>2</sup> analysis of land. Land has character and quality, other than its slope and its convenient access to the highway.

Kelly Kindscher said he was a Conservation Biologist at the Kansas Biological Survey, part of the original ECO<sup>2</sup> formulations before it became official, and was on the Kansas Land Trust Board. He said he wholeheartedly endorsed ECO<sup>2</sup> as a process. People were passionate in this City and County about issues related to industrial park locations and open space. There was a great opportunity on the open space side. He said before the Commission was a gem of a property to help kick this open space project off. The Baldwin Woods area was the largest tract of eastern deciduous forest in Douglas County. There was originally 8,000 acres, but down to less than a quarter of the original acreage in this tract which was located between Vinland and Baldwin City. The property owners were willing and the conservation easement was a great tool because it allowed private owners to own it, but donate to development rights. There was a glimmer of hope to some public access so people had the opportunity to see and enjoy this property. Again, he wholeheartedly commended this effort and wanted to ask the City Commission to work with the County to help figure out a funding mechanism. He said open space needed to be protected.

Larry McElwain, ECO<sup>2</sup> Commissioner and Co-Chair of the Industrial Space Implementation Committee, said regarding industrial space meeting, they came up with a report that was given to the Open Space Committee to look for any conflicts of open space in the 12 projects that were reviewed. He said during their deliberation, the process of using the criteria of the ECO2 Plan looked very straight forward, but they had come to the conclusion that there was more to each site that might not be apparent. For this reason, they were listing some of their concerns/caveats that they thought needed to come into play in the planning process when the eventual need to use actual costs was required in addition to dealing with certain challenges that a site might present. He said two concerns were:

1. In order to maintain consistency, they used common factors to score the sites. However, they felt the extraordinary costs did not take into account as an example some of the extraordinary costs concerned with engineering studies that had been completed on a particular property and therefore, might make some sites difficult to develop through the planning process in terms of financial feasibility and public acceptance. One of those issues was the stormwater engineering study and the issues with North Lawrence.
2. The use of prime farmland. Lawrence was surrounded by some of the most fertile production farmland in the region. That might or might not come into play in the scoring process, but would definitely be in play with the Planning process as sites passed through the Commission for approval.

Corliss said ECO<sup>2</sup> had a very valuable tool on their analysis on industrial sites which clearly needed to be communicated to other parts of the planning process. He said staff still needed to look at how they could operate the values that were being learned through the ECO<sup>2</sup> process in the City's comprehensive planning documents so there were no contradictions. He said the report was important to receive and staff wanted to follow through to make sure that was part of the planning process.

On the open space, section, staff needed to analyze the proposal received and talk with the County to see how they wanted to look at this issue. He said he and Craig Weinaug, County Administrator, would discuss how they wanted to report back to their governing bodies about logical next steps regarding evaluating that proposal.

He said there were questions about what property interest to acquire and he needed to find out if there was a time limit for action, if there was an opportunity to plan funding, and discuss with the City and County Commission the findings. He said the two items would be to forward the industrial site review to the planning process and make it clear how that integrated into the City's Comprehensive Planning Process. There were struggles with industrial sites and staff did not want confusion about what documents to look at.

Commissioner Chestnut said there needed to be discussion about what projects were and were not going to be part of the process and discussion with the County in concert with that issue.

Rice said the ECO<sup>2</sup> Commission would be more than happy to participate in a study session with the City and County or whatever it would take to facilitate that process and provide input that could help.

Mayor Hack said a study session needed to be placed on a future scheduling list and it was important to receive consistent information.

She said she liked the continuing education piece of this discussion.

She said there had been some questions about the conservation easements in the Baldwin Woods area and she thought it was critical that that piece of property be preserved. It was important to take that particular step because a lot of work had gone into this item and there were good faith efforts that needed to be rewarded. The question was if it was something the City wanted to try and own or go through the conservation easement which could be left in the hands of staff for recommendations.



Commissioner Highberger said he concurred with those comments. He said he would like to move forward quickly. There was one very solid open space proposal on the table and at least one good industrial space proposal, but they needed to decide what the funding ratio would be which he thought they had discussed having the net expenditure on each half be equal after recovering expenses and then the fun part of finding a funding mechanism.

Mayor Hack said they needed to work with the County to see what they could come up with. If there was a possibility of using the County's authority to raise funds then they could negotiate and have a conversation after the County Commission received the report.

Commissioner Amyx asked if staff was suggesting the City Commission initiate this planning process step to include the criteria used by ECO<sup>2</sup>.

Corliss said that issue needed to be discussed at a staff level and staff needed to make sure there were no confusing procedures. If someone had a piece of property and wanted that property to be used for industrial property, through the ECO<sup>2</sup> process, there were objective criteria that had at least withstood the rigors of discussion so far. He said there was a comprehensive land plan that talked about how to look at those pieces of property, but staff wanted to make sure they had the right procedures in place so they did not get to a point where a piece of property was being debated. He said staff would follow the right process, but he was not sure he understood the procedures and whether they needed to amend the comprehensive plan and say "for every industrial property the City wanted, ECO<sup>2</sup> Commission needed to look at each property."

**Moved by Amyx, seconded by Highberger,** to receive the report. Motion carried unanimously.

**(17)**

**Receive briefing from attorneys on the City's attempts to acquire the Farmland Industries property.**

David Corliss, City Manager, introduced the item. He said staff had a very good briefing session with Kansas Health and Environment Secretary Bremby last week and Commissioners Chestnuts and Vice Mayor Dever participated in those discussions.

He said the City had a confidentiality agreement with the trust that did not allow staff to get into some details, but staff would get into as many as general knowledge required. The only thing staff was not publicly disclosing was how much money the City wanted to let the trust keep.

Bill Ford, Lathrop & Gage, environmental legal counsel for the City, said the former Farmland site was a 467 acre tract of land and was not actually within the City limits and the City did not currently own the property. The property was currently owned by a trust that was created out of the Farmland bankruptcy.

The property was first opened in 1954 and operated as a nitrogen fertilizer plant up until the year 2001. The property was purchased by Farmland in 1984. The site had been the subject of many environmental investigations over the course of the last 30 years and the best way to explain the current environmental status of the site and the current environmental investigation in future cleanup of the site was to ask Kansas Department of Health and Environment to explain the status of that site.

John Mitchell, Interim Director, Division of Environment, Kansas Department of Health and Environment (KDHE), said Gary Blackburn, Bureau Director of Environmental Remediation, was also present. He said it was Blackburn's program that was involved in cleanup activities of industrial sites statewide. He gave a brief history of the Farmland Plant which was the following:

- 1954 – Farmland Industries Nitrogen Plant began operations;
- 1993 – Farmland and KDHE entered into a Consent Agreement;
- 2001 – Closure of the Farmland Industries Nitrogen Plant. Following closure of the plant, KDHE requested the Trust perform additional investigation and develop a modified remedy based on a closed facility;
- 2004 – Farmland Industries declares bankruptcy;

- 2006 – Site Characterization Report approved;
- 2006 – 2007 – Numerous Interim Remedial Measures performed; and
- December 2007 – KDHE received the Draft Remedial Action Plan

He said he wanted to note that in preparation for the meeting, Blackburn's staff compared that Remedial Action Plan with the City's Industrial Redevelopment Plan for that facility.

He said regarding contaminants at the facility, he said nitrates were present out in the Farmland area in large quantities. The ground water beneath the site was impacted which included the following, regarding groundwater:

- Federal Drinking Water Standard was reported as nitrogen at 10 milligrams per liter (mg/L);
- Nitrate itself was not toxic or carcinogenic;
- Nitrate could be converted to Nitrite in the stomach of mammals (humans);
- Nitrite was toxic; and,
- Methemoglobinemia (baby blue syndrome)

He said 0-10 mg/l was safe for humans and livestock and anything greater than 100 mg/l should not be used for consumption. He said the types of contaminants were predominately soil and ground water. Those were problems that were confined to that site and little migration off site and those types contaminants posed a relatively low risk.

In addition to the water contamination there was soil contamination with fertilizer. He said some of the guidelines for nitrates were:

- Nitrate did not easily degrade;
- Nitrate in soil very leachable to surface and ground water;
- Nitrate was very soluble; moves rapidly; and,
- Soil concentrations at Farmland Site range up to 30,000 mg/kg

He said the northern part of the site had a railroad spur going along that facility and a series of lagoons. He said part of those remedial activities mentioned were the installation of a number of sumps, trenches, and other structures in combination working to recover that contaminated ground water to keep it on that site. The contaminated water was collected

through those systems. He said the nitrogen contaminated water that was recovered was pumped into a large tank in that area.

He said the ground water recovery systems were:

- Old French Drain Systems (N,S and SE sumps)
  - Since 1998 over 15 million gallons of contaminated water has been recovered.
- New French Drain System (NW and NE sumps)
  - Since 1998 over 34 million gallons of contaminated water has been recovered.
- Deep Alluvial Aquifer Recovery System (3 pumping wells)
  - Since 1998 over 182 million gallons of contaminated water has been recovered.
  - Since 1998 a cumulative total of over 232 million gallons of contaminated water and 471,220 kilograms of nitrate have been recovered.

The water that was collected and moved over to that tank that was mentioned was eventually land applied. The pipeline ran from that tank, under the river and was used to irrigate with fertilizer, nitrogen collected in that water and was applied to those properties north of the river. He said with rising fuel and fertilizer costs, it was a value to those farmers north of the river that were able to use that water for a good purpose.

He said they were projecting that it would be necessary to continue operating that groundwater recovery system and applying it to the land, up to 30 years. As the water moved through there more nitrogen would leach out and the soils would be cleansed. He said they estimated the groundwater containment system, over that 30 year period, would cost almost 1.8 million dollars and the cost of applying that water to farmland was approximately 1.3 million dollars.

Regarding surface draining, they wanted to make sure the water that came into contact with that facility stayed on that facility. One thing discussed was reworking the drainage through that area to facilitate the collection of that uncontaminated stormwater and move it down through a reworked wastewater holding facility in the same vicinity of those existing ponds. The

cost over 30 years was approximately 3 million dollars which required de-sludging of two existing ponds, construction of a retention basin, and re-routing the stormwater system, as well as long term operation and maintenance costs.

The property was approximately 467 acres, 263 of those acres would require minimal action including Environmental Use Controls, and the remaining 204 acres would require additional containment systems as well as the Environmental Use Controls.

He showed a map of highly contaminated areas, the large northern tract had those impoundments and water storage tank. The northwest part was relatively hilly and a great deal of highly contaminated soil in that part of the facility. South and east was a much smaller tract that contained both a former hazardous waste unit that had chrome contamination. The chrome levels in that part had been addressed, but there still was a Ph issue under a part of that property that was moving the right direction, becoming neutralized. The western piece of the property was identified in December which was an industrial landfill area and they imagined it received asbestos and other industrial waste over the operating life of the facility. He said their view on those pieces of property was it would be better to leave those properties intact as possible. If the site was acquired, those pieces of properties could become pad sites or parking area, but they would not like to see either those areas disturbed as far as drilling, digging or exposing those soils to the atmosphere.

South, were structures that still remained on that property and needed to come down, but those buildings were in the clear. As far as that newly recognized landfill area, they were currently working to establish protocol for further investigating that area. He said they wanted to learn what they could about what was at that site and determine any hazards they had not recognized.

He said at their meeting, last week, three options were discussed and part of those discussions were based on what the City was thinking about. The City or whoever might acquire this property in the future could consider three following options which were:

1. Not seek the property and the property would stay in the trust and the trustee was responsible for continuing the remedial activities.
2. The City or a purchaser could acquire the property without assuming liability for the cleanup, but from their perspective that option was not advisable because it could possibly cut the City off from access to the funding for those controls that needed to continue.
3. Acquire the property with liability recognizing the long term cleanup was going to be needed. There were currently funds in the trust to address the known contamination. As noted before, they would require Environmental Use Controls on part of that property and they would be looking for a commitment for both a long term cleanup by operating the cleanup system together with adequate financial assistance. The City had the benefit of having taxing authority and other non-public entities would need to come up with financial assurance instruments and show how they would fund this whereas the City did not have the same difficulty.

In closing, he said they would be happy to work with the City to better delineate the problems and risks at the Farmland facility. Currently, they thought there was adequate funding, but the clock was ticking and as the clock ticked, more of the existing funding in the trust was spent and went away. If this was something the City was serious about, they would be anxious to work with the City to facilitate the City's movement forward.

Commissioner Amyx said regarding the figure presented of \$6 million for cleanup, he asked how that figure was arrived at and whether that was based on a private entity doing the cleanup or could some of that be done in-house.

Mitchell said that figure was based on estimates the trustee had shared and their best guess of the amount it would take for the cleanup. He said it was a possibility that some of that cleanup could be done in-house. He said if there were some things the City could do if the City

moved down the path to acquire this property, the City could save money in the long run, but through a private holder of the property, the private holder would need to expend. The City had advantage from their perspective because to operate that water system, for example, there were employees on the City payroll that knew about operations of pumps.

Gary Blackburn, Bureau Director of Environmental Remediation, said they based those costs on what Shaw had been spending on the work and was based on their projections. If the City stepped up and did the work using their own staff, there would be a potential for savings.

Another point was with the option of the City acquiring the property, but the trust continuing to do the cleanup, the city would not have control of the money and if the money was spent before the site was cleaned up, ultimately, the City would hold the property that was contaminated. He said with or without an indemnification, owning a property that was contaminated would still be a drain on the City.

Corliss said there was a recent discovery of additional contamination and he asked Mitchell to comment on that discovery and also asked what level of assurance could be given that if the City acquired the property, there would not be similar situations.

Mitchell said the most recently discovered contaminate problem was the landfill that he mentioned which was found out in December of last year. He said for whatever reason, it was not pointed out or came to light until then. It was a fairly sizable amount of acreage.

Blackburn said regarding the landfill that was referred to on a map, they intended on working with Shaw or another vendor to go in and grid out the site and find out what exactly was at that location, but the point about what potentially could be at that location was something that if the City were to make a bid on the property, the City would want to factor in that issue in a contingency and ask for some of that administrative trust money to cover that potential. He said that was something that they as a department, working with the trustee, could not have ready access to, where a purchaser could ask for part of that administrative fund. He said there was a

substantial sum available that the City could request as a buffer to protect against the unknown which was wise.

Mitchell said to the second part of Corliss' question, they could not give the City the assurance that the City would like them to that there would not be some other contamination identified. He said there were monitoring wells on the property and they were not seeing anything else that would lead them to believe there were other sources of contamination, but they suspected as the site would be cleared and ready for development, there could be some things possibly uncovered. He said they just did not know because it was an industrial site that was operated before there was really much in the way of environmental regulations.

Chestnut said regarding the administrative funds and the environmental funds, he asked whether the administrative funds could be used for environmental purposes

Ford said the funding that was setup within the bankruptcy was meant to cover all of the cost of the cleanup and that funding was currently being used for doing the investigation and would be used for cleanup, if nothing changes. The question might be whether there was enough funding which was one of the issues that needed to be considered, but that funding was not being misused. He said when it was originally setup and the money was placed into the trust, it was calculated based on how much money was actually anticipated that would be needed for the funding.

He said regarding the bankruptcy, when the trust was created there were four properties placed into this trust, Hutchison, Topeka, Wichita, and Lawrence. The sites in Topeka and Wichita had been sold out of the trust, the site in Hutchison made it through what they called a bankruptcy court auction where there was actually a purchaser. He said what happened was the trust chose an initial bidder, called a stocking horse bidder, and that started the auction running. Once a person came in and set up parameters then the trust then chose to be the person that started the action and then other people had a choice to bid in the auction.



Ultimately, if the City was not chosen to be the stocking horse bidder, the City would probably have the option to participate in any action that ultimately happened.

As was pointed out, the trust right now did not have any obligation to clean up beyond whatever funds that were in it. Since Farmland went into bankruptcy it set aside this money into the trust, the trust was only obligated to clean up to the amount of those funds. Under the first option that was heard about, everyone needed to understand they only have the option to clean up to the amount of those funds.

He said there had been an evaluation of the environmental conditions at this site for a long time and there had been a number of people who had expressed interest, most of whom had fallen off along the way, about whether they were interested in potentially purchasing the property. The City's goal for the property was to use it as an employment center, but it also had the goal of making sure the property was ultimately cleaned up, had the goal that it was not sold off piecemeal such that it went for purposes that were not used under the City's goal and the City wanted to make sure it was a productive and positive part of the community. He said there were multiple ways to reach that goal and one of the ways which was mentioned as the first option was not really a "do nothing option" from the City's perspective. The City had the ability as a governmental entity to influence the use of property through zoning restrictions and other things the City did.

He said a portion of the trust funds would be used for demolition costs of the property, but not to assume any environmental liability for the property. The City would ultimately own the property, but the trust would continue to do the clean up with the environmental funds available. The trust had two different sources of funds which were the environmental and administration portions of the trust. Under the bid the City authorized counsel to give to the trust, on behalf of the City back in July 2007 counsel made a bid on behalf of the City for the City to purchase this property and take a portion of the administrative funds into the City and use those funds for demolition and carrying costs to leave the environmental portions of the funds with the trust and

whatever portion of the administrative funds that the City would not take. He said the City could use those funds for cleanup, the City received the property and took demolition costs, but the City did not take environmental liability. He said one of the risks was, if the City ultimately purchased the property, even though it did not have the environmental risk, if the environmental funds were not sufficient to clean the property up, the City would own the property that might have some of those environmental contaminations that had not been fully remedied and there would be no legal obligation for clean up under the offer that had been made, but the City would own the property that might need some potential future clean up and that would be an issue that needed to be addressed somehow, but the City would be getting a release from that liability. Again, counsel made that offer on behalf of the City in July and that offer was then renewed and they talked again with the Trust in December and the first response received back from the Trust on that offer, was there might be negotiations toward the purchase which came in February 26<sup>th</sup>.

There was no date set for an auction and the Trust had not fully accepted the City's bid as being the starting stocking horse bid for the auction and even once a bid was chosen to be a stocking horse bid, it still took a number of months to be completed. He said the City had a bid that had been submitted which would not have the City accepting any environmental liability, which was the number 2 option discussed earlier, and the City would need to decide after input from the City Commission and City staff, how they would respond to a counter offer in the negotiations that was made at the end of February.

Commissioner Chestnut said regarding the administrative and environmental funds, if they were to take a broader view of this issue which was to be willing to take on some responsibility or some shared responsibility, he asked if the administrative funds could be applied to environmental issues. He said he knew right now there was a line of demarcation, but would that evaporate if the City were to take that on.

Ford said if the City was to submit a bid to take all the funds, both the environmental and administrative funds, and the trust were to accept that bid as being the initial stocking horse bid to start the auction, the City did not get to set the terms, the City needed to say what they wanted and the trust chose who they wanted to start the auction. He said that was some the ways that other private parties were interested in bidding on this property. If the City did that, there might well be those private parties who would come back into the process and bid on the property as well, that was what those parties were interested in to see if they could get all those monies, do all the clean up cheaper than the amount of money that was out there and then they could pocket the remainder. He said he thought that was some of the concern that KDHE had.

Commissioner Highberger said he understood that KDHE approval would be required for a settlement.

Ford said KDHE approval was required for the sale of that property in almost all instances.

Commissioner Highberger said if there was an option that KDHE would not approve, then it was not an option.

Ford said correct. He said a person could have an argument under the Trust under some terms, but he would not go into a lot of detail. KDHE had under the current scenario, the ability to direct how this clean up should happen. Whether the City acquired the property or not, KDHE would be directing how this clean up would happen and they would be attempting to make sure the remedial funds were sufficient to make it be a remedy that worked the best. The ultimate goal of the City was to influence the control of this property and make sure that it was cleaned up appropriately. There were multiple ways to make sure it was cleaned up appropriately, but obviously the way a property could be most influenced was by owning the property. He said that was why the City had been seriously looking at this issue and attempting to move it forward which was a slow process when having both the bankruptcy court action, KDHE action, and independent trustees, etc.

Commissioner Chestnut said in opening up to both sides of the fund, he said when looking at a commercial entity pursuing this property and the attempt to take all the funds to try and do the clean up as cheaply and expeditiously as possible and pocket the rest, he assumed that meant trying to sell off whatever developable land was at that site.

He said as far as responsibility going forward, for instance, that scenario did not work out, he asked if there had been a history of organizations setting up separate companies and it became more difficult to actually get those companies to own up to their responsibility.

Ford said the type of companies that had expressed an interest, which he did not mean to disparage those companies, in doing this as a private entity or in partnering with the City were companies that did that on a regular basis and obviously those businesses were not charitable institutions, but in the business to make money. He said partly those companies did the cleanup and paid themselves to do the cleanup. He said some of those companies had more interest or less interest in how to develop the property.

He said KDHE, the party that had to be satisfied, had some concerns about the financial ability of certain third parties to be able to fulfill what the risks were on this property, but KDHE was not concerned about that with the City because the City was going to be present and the City was not a limited liability company.

Mayor Hack called for public comment.

After receiving no public comment, Commissioner Highberger said the City needed to move forward and he would like to see some resolution. He said the City Commission needed to consider the option of having the City assume the liability. There was some frustration from the County side and it was probably justified. He said he would like to see the City Commission direct staff to look at developing a bid that would encompass the City taking on the ultimate responsibility and obviously adjusting the bid terms. He said he sensed that KDHE was not going to approve a final sale that did not involve the City taking over the liability.

Commissioner Amyx said he wanted to see the City do something with this property, but he was not ready to set up an entirely new City Department to take over the task to remedy the environmental issues on this site. He said the City Commission needed to visit with staff to see if staff had the expertise to work on this site, long-term costs, and what would happen if there were other unanticipated environmental concerns on that property and whether there would be funds available for remediation.

He said there were 460 acres at that site and 263 acres were within the requirements where development could occur for the industrial center. The remaining 204 acres were a concern with potential contaminants in the future. He said he needed additional information on additional costs to take care of the requirements as set forth by KDHE.

Mayor Hack concurred with Commissioner Highberger in moving forward. There was serious need for industrial land and the City's inventory was extremely low. There was an opportunity for the City to control the gateway to this community. She said she was concerned about the liability, both the known and unknown because if more areas show up when moving forward that was a scary concept. On the other hand, she was not sure of what choice the City had. She asked if staff could answer some of those questions regarding administrative costs and continue to work with KDHE to see if there might be some compromise or some way to help the Commission understand this issue.

Commissioner Chestnut said he agreed with the Mayor's last comments. He said it was important to note that unfortunately the taxpayers of the City of Lawrence did not create this situation, but if looking at the map the area was within 100 to 200 yards of the City limits with residential areas in the vicinity.

He agreed with Commissioner Amyx in that if they were going to look at this issue and move forward, they needed to understand what infrastructure commitment needed to be made, staffing or otherwise and if it could be something the City could leverage what they currently had or did they need to look seriously at what it would take to take it over. He said he was conflicted

too because he agreed that it was an issue whether the City assumed the responsibility now or later, if the current funding was not going to be adequate that funding would get expended and the City would still need to deal with it 10 years later or the City could take control of the situation now, leverage the expertise the City had, cooperate with KDHE, and try to use it as expeditiously as possible. If the City could do it more cost effectively than an outside entity then it probably gave the City a higher probability of not having to write a check. The worst case scenario was having a commercial entity take over that site and getting to some point in the future where the site was stagnant and was deteriorating. He said if the site was not maintained there was risk there too.

He said the landfill issue coming up at the last minute was very disconcerting. The area that looked developable now, the question was if there was anything else in that location that was not known.

He said they needed to count the cost if making a bid that included all of the funds and what due diligence did the City need to do quickly to make sure the City had a high comfort level.

Mayor Hack said Commissioner Chestnut mentioned that this would be a burden to the taxpayers, but everyone also needed to remember if the City proceeded with this issue and could convert that property overtime to industrial space, everyone needed to think about what East Hills provided for the City in terms of tax base, this was critical for shifting residential versus non-residential and it would not happen by summer. She agreed with Commissioner Chestnut's concerns about a commercial entity taking over this property and she would rather have this area in the hands of the City and County.

Commissioner Amyx said he would like Corliss to provide data to the City Commission regarding the cost to the City of Lawrence over and above what was set aside in both accounts to satisfy the cleanup requirements for KDHE.

Commissioner Chestnut said moving forward, for example, using Utility funds, the City would be using the funds available to the City to off-set that and it probably would not have any impact on the City's Utility or General Fund for a long time. He asked if that would be enough, 10 years from now when that money was depleted, if the City found a much bigger situation that they were looking into.

Blackburn said one of the advantages of the City taking over was the City's plan differed from the cleanup approach that was received from the consultant. The advantage of the City taking this property over was the City could focus the money on getting the property into shape for future development. When discussing expending taxpayers money on that property, the facilities placed on that property would generate new tax revenue that would help the City's financial position, but also, if the City decided to clean up that hill area and the City had a potential business that could use that property, if the City was in charge of that property, they could decide to expend the money to develop the property in a different way than the consultant would. If the consultant were running the clean up, the City might be limited on how that property could be used in the future. Whereas, if the City had a potential user, the City could potentially do something more aggressive in an area that would make another 50 or 60 acres available, while the City would be spending money, the City would be bringing in a new business or generating additional revenue. It gave the City a lot more control to have the cleanup upfront than to wait for someone else to do it.

Commissioner Highberger said he understood there was some relationship between time and money. He said if the clean up was done on a really accelerated schedule it could be more expensive than if they did it at a more leisurely pace on their own.

Blackburn said absolutely. He said the containment system on the front end was working very effectively operating it over time. The job would be done with a lot less expenditure than if trying to rapidly jump into it. If the City had a development, they might want to expend the extra money to move the development quicker.

Corliss said based on the conversations in recent weeks and the briefings received, it made sense to proceed with a multi-phased approach. He said one of the City's planners would walk the City Commission through the Planning Commission's recommendation on the redevelopment plan which supported the land uses of employment center and give some idea there would be some infrastructure requirements. He said he was also recommending initiating the annexation process. By annexing the property and zoning it toward the uses in a City/County adopted land use plan, that would get them to that first item about solidifying the land use controls and were telling potential bidders what that property was going to be used for. He thought it made sense to proceed with the additional inquiry. He had great staff people who could run a good Utility Department, but did not have the expertise to answer a lot of those questions, so there would be some cost and staff would advise the City Commission about those costs.

He said he was not worried about the pond contamination part of the project, but from staff's briefings, they had seen that KDHE had an acceptable time frame to where they were not necessarily saying it had to be done in an accelerated way. He said he was more concerned about the hidden jewels and the City's ability to wisely have a contingency through the project.

Staff had good discussions with KDHE last week about what the City could do to limit the potential for liability in exposure. He said the City was not going out of business like the potential of any number of different companies that KDHE had talked to. He said this community had a long term interest in making sure this operated appropriately and KDHE had an interest in the City being there and the City had an interest in KDHE trying to help as far as surprises down the road. He said the City needed to talk to the County and did not know how many votes they had to be involved in the project, but if the County had votes to proceed, they could proceed with funding and other help as well or it might be that the County wanted to take on the liability or parts of the liability.



He said even after the East Hills item and 20 successful years, there was still infrastructure costs out there and those cost needed to be planned for and recognized in many cases, the City was not trying to make money and the City had to keep their mind on the goal, which was an employment center; jobs in the community and eventual tax base.

He said when discussing acreage, there were significant topographical challenges and the land use plan did not get into that. It was not a ready to bid item for construction; it was a conceptual plan about where streets should be and land uses. If there were 260 gross acres of developable property, the City had to recognize after putting in infrastructure, there needed to be a storm water channel through part of the property, and all that property could not be developed. He said they might only be talking about a couple hundred net acres for developable property for an employment center.

Mayor Hack asked Corliss if he had sufficient direction on what was needed.

Corliss said he had directions to continue the explorations with KDHE and would be talking to the County. Staff would discuss the land use items and the City Commission should expect an executive session discussion about how the City wanted to alter their bid, change those numbers, and see if staff could encourage the trust with the bid to expeditiously consider it so they could move forward. He thought they needed to start solidifying those things with KDHE and the County.

The City Commissioner received the briefing.

(18)

**Consider the following items related to the Farmland Industries Redevelopment Plan:**

- a) **Consider approval of the Farmland Industries Redevelopment Plan.**
- 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.**

Dan Warner, Planner, presented the staff report on the redevelopment plan. He said the plan in general was to guide the long term redevelopment of the former Farmland Industries site. He said the plan was neutral as to the ownership of the property and the plan did not get

into the City owning it or anyone else owning it; it was a plan that was guiding long term redevelopment of the property based on the City's goals and the community's goals. This plan, if adopted, would become part of the City's Comprehensive Plan, Horizon 2020.

The plan focused on creating new employment opportunities at the site along with additional open space for the community. There were a number of issues regarding this property most of which were heard already this evening, but the plan spoke to the environmental remediation that needed to occur on the property and the ongoing stormwater management.

The site did have some natural features as was discussed.

One of the big thrusts of the plan talked about future roads through the site and extending future roads through the site. The site as it existed now was an island that separated the City from East Hills Business Park. Extending future roads through the site would connect that site to the City and connect to East Hills Business Park.

The major component of the redevelopment plan was a future land use. The plan basically called out three major future land uses. The major land use was industrial business and research park which was the employment center land use and would allow a whole range of uses from industrial park type uses to business park research type of uses.

There was an open space component to the future land use which was the ponds on the site and the area that had the grade change and mature trees. There was also a civic use on the part of the property that abutted up to the fairgrounds.

The idea of this plan and what was going to be adopted into the Comprehensive Plan was that it would be updated five years after it was adopted. The key was things change and was recognizing they would come back and examine the plan to make sure it remained relevant to situations that were changing and were maybe different than they were now.

There were two minor changes to the plan that were being proposed. One was the addition of a table to the plan that would describe the functional classification of the future major

roads that go through the site and also some language that was being added to address large industrial users gaining access to arterial roads. Staff felt those were minor changes the City Commission could approve along with the plan.

He said as to public comment and the process with this plan, drafts had been available online for quite some time. The draft was submitted to various stakeholders for review and comment when it was initially put out for comment. A version of this presentation ran on the City's public access channel for a couple of months. There was a story in the Lawrence Journal-World about the plan last fall and he also participated on an online chat about the plan.

The Planning Commission received this project and held a review during public hearing on November 28, 2007 and unanimously recommended approval of the plan. Staff's recommendation was to consider approval of the plan with the two minor changes and forward it to the County Commission for approval and consider adopting the joint ordinance/resolution regarding the Farmland Industries Redevelopment Plan CPA 2007-5, amending Horizon 2020 Chapter 14, Specific Plans.

Mayor Hack called for public comment.

Beth Johnson, Vice President Economic Development, Lawrence Chamber of Commerce, said over the past five years, 62 recruitment projects per year had been seen and to the Chamber those were projects that came from a consultant of some type of company looking for a new location.

Recruitment of new companies was not a game of trial and error, but a game of elimination. It was consultants and companies looking for reasons to take you off of the round of consideration of communities and not a reason to leave you on the table.

Last year, during 2007, they were eliminated from 34 projects before they even made it to the second round of questioning. The majority of those reasons for being eliminated were lack of rail access, lack of suitable buildings, and lack of suitable land space.

She said regarding East Hills Business Park, currently there were over 2600 employees. The building added up to over a million square feet of space and taxes paid for 2006 was over 2.1 million dollars. In order to tie into the success at East Hills, the Farmland property needed to be developed to include a number of various sizes, access to utilities, rail access, and a presence on K-10. All of those initiatives would make this a prime location for future economic development projects.

She said the demand fluctuated for buildings in sizes and acreages which was true and would continue to change as moving forward, hence the flexibility needed in the redevelopment of this project. She said the Chamber stood in favor of the City Commission moving forward with the redevelopment plans for this prospect and see this as an investment in the City's future. As alluded to earlier, economic development did not happen over night, did not change the City's tax base overnight, but it was an investment in the City's future.

Corliss said as a separate action item, he asked the City Commission to discuss whether the City wanted to initiate the annexation of the property as well.

Commissioner Amyx said the recommendations on the redevelopment plan met the goals set out by the City Commission. He said the City was a step ahead of what could happen on this property, assuming there was change in ownership, and the City had a redevelopment plan in place. He supported and approved the redevelopment plan

Commissioner Highberger said he had one concern, but he was going to vote for the plan anyway. He said the City Commission had made a decision not to develop the area as residential, but he would hate to shut the door completely. He said obviously, there were some parts to the site that would never be suitable for residential use based on the agreements with KDHE and the clean up and there were some uses that would be compatible with residential, but there were areas with research office uses and he would like to hold open the possibility of some mixed use.

Commissioner Chestnut said from a process standpoint, that possibility could be held open. He said the annexation process would be gone through and then they could talk about zoning at that point. He said an opportunity might present itself for mixed use.

**Moved by Amyx, seconded by Chestnut,** to approve the Farmland Industries Redevelopment Plan with two changes as discussed. Motion carried unanimously. (19)

**Moved by Chestnut, seconded by Amyx,** to place on first reading joint City Ordinance No. 8218/County Resolution No.\_\_\_\_ regarding the Farmland Industries Redevelopment Plan and CPA-2007-05, amending Horizon 2002, Chapter 14 Specific Plan. Motion carried unanimously. (20)

**Moved by Highberger, seconded by Amyx,** to initiate the annexation process for Farmland Industries. Motion carried (21)

**Consider County request regarding special assessments in the East Hills Business Park.**

Diane Stoddard, Assistant City Manager, presented the staff report. She said the City, County and the Chamber of Commerce, through Douglas County Development Inc. (DCDI), worked cooperatively to develop the park 20 years ago. There was a great amount of detail in the City Commission's agenda materials related to the development of the park and those agreements related to that development.

The development agreement that dated back to 1989 enabled 95% of the street and sewer special assessments to be deferred until such time that lots were sold in the park and over time as lots were sold, all of those costs were provided back to the City.

Additionally, DCDI and the County had paid in full 5% of the street and sewer assessments that were not originally deferred. The bonds the City issued for this infrastructure had been fully paid.

The County request was in reference to 9 tracts in the park that were owned by the County and not yet developed. Those tracts had approximately \$460,000 in assessments that

were outstanding. The 1989 agreement allowed deferral of those special assessments until the lots were sold which was slated to expire May 15, 2009 and was 20 years past the date of the commencement of the levying of the assessments. The reason for the County making the inquiry with the City at this time was related to potential budgetary impact for the 2009 budget that might be anticipated and the County wanted to seek City Commission direction.

In a letter from the Douglas County Administrator, Craig Weinaug, the County requested the forgiveness of those assessments which was one of the options listed. However, in subsequent conversations with Weinaug, it appeared the County had indicated that deferral of the assessments in a continued fashion would be equally acceptable to the County which was another option listed. This appeared to be the option that would satisfy two things which were the County's request and the eventual payback to the City of those infrastructure costs from a number of years ago. That option would require the City to follow up on some type of amendment to extend the agreement.

Commissioner Chestnut asked when the bonds were retired.

Stoddard said she believed the initial bonds were 10 year bonds starting in 1989.

Commissioner Highberger asked if there were City General Fund monies used to retire those bonds or were all the costs of the bonds paid by the assessments received.

Corliss said the City levied taxes to pay for the unpaid special assessment through the City's bond and interest fund. The special assessment statutes require that 5% of special assessments be placed on the property which had been paid, but for the deferred special assessments, taxes were levied to retire that debt. The City and County carried that debt as a deferred special assessment with the trigger being the transfer of property. As pointed out, East Hills has been a success in putting property on the tax rolls, business and employment, but not all the park had been built out and there was some property still being assessed and under the City's Interlocal agreement, it was 20 years. He said the debt had been paid by Lawrence taxpayers.

Beth Johnson, Lawrence Chamber of Commerce, said DCDI was formed by the City, County, and Chamber to further economic development efforts and to market East Hills Business Park.

Amarr Garage Door was the first occupant to East Hills and currently had 650 employees, paid 2006 taxes of over \$464,000, several expansions, and currently had an abatement running on some machinery and equipment at their facility.

Kinedyne was the second occupant, currently had 150 employees, paid \$85,000 in taxes, and when first arriving in Lawrence, had a 50% tax abatement that ended in 2000.

Progress Vanguard which was originally Pitman Moore, the building never set empty for more than a month between transitions and had always been occupied since built in 1992, currently there were 65 employees, paid \$109,000 in taxes, and had an original abatement that ended in 2005. Their abatement ended before the 10 year time period was up because some of the abatement was based on machinery and equipment and they sold that equipment.

API Foils was the fourth occupant and currently had an abatement that had been approved and were waiting on corporate headquarters to go forward with the request. API Foils originally had a 10 year abatement which ended in 2005.

Vangent, formerly known as Pearson Government Solution, NCS Pearson, came to East Hills in 1997, and never had a tax abatement because they did not qualify for a constitutional tax abatement. They had two large buildings and paid over \$364,000 in taxes, and currently employed an average of 1,500 employees depending on their current contracts.

Prosoco was the sixth occupant, and the only occupant at East Hills that had its corporate headquarters in Lawrence, Kansas. They currently had 62 employees, received an abatement in 1997 and ends in 2008. An expansion was done in 2002 and the related tax abatement would end in 2014.

Sauer Danfoss was the seventh occupant, had approximately 200 employees and paid \$167,000 in taxes, had an abatement that ended this year and would be on the tax rolls in 2009.

The spec building was constructed by DCDI in 2002 and currently their taxes were \$88,000 paid by DCDI. The building was marketed on a regular basis by the Chamber and was ready for a light industrial occupant. There had been not abatement used to date on that building.

Serologicals was the eighth building constructed, had 80% abatement in 2003, however, due to selling their facility and leaving town, they never took advantage of any of that abatement and paid 100% of the property taxes due on that facility. She said that property was highly marketed as well. She said the Chamber took that building on a regular basis to bioscience conferences to talk with companies that might be interested. It was a very well maintained, but specialized, the way it was set up and the equipment at that location.

She said the approximate 2700 employees represented 7.3% of the private sector jobs in Lawrence. She said there were 3 of the top 25 employers located at the park and 6 of the top 25 manufacturers. Those companies also represented 5.5% of Lawrence workers.

During 2006 there was over 1.1 million dollars in real property taxes paid at East Hills. If those companies were fully on the tax rolls, there would have been 1.5 million dollars. She said about every company at East Hills had an abatement of some sort during their time period and were all still present paying taxes.

Mayor Hack called for public comment.

Laverne Squire, President and CEO of the Lawrence Chamber of Commerce, said he wanted to applaud the City Commission for discussing the Farmland alternative and the ECO<sup>2</sup> group in looking at open space and industrial elements in trying to maximize the use of that area. Any solution that was viable had to be thoroughly examined.

**Moved by Highberger, seconded by Amyx,** to direct staff to work with Douglas County to amend the interlocal agreement to allow it to continue for a five year period beyond May 2009, thereby continuing the arrangement that the specials be paid back to the City as lots are sold. Motion carried unanimously. **(22)**



**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.**

Diane Stoddard, Assistant City Manager, presented the staff report. She said Aquila was the company that held a franchise to use the public right-of-way and sell natural gas within the City limits and they had requested the franchise be transferred to Black Hills/Kansas Gas Company. It was anticipated the transaction, in order to accomplish this transfer the operations to Black Hills would close soon. The current franchise agreement contained a provision that enabled this transfer to occur upon written consent of the City and this consent could not be unreasonably withheld. Therefore, City staff would recommend the City Commission adopt an ordinance authorizing the City Manager to execute the franchise transfer consent request.

Mayor Hack called for public comment.

Larissa Long, Aquila, said because they were a regulated utility, they must have regulatory approval for those sales. All of the approvals had been obtained. However, the order from Missouri which was Great Plains filing had not been obtained yet, but as soon as that occurred the transaction would close.

KT Walsh, Vice President East Lawrence Neighborhood Association, said she did not know if she could ask the Commission to delay signing off on the franchise agreement, but she was asking for some help with one issue that was hanging out there about Aquila. She said Aquila had put in a taller and more secure fence on the eastern portion of their property which discouraged trespassers. She said she carefully read the report that Aquila gave the City about all of the evaluation remediation work and apparently it all focused on the eastern portion of the property, but when the director of the youth program called them and asked if they could have a community garden at that location, Aquila lawyers called before they could plant the garden and stated it was a toxic waste site and could not allow the soil to be disturbed and the kids to be exposed. Unfortunately, she talked to the director of the youth program and they did not have an email or letter to show the Commission, but two people who worked for the program stated

the Aquila's attorney called and told them they could not plant food at that location. She said everyone needed to know what was going on and after carefully reading the report from Aquila, it was clear that all the remediation was for an enclosed site with a high fence, but Aquila repeatedly say if the use of the land changed or if the industrial area ever shifted its use, then it needed to be looked at again. She was asking the City Commission to find out information from Aquila or tell Black Hills what they were getting.

Long said Aquila was interested in supporting that community garden, however, when talking to their attorney's, the property was adjacent to what they knew had been remediated and the covenants at that location precluded any digging without approval from KDHE. She said their attorney advised that not only because of the proximity, but because Aquila used that location for storage and trucks went in and out of that area and the liability would preclude Aquila from offering that area up as a community garden.

She said they wanted to allow the community garden, but they were advised not to allow the garden.

She said Aquila wanted to meet with the East Lawrence Neighborhood Association and they intended to set up that meeting yesterday or today, however, their Vice President just returned from vacation and Chuck Hoag their Operations Manager at the time the remediation was going on was out of the office because of family matters and they were not able to get schedules coordinated. She said Aquila was hoping to visit with the East Lawrence Neighborhood Association and come to some type of agreement as to what was appropriate and what Aquila might be able to do to mitigate their concerns.

Commissioner Highberger said if there was some contamination such that it was enough to concern Aquila attorneys, he would like to see that issue addressed. He said meeting with the neighborhood sounded like the next step.

Commissioner Amyx said he was contacted by some individuals in the last couple of days regarding the "as built depth locations" for gas lines underground. There was information

in a memo regarding City crews and private contractors getting into situations, hitting those gas lines and asked if that issue should be part of the proposed ordinance.

Corliss said staff met with Aquila and a contractor regarding this important issue. As the owner of the right-of-way the City had the statutory authority and responsibility to issue Franchise Agreements to investor owned utilities. The City could establish reasonable regulations for Aquila's use of the public right-of-way. The issue was with the existing, older infrastructure, where exactly the locations were, particularly the vertical depth of the gas lines. He said what the City had the ability to do was to require Aquila to do what was within reasonable industry standards.

Dena Mezger, Assistant Public Works Director, said staff did quite a bit of research in looking into this issue. Kansas had the one call statutes which Lawrence was a member. Those statutes set forth the way that areas were both located in the event of a project that was in an area and all the utilities were bound by the same set of standards that were set forth in those statutes. The statutes did not have any minimum depth or talk about vertical location for those utilities, but the statutes talked about a tolerance zone which was a horizontal zone around a line.

In staff's discussions with Aquila, the issue related to the location of gas lines, particularly in the older sections of town. There was no good way to vertically locate those lines and that was probably why that issue was not addressed in the one call statutes. She said from a safety perspective, the only safe way to make sure that the location of the lines were understood from a vertical location was to pothole the line, or locate the line in a safe and slow way so those lines could be found. There were instances where the line might start on a certain depth, but might go up or down depending on what type of boring mechanism was used. Aquila was not required to locate vertically in accordance with law and their locates were certainly within the parameters. Staff looked at the City's franchise agreement and believed Aquila was

following state law and procedures and there were appropriate guidelines in the City's franchise agreement related to that issue.

Corliss said the issue was one of cost and was the gas company going to need to locate their facilities through potholing and actually telling someone the exact vertical depth or was the entity that was excavating in the right-of-way, private or public entity, needing to take on that task and cost. He said in many cases, when the vertical depth was not known, a public or private entity should not use some of the larger scaled equipment and use more delicate equipment to find the location of the gas line. The way that cost was traditionally allocated was staff told companies the City needed good data so that it could be available for City uses because the City was in the right-of-way as well for water lines, sanitary sewer lines, and stormwater lines. He said the City had not required a company to physically go out and locate that line.

Commissioner Amyx asked about the troubles in hitting lines with City crews.

Corliss said there were approximately a half dozen different claims per year, City wide, utility wide. Most generally it was cut cable lines. He said there might be a situation where the City exposed some lines that were not intended, but he did not know.

Commissioner Amyx said he would like to have some discussion on this issue in the near future with various interested people to establish a guideline that would help staff and private contractors.

**Moved by Amyx, seconded by Chestnut,** to place on first reading Ordinance 8242 authorizing the City Manager to enter into an agreement with Aquila, Inc. to assign its franchise to Black Hills/Kansas Gas Company, LLC. Motion carried unanimously. **(23)**

**Receive 2008 Street Maintenance Program.**

Dena Mezger, Assistant Public Works Director, presented the staff report. She said this year's program was approximately 4.8 million dollars of contracted services that staff was proposing for street maintenance which included mill and overlay, micro-surfacing, crack

sealing, chip and seal, contribution to some overlay related to a development project and some concrete curb and gutter replacement. This was the first year in awhile that she was aware of, that staff was going to put out a contract for curb and gutter replacement because it was an area that needed a lot of attention and a very common complaint from citizens. She said she would plan some of that curb and gutter replacement each year so staff could start tracking that issue.

She said she outlined in her memo the sources of the funding. There was more to street maintenance funding, but that was the in-house money that the Street Division used for materials and supplies when doing small repairs. The Street Division would be receiving a new paver.

Also, listed in the memo were the areas that staff was working on. The Crack/Seal Program would be primarily focused in North Lawrence, in the northern portion which would finish out the entire City for one complete round of contract crack/seal.

She said this year staff focused on the heavier traffic areas for a couple of reasons. Staff had been doing primarily mill and overlay in residential areas the last few years. Massachusetts Street had needed mill and overlaying for awhile and they deferred that until staff completed the downtown waterline work. She said 7<sup>th</sup> Street had also been added between Vermont and New York as well as Kentucky between 6<sup>th</sup> and 12<sup>th</sup> for mill and overlay.

The secondary mill and overlay project, staff decided to take advantage of the closure of 19<sup>th</sup> and Louisiana intersection capital project and repave and mill and overlay 19<sup>th</sup> Street to Naismith and back to Massachusetts along with Massachusetts between 13<sup>th</sup> and 23<sup>rd</sup> Streets.

The micro surfacing was primarily a residential and residential collector type program and was focused at the streets that were already in pretty good condition, but needed a thin surface seal to keep those streets going longer on the south central part of town between Iowa and Kasold and south of 23<sup>rd</sup> Street.

The curb and gutter would be primarily on Harvard, west of Monterey Way. She said \$400,000 was estimated to be spent to repair several streets in that area.

The City's KLINK Program which was partially funded with money from KDOT was going to be Iowa Street from 23<sup>rd</sup> to north of 31<sup>st</sup> Street which was complete mill and overlay. Adjustments would be made to the island on the west side of 23<sup>rd</sup> Street intersection and install dual north bound turn lanes on Iowa.

A development project at Clinton and Wakarusa would go forward as soon as the development moved ahead, but that project was budgeted.

Alternate areas were listed because of gas prices and staff provided contingency and cushion in their budgeting, but if prices came in lower than anticipated, areas would already be identified to add into the contract to get as much done as possible.

Mayor Hack said on 7<sup>th</sup> Street it was indicated it would be mill and overlay between Vermont and New York, and she asked if there was conversation about extending it further to the west to pick up the area between Vermont and Kentucky.

Mezger said part of that area was rebuilt with improvements related to the post office and the mill and overlay would be taken up to where the other improvements ended.

Commissioner Chestnut said mill and overlay, phase 1 in particular, where they were taking Massachusetts Street to 6<sup>th</sup> to North Park and 7<sup>th</sup> Street between Vermont and New York and then Kentucky, 6<sup>th</sup> to 12<sup>th</sup> sounded like a problematic traffic situation. He assumed those repairs would be going on simultaneously.

Mezger said no, not necessarily, but that was one of the phasing issues staff needed to tackle. She said obviously, Kentucky and Massachusetts could not be shut down at the same time or impacted at the same time. She said staff would be meeting with the downtown merchants and have a discussion about issues, problems, and concerns. She planned to extend an invitation to a couple of the local contractors because it would be very valuable for the merchants to hear their perspective on some of the challenges they would face in trying to accommodate so many of the requests that they would get. She hoped to have a discussion between those two groups and come to a consensus on what they could live with. They could

not obstruct sidewalk sale day and people were concerned about commencement weekend and things like that. One of the challenges this year was they would have a lot of work to do in a relatively short time and simultaneously in a lot of cases, so it would be a challenging summer, but when they come out the other end, they would have a good product.

Mayor Hack said she felt they have built a great trust among the downtown merchants over what was done the last few years with the waterline and did the best possible job they could. They had discussions with downtown merchants as to what was the time to have the least impact for downtown. It had to happen and they had to do it the best way they could.

Commissioner Chestnut asked if phase I and II would be going on simultaneously or would there be phasing.

Mezger said those two could be going on at the same time; it was a balancing act in trying to phase each one so they did not completely shut down the central part of the City. They could do that and generally their contractors in the past have been pretty cooperative about doing that. They have put a few more controls in their contracts about not milling off the surface layer and leaving it for 30 days. They were going to have to mill as far as they could pave within a reasonable time and work down through the process so the actual open work areas would be smaller. It would take a little more effort and probably not quite as efficient that way, but in the end they would do better in terms of public relations, coordinating traffic and minimizing impacts.

Commissioner Amyx said one of the things they did the last time they overlayed in downtown which was probably 8 or 10 years ago was to do the milling during the daytime and the opportunity for the overlay in the evening. If that was something they wanted to take to DLI and other concerned folks in the downtown, it was something that worked fairly well because it was a quick process.

Mezger said that may be the best option and one of the conversations they were going to have. They had a little bit of this conversation last year as part of the downtown waterline because there was the possibility that they were going to try to tag this on the end of the

waterline and that did not go over well. They had concerns and discussions about doing some work at night. They did that last year and several years in the past on the KLINK projects on the highways.

Mayor Hack called for public comment.

There was no public comment.

It was **moved by Highberger, seconded by Amyx**, to approve the 2008 Street Maintenance Program; and set bid date of March 25, 2008 for City Bid No. B08029, Project No. 07-SR2-308(C), 2008 Crack Seal Program. Motion carried unanimously. **(24)**

**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.**

David Corliss, City Manager, introduced the item. He said towards the end of February the City Commission conducted a study session in regards to planning items regarded to the wastewater utility use. They were asking for the City Commission to proceed with the distribution of requests for proposals for two items. One item was engineering services related to the wastewater facilities master plan and the second item was for professional engineering services for design/bid/build of the Four Seasons Pump Station Improvements. He did not need to go into any great detail on these items because of the discussion at the study session. He wanted to talk about some of the questions he had from the City Commissioners in regards to the wastewater master plan projects. One of the key issues was cost. When they did the 2003 Master Plan, it was more than four years old and based on technical information that was more than 6 years old. It was a significant issue and one of the reasons why it had run its useful life. In order for them to make wise decisions about where to put rate dollars, they needed to look at the system and see where they wanted to grow the system and increase reliability and continue to provide the good service they provide with that utility. They had quite a bit of a jump start on



the data points and had done a lot of things already in the field that were going to help with a new master plan. In 2003, the wastewater master plans cost \$391,000. That may or may not be a relevant figure for what they were going to be talking about here later on if they proceeded with this project. First, they were only talking about doing a wastewater master plan. In his opinion, that cost was relatively high for a number of inputs that were required and had to get some additional data points and thought they got very good data points now. They were not going to have to do some of that initial work and were not asking the question if they needed another wastewater treatment plant and where they wanted it to be. They knew the answers to those questions and knew they were going to need that facility; the real issue was how quickly they would need that facility online and any scope issues associated with that system that could deal with the size of that facility. Because of some of the issues they have dealt with in this building and wastewater utility over the past two or three years, they were wiser to ask some of the implementation questions and be able to focus in what useful bits of information they needed. He had a strong confidence that they were not only going to get a better product, but one that would be economical. He said Dave Wagner did a good job at the study session of talking about how this information had the great potential to save them money as they start talking about what facilities to build throughout the wastewater utility; pipe sizing, exactly what they would need. In many cases they may not have to require some of the size of the facility if they had better data. There were a lot of merits to be able to proceed with that plan. He fully expected and knew the City Commission's insistence they got the question of when they build the wastewater treatment plant answered early in this planning process and would have the strongest expectation and insistence that would be part of the deliverables of this project. They needed this type of planning in order to make those wise decisions for the rest of the utility.

Mayor Hack called for public comment.

There was no public comment.

Commissioner Amyx said in the study session, he had the opportunity to let off steam about some of the frustrations he had with this project, that being the wastewater reclamation facility and not being able to proceed at this time. It went a little bit farther than that. They have had information in their hands over the last couple of years that have showed him the need to build that infrastructure and new facility. He thought by putting it off, they were raising the opportunity for the price to go up. The information he had was that this was a high priority and had to be done in such a time. They started seeing changes several years ago and the amount of growth or development that was or was not happening, and he still proceeded at the recommendation of staff in looking for the site of where that new facility was going to be. To go to the next step involved Vice Mayor Dever and staff going through the engineering services and looking at teams of people that were going to be involved in carrying out both the delivery and the treatment of the wastewater. He thought they had already been through that. They discussed the design build versus the design/bid/build. For him personally to change directions at this point, he could not do that and would not do that. He thought they had a very open process about everything to date and knew that was what they were trying to do now, but everything they had done had been at the direction of staff.

Commissioner Chestnut said he believed in the adage of measure twice cut once and thought there was some wisdom in that making sure they were appropriately planned. He did not have the depth of experience with this as Commissioner Amyx does, but was also concerned about a couple of things. He wanted to make sure as they pursued this request for proposal, that they scope it to maximize the internal staff talent they have acquired during this period of time and technology. When they went through the study session and what they had done technology wise, a lot of the challenge and cost involved in the last study they did was data collection. They did not have much data and would have to do a lot of work there. He was hopeful and would hopefully like to create some expectations about when they could get this information back. He hoped this would be a somewhat compressed time frame as far as being

able to get some direction on setting some expectations. Secondly, they needed to scope it in a way that would be much less than the last time around based on that it was wastewater and not water, and so on, but also the fact they had a lot more of their own resources to bear here to proceed faster and do it very cost effectively. He was willing to move forward from that standpoint, but wanted to make sure they would stay on track. He agreed with Commissioner Amyx to the extent that this was not a matter of if but when and he thought it was soon and did not want to delay it any further than what was necessary. What was important in making some of these decisions was that they understood the impacts on rates would be. If they had a capital plan and approved the rates for 2008 based on this project being in there, he would like to understand what they were talking about if they had growth assumptions that did not quite meet what their expectations were. He asked what that would mean for rate increases and if the population did not grow as they anticipated, they would have to move the rate up. He was trying to understand some of those issues in allowing him to make a decision about moving forward to realize that no matter how much they study it, they were going to have to draw a line in the sand at some point and did not know what the future was going to be with population, growth and expansion, but this was the right time and place to get things done. He certainly was willing to revise what they had and were confident in the assumptions, but could do it in a very compressed time frame and revisit this.

Corliss said he hoped they would be able to make decisions about the timing of the facility this calendar year, but would not have all elements of the wastewater plan complete this year.

Mayor Hack said their conversation this evening was for the master plan which they knew had to be updated. They would have a far better ability to analyze their situation than they did when they made the first master plan.

Corliss said the wastewater facility's master plan was not just about the wastewater treatment plant, but if they were going to grow and accommodate the rest of the City for wastewater needs.

Mayor Hack said the second thing was the Four Seasons Pump Station. Right now staff did not want direction on the wastewater treatment plant as an entity.

Corliss said no. What he wanted was the ability to do both of the RFPs. A key component of the wastewater facility's master plan was timing and skill.

Commissioner Chestnut said he agreed. He was saying in how they advertise for that request for proposal and their deliverables and how they would structure those deliverables. He hoped by the end of the summer they would be in the position to say the first phase of it was completed and would be able to get back in the discussion process to make a decision. Maybe not all the elements would be completed, but they had to create expectations with the professional engineering people to give the deliverables and the time frames in those sequences so it would expedite their decision making. He would like to have that at the front so they could be able to visit it without having the full scope of the master plan completed because this could go on for a long time if they did not structure it correctly on the front end.

Commissioner Highberger said he shared some of Commissioner Amyx's concerns. He said it felt like there had been a change in direction without Commission direction. He had not raised any objections because the change of direction was based on good information. They had growth and more additional capacity they were not taking into consideration earlier so they had flexibility to take some time and do this analysis. There had been a shift in design/build and design/bid/build without really any explicit Commission direction on that. It was something they needed to have more conversation on before they took the next step for the wastewater facility. He took in to consideration Commissioner Chestnut's concerns and would be willing to support with proceeding on the RFP's at this point.

Mayor Hack asked if the shift from design/build to design/bid/build with respect to the Wakarusa Plant had not been made.

Corliss said they had not done that. They were carving out the Four Seasons facility to go ahead and proceed with that under conventional design/bid/build. He thought they wanted to look if they had the comfort level in accepting a guaranteed maximum price for that facility.

Commissioner Amyx asked if they made a decision last year on the Four Seasons Pump Station by unanimous decision to recommend the City Manager to enter an Agreement with Black & Veatch and the team they put together to do this and if they were changing that direction.

Corliss said that was correct and it was recommendation that they consider that change. Giving the slow down in the economy and concerns of being able to guarantee a maximum price at that dollar amount and the city's ability to fund it, the recommendation was as he saw here.

Commissioner Chestnut asked Corliss to walk him through carving out the Four Seasons Pump Station. He said obviously Corliss thought this part of the project was a critical piece to complete soon. He asked what the rationale of that was.

Corliss said it was a key part in their ability to continue to grow to the west. It served as an equalization basin and holding basin for wet weather events in the western part of the community. It was viewed as a part of the project that needed to proceed early and in talking with Dave Wagner and others on his staff, they continued to believe it was an important part to proceed with.

Dave Wagner, Director of Utilities said they had some operational restrictions that were difficult to manage but had done it so far between the Four Seasons Station and the station at Haskell Indian Nations University. The transmission line through there was pretty tricky to manage during a very high wet weather event and with additional growth over the course of the

next few years; it would continue to get worse. Adding the additional storage, they already had about 3.5 million gallons of storage and would expand that and give them room to breathe.

Wagner said as the City Manager indicated depending on the comfortable level they had with design/bid/build, GMP's and the size of the project, this was a relatively straight forward project on a circular basin on a certain diameter. There was not a lot of risk involved with it or innovation to be done with a concrete basin so the advantages of design/bid/build from his experience were not really there. He thought they had some discussion with contractors that they felt the same way that this was a good project for the conventional delivery.

**Moved by Chestnut, seconded by Highberger,** to advertise an RFP for Professional Engineering Services for a Wastewater Facilities Master Plan and advertise an RFP for Design-Bid-Build of the Four Seasons Pump Station Improvements. Motion carried 3-1 (Amyx voted no). (25)

#### **PUBLIC COMMENT:**

Joshua Moshel, owner of Jo Schmo's requested if the City Commission would consider to perhaps putting a speed hump or a cross walk between the Border's parking lot and the two hour parking lot that backed up to his building at 724 Massachusetts on the New Hampshire side. There were a lot of people that parked there to go to various restaurants and venues. They had a lot of people going on New Hampshire Street at a fairly high rate of speed. There were groups of people five up to thirty crossing the street at one time and with the development of the Hobbs Taylor loft, it might become an issue. It was an issue now because every time he crossed the street he had to be careful. He thought it might be beneficial to the City to make it more of an official stop because there was a lot of traffic with the development on New Hampshire Street.

Mayor Hack said procedurally the best way for Moshel to start would be to go to the Traffic Safety Commission and make the same request. He could contact Corliss or Chuck

Soules about the timing of that. There were several traffic calming devices in the shoot that they were not able to fund right now and it did not hurt to get in line if that was the agreement of the Traffic Safety Commission and the City Commission.

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

- 03/25/08
  - Approve, subject to conditions, SP-03-25-06, a site plan for improvements to the northwest corner of 9<sup>th</sup> and Vermont Streets (Carnegie Library). Submitted by Peridian Group, Inc., for the City of Lawrence, property owner of record.
  - Consider draft Tax Increment Financing and Transportation Development District policies.
  - **CONSENT AGENDA** - Authorize distribution of request for proposals for video equipment in police department vehicles. This will be financed through the City's equipment reserve fund.
- 04/01/08
  - Mayoral Election
  - Conduct public hearing on Oread Redevelopment Plan and the Creation of Transportation Development District (TDD). Adopt on first reading, ordinance approving redevelopment plan and redevelopment agreement and ordinance creating transportation development district and levying TDD sales tax.
- 04/08/08
  - Adopt on second reading, ordinance approving redevelopment plan and redevelopment agreement and ordinance creating transportation development district and levying TDD sales tax.
  - Receive 2007 annual report from the Convention and Visitors Bureau.
- 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

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. ***Approximately 30 minutes will be devoted to staff presentation; approximately 30 minutes will be devoted to applicant's presentation; and approximately 30 minutes will be devoted to public comments.***

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 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 Highberger**, to adjourn at 10:25 p.m. Motion carried unanimously.

**APPROVED:**

\_\_\_\_\_  
Sue Hack, Mayor

**ATTEST:**

\_\_\_\_\_  
Frank S. Reeb, City Clerk

## **CITY COMMISSION MEETING OF MARCH 11, 2008**

1. Bid – 1 Dump Body & Hydraulic System for PW Dept to American Equipment for \$21,595.
2. Bid – 1 Tandem Axle Truck for PW Dept to KC Freightliner for \$66,567.
3. Bid – 1 Drop Deck Lowboy Trailer for PW Dept to Berry Tractor for \$43,131.
4. Bid – 1 -15 foot paver for PW Dept to Halo Inc., for \$88,931.
5. Bid – 4 yr lease for 2 Fairway Mowers, 1 Tee Mower, 1 Utility Vehicle/w Sprayer for Parks & Rec to Van Wall Equip fro \$26,954.89, totaling \$107,819.56.
6. Ordinance No. 8235 – 2<sup>nd</sup> Read, Quorum -4 Commissioners.
7. Ordinance No. 8237 – 2<sup>nd</sup> Read, Franchise Agreement Atmos Energy Corp.
8. Prelim Dev Plan – (PDP-12-10-07) Lower E Side Add, 927 & 933 Delaware.
9. Req Rezone – (Z-10-26-07) 15.171 acres at 4000 W. 24<sup>th</sup> Pl.
10. Spec Use Permit – (SUP-12-10-07) Cabinet Shop at 714 Vermont.
11. Open General Svcs Agreement – Lawrence Municipal Airport, Airport Development Group fro \$40,000.
12. Parking Extension Agreement – Sunflower Broadband, Lot 16, rate of \$10 per metered space, 43 spaces totaling \$430 per month.
13. Lease (city property) – 234 N 8<sup>th</sup> to Gary D & Jan Unfred.
14. Change Order – Wastewater Treatment Plant to RD Johnson for \$50,000, totaling \$170,000.
15. Construction Engineering Svcs – Kaw WTP Disinfection Conversion to Black & Veatch.
16. City Manager's Report
17. ECO<sup>2</sup> Report
18. Farmland Industries briefing.
19. Farmland Industries Redevelopment Plan.
20. Ordinance No. 8218/Cnty Res\_\_\_, - 1<sup>st</sup> Read, Farmland Industries Redevelopment Plan & (CPA-2007-05)
21. Annexation process – Farmland Industries
22. E Hills Business Park special assessments.

23. Franchise Transfer – Aquila to Black Hills/KS Gas Co.
24. Receive 2008 Street Maintenance Program.
25. RFP for professional engineering services for Wastewater Facilities Master Plan.