



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

COMMISSIONERS
SUE HACK
ROBERT CHESTNUT
DENNIS "BOOG" HIGHBERGER
MIKE AMYX

May 20, 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 Dever presiding and members Amyx, Chestnut, and Highberger present. Commissioner Hack was absent.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Dever proclaimed the week of May 18th – 24th, as Public Works Week.

Vice Mayor Chestnut requested the first reading of Ordinance No. 8275, establishing "stop signs" at the four (4) traffic booth entrances on the KU campus be pulled from the consent agenda for discussion.

David Corliss, City Manager, recommended the item be deferred for one week to allow a full Commission to discuss and vote on the matter.

The City Commission concurred to defer this item for one week.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City Commission meeting minutes of May 6, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive the Public Health Board meeting minutes of March 17, 2008; the Lawrence Arts Commission meeting minutes of January 9, 2008, February 13, 2008 and March 12, 2008; the Sister Cities Advisory Board meeting minute of January 9, 2008, February 13, 2008; and March



12, 2008; the Mechanical Code Board of Appeals meeting minutes of April 14, 2008; and the Board of Electrical Examiners meeting minutes of April 2, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 391 vendors in the amount of \$2,847,822.44. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to concur with the recommendation of the Mayor and appoint Lisa Harris to the Lawrence/Douglas County Metropolitan Planning Commission, to a term which will expire May 31, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City/County appointments to the Steering Committee for the planned improvements of 31st Street, from Haskell Avenue to O'Connell Road. The appointments to the Steering Committee were:

Prairie Park Neighborhood	Paul Phelps
Save The Wakarusa Wetlands	Michael Caron
Haskell University Representative	Vacant*
Bicycle Advisory Committee	Eric Struckoff
Representatives for businesses at 31 st & Haskell	Steve Glass
Representative for residents east of O'Connell along N. 1300 Rd. (31 st Street)	Karen Heeb
Planning Commission	Brad Finkeldei
City Commission	Sue Hack
County Commission	Bob Johnson
Context Sensitive Knowledge	Tom Mulinazzi
Chamber of Commerce/Realtor	Dennis Snodgrass
Kansas Department of Transportation (KDOT)	Corky Armstrong
* Haskell University will be informed of meetings and plans if we are unsuccessful in getting someone to serve on the committee.	

Motion carried unanimously.

The City Commission reviewed the 2008 Overlay Program, Phase 1 for the Public Works Department. The bids were:

BIDDER	BID AMOUNT
Engineer's Estimate	\$512,762.50
LRM Industries	\$491,995.60
Asphalt Improvement Co.	\$514,432.25

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to LRM Industries, in the amount of \$491,995.60. Motion carried unanimously. **(1)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to set a bid date of June 3, 2008 for Overlay Program, Phase 2, and 18th and Louisiana Street, raised crosswalk. Motion carried unanimously. **(2)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to place on first reading, Ordinance No. 8268, for Landmark Designation, (L-08-01-07) placing the structure at 805 Ohio Street on the Lawrence Register of Historic Place. Motion carried unanimously. **(3)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to place on first reading Ordinance No. 8269, for Landmark Designation (L-09-02-07), placing the structure located at 934 West 21st Street on the Lawrence Register of Historic Place. Motion carried unanimously. **(4)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to place on first reading Ordinance No. 8271, rezoning approximately (Z-02-06-08) from RM-12D (Multi-Dwelling Residential) to RS-7 (Single-Dwelling Residential). The property is located at 1309-11 West 8th Street, and a portion of 820-22 Canterbury Lane. Motion carried unanimously. **(5)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to place on first reading Ordinance No. 8276, authorizing the possession and consumption of alcoholic liquor at the Lawrence Municipal Airport on Wednesday, June 11, 2008 from 5-8 p.m.

for the Lawrence Chamber of Commerce Mixer event hosted by the Airport Advisory Board.
Motion carried unanimously. (6)

Ordinance No. 8270, rezoning (Z-03-08-08) approximately 140 acres for Bauer Brook Estates from A-1 to RS-40, the property is located at the southeast corner of Folks Road & Peterson Road, 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, Dever, Chestnut, and Highberger. Nay: None. Motion carried unanimously. (7)

Ordinance No. 8272/County Resolution ____, amending Horizon 2020 to ensure proper comprehensive plan language is in place for a proposed mixed use district in the City of Lawrence and Land Development Code. 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, Dever, Chestnut, and Highberger. Nay: None. Motion carried unanimously. (8)

Ordinance No. 8273, establishing the maximum assessments for improvements at the intersection of 6th Street and Congressional Drive, 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, Dever, Chestnut, and Highberger. Nay: None. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve a request by Steve Block, manager of Wakarusa 15 Associates LLC (the property owner of Lots 3A of Alvamar Northwest No. 3), for a variance from 19-214A of the code which states that each lot shall have direct access to the City sanitary sewer main in City public right-of-way or City public utility easement. Such access shall not cross property ownership lines unless the access is adjacent City public right-of-way or adjacent City public utility easement. Motion carried unanimously. (10)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said staff was proceeding with a small parking lot on City owned park property, on north Folks Road, that would allow access to the park and improved access for mowing and maintaining that property. City crews would build the parking lot at minimal City cost.

He said the City began displaying archived City Commission meetings and were receiving additional viewers to those meetings. He said Eric Gruber, Egov Coordinator, reported there were a number of City Commission meetings that were viewed separately. That web video was a nice enhancement to the service and was developed, in-house, with minimal cost.

He also said the Parks and Recreation Department had proceeded with the development of the Integrated Pest Management Policy. He said the Commission had been briefed on that development, in the past, and there would be a meeting with interested stakeholders.

He said the bike helmet fair the Fire/Medical Department coordinated was a success.

Finally, he said the City's budget related material was on the City's website and the outside agency requests for 2009 was posted on the budget page. Staff would start working with the City Commission to determine priorities in the next couple of weeks. (11)

REGULAR AGENDA ITEMS:

Receive request from Timothy Homburg, Architect, NSPJ Architects, architects for the construction of The Oread Inn, requesting the vacation of a portion of the right-of-way on the east side of Indiana Street. Consider proposal to close Indiana Street adjacent to the Oread Inn project construction.

Paul Werner, Paul Werner Architects, said they were about halfway completed in installing the shoring on the east side and hoped to know more by the end of the week. The hope was not to need any of the right-of-way, but wanted to meet and try to figure this out. The three feet of right-of-way was the worst case scenario. It was a new territory for them to go that deep and obviously, a large safety issue with the depth of that hole. Soil engineers were overly optimistic. They were working on the east wall and would be pouring a one sided wall in which

forms would not be needed on the east side and concrete would be poured up against the dirt which minimized the space needed. He said they were trying to minimize the request. He said again, hopefully, right-of-way would not be needed, but most likely it was in the 18 – 24 inches of right-of-way and they would know more by the end of the week. He said if it was anything other than the garage, they could lose two feet out of the building. It was the dimension that made all the parking work. He said the garage could not be shrunk by three feet and would not be able to park all those cars. He said it was something they thought needed to be done.

He said they had a traffic plan and were open to any suggestions on signage. They knew it was not the easiest thing in the world to shut down Indiana Street. He said they met with KU and obviously, the summer was the time to get work completed because the busses did not run that route. The bus traffic was overwhelming and in their mind, the best thing to do was to shut it down, keep the Fire Department access and work with the one tenant that was an issue on the west side of Indiana Street. The goal was to get as much done as they could, during the summer, and reopen as needed.

He said the bus traffic and car traffic were two different things. KU was looking at running the route up Mississippi and down Louisiana for the entire semester. It did not necessarily mean that it was going to be closed to all car traffic, but that separation really helped and once up to grade, it changed the conditions of how they could build the buildings. They were going to get the building up to grade as early as possible and make the changes to the plan as needed. He said Indiana Street was the best street for some cars to get up that hill. They would work to do whatever they needed to do with the busses. He said help with the signage was needed. They wanted to close the street for the summer and get much of that work completed to get back to normal as soon as possible.

Commissioner Amyx asked Werner if he had meetings with the neighborhood association in that area.

Werner said not the entire neighborhood association. He said they sent e-mails with a traffic plan to the ECM, Alumni Center, and a person at Oread Neighborhood Association who forwarded that information to others.

Mayor Dever said he understood the concept of not being able to shore up the adjacent property retaining wall. He asked if the point to move the building was so they could use the existing land on their property to erect the device of the wall on their property, but could not do that without moving it.

Werner said it was about the first 12 – 15 feet of the soil that was the issue. They needed the space to hold the first section of shoring versus shoring 50 feet down which was a completely different method and much more time consuming. They would need that to have the clearance to pour the wall, but did not need it for the soil condition. In their mind, it seemed like it was a waste to put 30 feet of shoring into the ground when they did not need it because of the soil condition. They just needed it for the space for that first section of shoring.

Mayor Dever asked if there was a picture of the original plan that showed what they planned on doing.

Tim Homburg, NSPJ Architects, said the original concept showed the existing retaining wall on the east side of the property with the walls approximately 2.5 feet off the property line. He said with the original orientation of the building, it was approximately 2 feet off to the west. They were going to do an excavation and then a spray concrete shoring technique to hold the excavation in place. It was virtually shale all the way down, but the shale was supposed to be only a certain amount at the top and rapidly getting into the hard shale. When getting into the excavation, the shale extended to a further depth than reported. What became the concern was the pressure on the existing retaining wall. With the shale in the proximity of the retaining wall, the concern was when continuing to excavate, the shale would give way and the retaining wall would fail. It was evident on that retaining wall it had incurred quite a bit of sediment, especially on the extreme northwest corner which was the tallest portion of the wall. He said there was a

vertical crack going top to bottom as well as a crack at the outside corner of the wall at the far north end which was its preexisting condition. It was unstable and he would never risk excavating and hoping it stayed in place because the people performing the excavation could be in danger or someone parked on the high side of the wall could also be in danger. The geotechnical engineer was proposing to still have the existing retaining wall and at the property line, placing steel piles 15 feet apart. He said they would take the steel pile down to the hard grade shale and encase in concrete thus allowing the system to mitigate the pressure and allow it to be excavated back into its original condition. The engineers were stating the three foot minimum from the existing piles was needed to keep the bottom of the pile system from being compromised and kicking out the forces of the retaining wall. Once those piles were in and excavate down the 20 feet or so to get down to the hard shale, they would be able to make the determination with the geotechnical engineer as to whether they needed that 3 feet or if that amount would decrease. The three feet requested was a worst case scenario.

Mayor Dever asked if there would be a chance that more than 3 feet would be needed based on what was found.

Homburg said they knew the profile of the shale and what it could do, so they were using that three feet as a benchmark. If the shale performed as it should, the three feet should be there. He said when they drilled each pier they would check each hole to see how far they were getting into that good shale.

Mayor Dever asked if they were worried about the depths of the weathered shale.

Homburg said yes, that was a product of road shale and it was naturally going to be up towards the existing grade. As going down, the geometrical report indicated the hard shale and when doing each core drilling, they checked with the excavation to make sure it was getting into the good shale.

Mayor Dever called for public comment.

Virginia Heinen, Lawrence, asked if Indiana would be completely shut down or would be open to through traffic because she recently leased a place at that location, close to campus, for convenience. She asked if there was a chance that street would completely closed down.

Werner said their goal was to completely close Indiana Street from 11th to 12th for the entire summer.

Heinen asked if they knew how long the excavation with the street being shut down would be.

Werner said it would be at least to August 15th when school came back into session.

Marci Francisco, Lawrence, said she was one of those who received the notice on her door and wanted to say thank you to the Public Works Department because this was an example of an informed citizenry. They were pleased to learn about this. She thanked the developer because they made the plan of an initial proposal for signage available. It was one thing to learn that Indiana Street was going to be closed, but also where the traffic was going to be routed.

She said signage was shown on the map for detours for Indiana south, but in fact Indiana Street would not continue south beyond this project, so one would need to go to the other side of campus. If they were going to put a sign in front of her house, she would rather the sign say that it was a detour to Jayhawk Boulevard, which she thought at that point would be the place that people were seeking. There was a notice at the alley on 12th Street that the road was closed ahead and it might make sense to put that sign on Ohio Street as well because once getting to the alley, then a person could not go south down Louisiana Street because it was one way traffic.

She had a chance to talk with both the Public Works Director and the developer regarding concerns about winter weather. She relied on Indiana Street during icy weather as the way to get up to her house. Speaking for her neighbors on Louisiana, their only option if school was in session and Jayhawk Boulevard was closed, was to use 12th Street, 13th Street,

or 14th Street, all which were steep streets in terms of access because they were going to have to come from the south and go north along Louisiana. She was hoping they would pay particular attention to that winter weather and understand that they were pleased to have this project going on and understood there would be some accommodation necessary, but there were times where those more level streets in their neighborhood were important to their neighborhood.

Sven Alstrom, Lawrence, said everyone knew he opposed this project and there was another procedural error. He encouraged the City Commission to not make a decision on the right-of-way encroachment this evening based on the technical aspects as presented, but rather have a more extensive study.

He said he would also remind the City Commissioners that they previously endorsed and voted to support language regarding this project that the earlier design was the only feasible and prudent alternative available for this site. It seemed to form a catch 22 argument and if the Commission endorsed this encroachment, the Commission should go back and modify the feasible and prudent finding which was a legal fiction that was recommended by the applicant's attorney to avoid adverse decisions by a higher court. He found the Commission was in a catch 22 in saying that the only reasonable and prudent alternatives were to allow encroachment when earlier they found it without an encroachment. He believed that was another reason not to make a decision at this time.

He thought further study was needed on the subsoil situation. The applicant had plenty of time to do the parking, dimensional studies, and pick a different structural frame that might have suited the site.

Taylor Wright, Lawrence, said she lived on Indiana Street, right across from the development. She said there was only one way to get to her residence which was off of Indiana. There was no access since 12th Street and Indiana Street did not continue. She worked full time so the construction during the day did not bother her, but when she returned

home she needed to get right into her apartment and did not understand how closing that street for two or three months was a compromise. Just because school was out did not mean everyone was gone and there were people like her that still lived and worked full time. It was important for her to be able to access her apartment. She would agree not to make a decision because the vast majority of the tenants have left today and yesterday due to graduations and school being out. To make that decision with everyone gone seemed unfair.

Werner said tenants, at that apartment, would have access to their drive, but called it closing Indiana because they would not be able to go south from their drive.

He said what the applicant was interested in was trying to flush out the issues and have an understanding in what the City Commission's questions were. Staff would then start the proceedings to vacate. Last week, when discussing this issue, it was 2.5 feet, but they wanted to be conservative and say 3 feet.

The other thing appropriate was if vacating the right-of-way, the City should sell the right-of-way. It was what the City had done in other circumstances and it would be appropriate to put those funds elsewhere in the Oread Neighborhood. The layout of the street would not change. What was typically done, the City would hire an appraiser which was paid for by the applicant, and the appraiser would give the City a dollar amount and that was the dollar amount was the amount appropriate to sell to the adjacent property owner. The money could be used to fix a sidewalk or something else that could be used in the Oread Neighborhood.

He thought it would be helpful for the applicant to know what they should be doing in the meantime and if they could proceed.

Commissioner Amyx asked if it was the City's responsibility to examine the engineering and was the footprint of this building becoming larger.

Corliss said he understood the hotel was the exact same size as the City Commission approved. It was physically moving up to, but hopefully less than 3 feet to the west to accommodate the peering their engineers and architects were suggesting.

He said staff typically did not second guess those types of analysis. He said there were a lot of smart people on City staff, but they needed to find someone that specialized in those types of analysis. It was the City Commission's judgment whether or not there was value. Clearly, this was something the applicant did not prefer to do because it was costing money, time and expenses. He thought it was appropriate to trust their judgment. He said it might not be the City Commission's decision and might be something the City Commission wanted someone independently to look at. If that was the case, he suggested that be part of the applicant's costs as well.

Commissioner Amyx said the reason he brought that issue up was because they were going into the right-of-way and asked if it would have an effect on the street work or any utilities in that area. The City Commission went through lengthy discussions along with the HRC and asked if the Commission had to redo that process in order to reexamine the issue.

Corliss said staff had been in discussions with the State Historic Preservation Officer and received communication today that the office had determined that the effect of a right-of-way vacation on the environs of the listed property was essentially the same as the original project and this action could be considered as an addendum to the original project which already had undergone review pursuant to state law. There were some land use approvals and changes to the final development plan that the applicant would have to bear the cost and thought that could be handled administratively. The City Commission could review that document, but the physical building was not changing. There was not an inch of square foot added and he understood the building was physically moving to accommodate this issue of soil and property ownership on the east side of the project. There was a loss of some green space along Indiana, but they were looking elsewhere in the project to see if that green space could be responded to.

Scott McCullough, Planning and Development Services Director, said in staff's preliminary review, the impact would be a loss of 2 – 3 feet of actual grass or green space. It

was the number of type of landscape elements, outside of the grass, trees, shrubs, and all those important elements, would be maintained if not bolstered perhaps with some sort of mitigated with the loss of that 2 – 3 feet of grass area.

Commissioner Amyx asked if the applicant was looking for direction to go ahead and proceed with the construction, prior to the City Commission making a decision about the vacation.

Corliss said if this was the process outlined as far as the vacation was appropriate, then staff would work to get a legal description, get the notice published in which 20 days was needed between when the notice was published and the hearing. He said it could be placed on some June City Commission agenda, and if the vacation order was approved, then the applicant would own that right-of-way and at that time, the check would come to the City for the amount of the appraisal. The question the applicant had last week, was what they were going to be able to do in the meantime. He could not provide any level of guarantee until the City approved a vacation order. Whether or not the applicant wanted to move forward with any type of work on the “hope” this would occur, might be something the Commission might want to talk about. This was the time for the applicant to get their work done because there was less traffic.

Commissioner Amyx asked if staff was far enough in the process of the vacation to feel comfortable that the City would not have a future use for 3 feet of space.

Corliss said staff looked at the location of the utilities. There was a waterline in the street that would not be negatively impacted by the vacation or the moving of the building and there were no other utilities located on that side of the street, which was why they had more right-of-way than streets to accommodate sidewalk and utilities. He said under statutory proceeding, the City needed to notify adjacent property owners. To date, staff had not found any reason why this vacation would harm the City’s utility needs for Indiana Street.

Commissioner Amyx said if the project was stalled at this point would they need to keep Indiana Street closed into the fall semester.

Corliss said that was a concern and the applicant could be losing some good weather weeks to proceed with construction.

Commissioner Amyx said he was not excited or happy dealing with change orders on a Tuesday night for a project like this, but he thought it was probably appropriate to consider the vacation under normal, statutory requirements. The only questions left was how long that street would be closed in the neighborhood, traffic concern that would happen the first part of August, and when they wanted the applicant to have that street back open to make sure the people that lived on Indiana Street did not need to park blocks away. He said he suggested giving direction to proceed.

Mayor Dever said the question that had not been publicly stated and answered was why the eastern adjacent neighbor was not contacted and those negotiations conducted prior to putting the City Commission in a position where they needed to move rapidly and balance the schedule of the project with the proper procedures and to infer they were going to proceed. He asked why there had been a change of plans based on land owner, if they could get that solved, and if it was a faster way to conduct business rather than the City Commission infer approving it. He said it was stated that the property owner would not let them. He asked the applicant to explain what happened.

Werner said he was not sure he could. There were conversations, but not with him, and thought things deteriorated enough to where they did not see that as an option or they would not be present. He understood the City Commission's frustration and essentially it was the applicant's risk because they might come back in 20 days and something happened and this did not go through. He said Corliss was good enough to get this issue on the agenda to hear the questions so they could answer those questions as much as they could.

Mayor Dever said what the potential concern was in excavating the area under the presumption the applicant would move to the west, 3 feet, and asked what happened if they started excavating and then some of the other shoring techniques were no longer viable. He

asked what other options would be eliminated if they had eliminated any options through the processes followed so far.

Werner said there were always options, different engineers, and different geotechnical guys. He thought they would know later in the week, so they could narrow the request down.

Homburg said they also needed to rely on the body of work of their geotechnical and structural engineer's experience. Both engineers had a vast degree of experience and knowledge in subsurface structures. They were taking the engineers expertise and knowledge to be what was going to be their best option.

Mayor Dever asked if there was a reason to believe that if they started excavating the material and for some reason they encounter some unknown surface anomaly or for some reason the process did not allow them to move three feet to the west, he asked what it was going to do to the process of building and if it would delay a longer period of time in closing that street.

Werner said in their minds, if they could narrow it down to where it would be 18 inches versus 3 feet; they were going to find out more every day. He said they had enough holes over that site and knew what they knew and presented what they thought was the best plan.

Mayor Dever said it was fair to say they could not presume it was going to occur and the applicant would need to work in good faith. He did not know if anyone on the City Commission would tell them to proceed, because it was not the City Commission's place and they needed to protect the neighborhood from being closed down for months as well.

Werner said just shoring it with a different method would take two months longer to shore it before they poured concrete and was a delay as well without taking the right-of-way. He said they tried to weigh out their options and it was not fun to show up at a City Commission meeting and ask for things.

Alstrom said there were a couple other minor points he wanted to mention and one point was site drainage. He said when they presented the sketch of alternative wall sections in the

foundation systems and there was a legal question of an evaluation of viable alternatives, the City Commission should not be making a decision based on their project schedule, but what was best for the City and since TIF funding was the foundation of the project. He said from his experience and from the issue they had not identified was what the drainage around the foundation system and the drainage around the new garage and how that was impacted by this change or not impacted. He said he would like to see the applicant address all those issues instead of one at a time as those issues arose because it needed to be hammered into the applicant that the legal fiction the City Commissioners pursued that this was the only feasible and prudent alternative for this site, was really a legal fiction. If they were to say it was and now it was not and have an encroachment, it would be a huge gap and was not really the only feasible and prudent alternative if they had to encroach on the public right-of-way. It was a mess legally. He said with his experience with very large project and experience with very large construction management firms, the soil drainage that deep excavation was important and should be addressed simultaneous with those decisions. He said what Werner stated was the three foot offset might be a recommendation from an engineer, but found it a stretch to be the only possible choice.

Vice Mayor Chestnut said he agreed with the Mayor that this was not a good place to be, but thought that some perspective needed to be placed into this issue. First of all, they had gone through the process of determining from the state that this was not impacting the finding they made before and it was important to state again.

Secondly, one thing that was important to recognize was that infill projects were going to have more obstacles and if they were committed to continuing to create density within the community, those were the types of issues that would need to be wrangle through because they were talking about very tight pieces of land and the alternative was to have people start building in green fields because it was easier to do. The fact was this was just what it was. He said it appeared there had been extensive communication needed to continue. He was glad several

neighbors were present and hopefully they would be able to take this offline and negotiate getting into their driveway, which was a critical thing to do. He knew that he could not predict whether this was going to be closed for 6 weeks or 8 weeks, but was hopeful that everything came together. With the vacation request coming up, it would realistically be at least 3 weeks before it was back on. The City Commission needed to continue to receive more information to make a good ruling, at that time, based on other public comment received.

Commissioner Highberger said he was pleased the applicant was willing to work with the neighbors and if that ever changed they should come back and talk to the City Commission.

He said he disagreed with Alstrom's contention that the nature of the project had changed. He said if he thought there was a substantive change to the design of the project, he would insist the project go back through the HRC.

He would prefer not having to move three feet to the west for several reasons, but based on what he heard this might be the best option. He would move forward with the vacation and approve closing the street. He said he would want to put on the record that he hoped the applicant could open the street as soon as possible.

Commissioner Amyx said he could agree with the Vice Mayor and Commissioner Highberger. He said the big issue was working with the neighborhood and explaining the things that needed to be done with the adjoining property owners to make sure that access was going to be available so the neighbors could feel safe. His main concern was the amount of time in shutting down Indiana Street, creating traffic on another street. He said he hoped other alternatives could be investigated and address where the bus route and traffic route was going to be. He said regarding signage, they were going to have traffic head on, but staff could work with the neighborhood to make sure drivers were not being inconvenienced. He said he was ready to proceed.

Mayor Dever said he did not have much to add. The traffic plan needed to be focused on and if they could get that moving forward along with the wording on the signage that was

crucial. He knew people were going to get confused, now that there were a number of streets closed in the neighborhood. He wanted to see the traffic plan flushed out and improved. He did not like to give up right-of-way and would like to move the process forward to determine what the land was worth and identify any other potential utility or right-of-way issues.

Moved by Amyx, seconded by Chestnut, to receive the request and direct staff to proceed with the statutory vacation proceedings process; authorized staff to proceed with the appraisal process for right of way; and to authorize the applicant to work with the Public Works Department to close Indiana Street for a period of time. Motion carried unanimously. **(12)**

PUBLIC COMMENT: None

FUTURE AGENDA ITEMS:

- 05/20/08 • Commissioner Hack will be absent.
- 05/27/08 • Consider request for donation of City services in support of the Ironman Triathlon, Lawrence Live, and the Rock Chalk Run. Support from the Police, Fire Medical, Public Works, and Parks & Recreation Departments will cost approximately \$4,715. Also consider approval of a Special Event Permit and use of right-of-way permits for Lawrence Live and the Rock Chalk Run.

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).

- 06/03/08
- Conduct public hearing regarding the sale and serving of alcohol within 400 feet of a school or church for a proposed outdoor event and concert (Lawrence Live) on the 900 block of New Hampshire.
 - Consider modification to site plan conditions (SP-08-53-04), Louise's West, 1307 W. 7th Street, for outdoor patio smoking area to remove the restriction of not allowing drinks on the fenced-in patio area.

- 06/17/08
- Receive update from KDOT and HNTB on the design effort for the replacement of the 23rd Street Bridge.

- TBD
- Downtown 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.
 - Consider adoption of Tax Increment Financing and Transportation Development District policies.

ACTION: Adopt policies, if appropriate.

- Receive staff memo regarding green burials.

- Approve rezoning Z-02-07A-08, a request to rezone a tract of land approximately 6.99 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential). The property is located S of Overland Dr between Stoneridge Dr & Queens Rd. Adopt on first reading, Ordinance No. 8265, rezoning approximately 6.99 acres (Z-02-07A-08) from UR to RM12. (PC Item 6A; approved 7-0 on 4/21/08)
- Approve rezoning Z-02-07B-08, a request to rezone a tract of land approximately 20.92 acres from UR (Urban Reserve) to RM15 (Multi-Dwelling Residential). The property is located S of Overland Dr between Stoneridge Dr & Queens Rd. Adopt on first reading, Ordinance No. 8266, rezoning approximately 20.92 acres (Z-02-07B-08) from UR to RM15. (PC Item 6B; approved 7-0 on 4/21/08)
- Approve rezoning Z-02-07D-08, a request to rezone a tract of land approximately 5.669 acres from UR (Urban Reserve) to CO (Office Commercial). The property is located N of 6th St between Stoneridge Dr & Queens Rd. Adopt on first reading, Ordinance No. 8267, rezoning approximately 5.669 acres (Z-02-07D-08) from UR to CO. (PC Item 6D; approved 7-0 on 4/21/08)
- Accept dedication of easements and rights-of-way for PP-10-09-07, a Preliminary Plat for Creekstone, Stoneridge Dr to Queens Rd & 6th St to Overland Dr, a 7 lot subdivision containing 34.864 acres. (PC Item 6E; approved 7-0 on 4/21/08)
- Consider a request for a marked crosswalk together with pedestrian refuge islands on Louisiana Street adjacent to Dakota Street (Considered by the City Commission and referred back to the Traffic Safety Commission on 05/06/08).
- Receive request for changes to the definition of “street vendor” in city code to allow art services and provide for the granting of a street vendor license for said services.
- Consider adopting on first reading, Ordinance No. 8214, regarding the keeping of live fowl and domesticated hedgehogs in the city limits.
- Receive County Commission findings concerning proposed annexation of property at K-10 and the Farmers Turnpike.

COMMISSION ITEMS:

Mayor Dever said he wanted to discuss options for current truck routes, enforcement, and the need to expand those routes, or allow certain access depending on activity. He said he

had received questions about the ability to use certain roads with certain sized vehicles. He asked how someone would go about altering the current truck route map.

Chuck Soules, Director of Public Works, presented a map of the current truck routes. He said the designated truck routes in town predominantly were state highways. Iowa Street, 23rd Street, 6th Street, and North 2nd were the main designated truck routes. All the other main arterial collector streets were designated as truck delivery routes. Those routes were developed by a committee, several years ago.

He said staff had received questions about several of those truck routes, specifically at Haskell Avenue to 31st Street because trucks wanted to avoid 23rd Street. He said trucks were to stay on trucks routes until those trucks reached the nearest point to diverge from that truck route to their destination. If a truck wanted to travel from 31st and Iowa to 23rd and Haskell Avenue just to get out of town and was not delivering, those trucks were not to be on that road.

Commissioner Amyx asked about gasoline tanker trucks driving on Massachusetts Street and where those trucks were delivering to.

Mayor Dever asked how one would define the route that was most direct to their point of delivery. He said if the route ended up being five miles longer in order to achieve the trucks destination, and asked if one road could be considered the route to which getting to that point.

Soules said when these routes were developed, it had to do with the community and where larger trucks could drive. From his perspective, it was the stability of some of the streets. The state highways were a little more stable than other streets. Putting large trucks on Haskell or 31st Street with no subgrade and a minimal amount of pavement, that road would continually need to be repaired. He said 23rd Street was not in great shape right now, but that street had a more substantial base.

David Corliss, City Manager, said there were a number of different interests and received a number of comments from citizens and neighborhood associations that were concerned their street was a truck route. There were comments from neighbors along Haskell

Avenue and was what generated the sign placed in that area to make clear it was only a truck delivery route and not a through truck route. Staff also received from comments from individuals that make their living by driving truck and provided great commerce to the community. Staff also received comments from people off of Louisiana. The good news was the North Iowa Street bridge would open, but a lot of that traffic had gone down. The weight of those large trucks beats up the roads and the roads were not designed for that weight.

Soules said the City's existing infrastructure would not handle those large truck weights.

Corliss said another problem was law enforcement resources regarding his matter. It was time consuming in the sense the police had to watch and then follow the truck to see where the truck was headed. The police did not issue a lot of citations, unless the police were told to focus and direct resources because of a particular concern. He said he also felt for the trucker he spoke to who was paying a lot of money for diesel fuel to make a living and was not able to go the most direct route. He said staff would let that trucker know to stay on the state highway and was something he could not say was enforced 24/7 because it was complaint driven, but it was the law.

He suggested proceeding with this issue as a study session item or a more formal discussion because there were neighborhoods interested and businesses that make their living. He said the last time this issue was reviewed a task force was formed in the 1990's.

Mayor Dever said he would come up with some questions regarding this matter, but it would be a public discussion.

Corliss said on the City's website, under maps, the truck route could be found along with the general description of the ordinance.

Commissioner Amyx said he was contacted about a Family Promise Program that was part of Coalition for Homeless Concerns and that person talked about the need for churches that would be taking part in the program about having special use permits which would take place in the November time frame when the housing need would begin. He said there did not

need to be a complete discussion as long as everyone understood there was a process that needed to follow. He thought the organization needed to understand what things needed to proceed on what dates to make sure it went through the process.

Scott McCullough, Director of Planning and Development Services, said this might be a good opportunity and good timing to talk about a broader issue. This issue came to the planning staff in early April along with the recent initiation of the text amendment that the City Commission initiated for homeless shelters in the industrial districts had led staff to do a great deal of research on the issue and matter of homeless shelters.

There were two staff members in planning working with the Police Department, Lawrence Community Shelter, and other groups to talk about the standards when the text amendments were initiated. He said this afternoon his staff provided a memo asking for some direction in whether or not to broaden the issue. What staff was finding was in the new development code, staff did not discuss a lot about specific categories of uses at the time of the adoption, but the code had some weaknesses in terms of how it approached homelessness as a land use category. His staff would like to broaden the scope of that text amendment and look at other cities and ways cities had approached this issue in the code. They already looked at several cities including Denver, Reno, Minneapolis, Topeka, San Diego, Portland, Green Bay, Oklahoma City, Fairfield, California, and Pasadena. Most of those cities had more categories for homeless facilities and services. Lawrence only had a couple. Most had accessory, limited accessory type uses for homeless facilities and Lawrence did not; they had broad categories and most were by special use permit and not permitted as an accessory use. Staff could work within the framework of the code to work with that particular use, work with the special use permit process, and alternative look at broadening the City's text amendment research and efforts. Staff could look at homeless shelters more comprehensively and use the Community Commission on Homelessness as a sounding board as some of the concepts and the development code. Staff believed that while their vision was a great one for addressing

homeless needs, the development code was not necessarily flexible enough to meet those visions.

Moved by Amyx, seconded by Chestnut, to adjourn at 8:00 p.m. Motion carried unanimously.

APPROVED:

Michael Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF MAY 20, 2008

1. Bid – 2008 Overlay Program, Phase 1 to LRM for \$491,995.60.
2. Bid Date Set, 2008 Overlay Program, Phase 2, 18ty & Louisiana
3. Ordinance No. 8268 – Landmark Designation (L-08-01-07) 805 Ohio.
4. Ordinance No. 8269 – Landmark Designation (L-09-02-07), 934 W 21st.
5. Ordinance No. 8271 – Rezone (Z-02-06-08) RM-12S to RS-7, 1309 – 11 W 8th.
6. Ordinance No. 8276 – temp Alcoholic Liquor, Lawrence Municipal Airport.
7. Ordinance No. 8270 – 2nd Read, rezone (Z-03-08-08) 140 acres, Bauer Brook Estates A-1 to RS-40, SE corner of Folks & Peterson.
8. Ordinance No. 8272/County Res____ - 2nd Read, amend Horizon 2020, proposed mixed use district.
9. Ordinance No. 8273 – 2nd Read, max assess, 6th & Congressional.
10. Variance Request – Wakarusa 15 Assoc, Lt 3A, Alvamar NW No. 3.
11. City Manager's report.
12. Vacation of ROW – The Oread Inn, E side of Indiana.