



# City of Lawrence

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CITY COMMISSION  
  
**MAYOR**  
MICHAEL H. DEVER  
  
**COMMISSIONERS**  
SUE HACK  
ROBERT CHESTNUT  
DENNIS "BOOG" HIGHBERGER  
MIKE AMYX

May 27, 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, Hack, and Highberger present.

## **RECOGNITION/PROCLAMATION/PRESENTATION:**

With Commission approval Mayor Dever proclaimed Wednesday, May 28<sup>th</sup>, 2008, as "Hallmark Appreciation Day."

At the request of the applicant, the airport annexation and rezonings were deferred from the Regular Agenda.

## **CONSENT AGENDA**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve the City Commission meeting minutes of May 13, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve the Lawrence-Douglas County Metropolitan Planning Commission meetings of February 25-27, 2008, March 24-26, 2008, and April 21-23, 2008; and the Human Relations Commission meeting of February 20, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve claims to 446 vendors in the amount of \$1,724,224.91 and payroll from May 11, 2008 to May 24, 2008, in the amount of \$1,571,573.29. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve Drinking Establishment License for Genovese, 941 Massachusetts. Motion carried unanimously.

The City Commission reviewed the bids for programmable logic controller hardware to maintain the existing control system at the wastewater treatment plan for the Utilities Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Logic, Inc.	\$23,098.00
R.E. Pedrotti Company, Inc.	\$24,261.75

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to award the bid to Logic, Inc., in the amount of \$23,098.00. Motion carried unanimously. **(1)**

The City Commission reviewed the bids for supervisory control and data acquisition software for the Kaw Water Treatment Plant for the Utilities Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
R.E. Pedrotti Company, Inc.	\$68,065.00
Industrial Network Systems	\$69,057.38
Logic, Inc.	\$81,267.00

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to award the bid to R.E. Pedrotti Company, Inc., in the amount of \$68,065.00. Motion carried unanimously. **(2)**

The City Commission reviewed the bids for programmable logic controller hardware for the Kaw Water Treatment Plant for the Utilities Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Logic, Inc.	\$76,458.25
R.E. Pedrotti Company, Inc.	\$84,164.75

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to award the bid to Logic, Inc., in the amount of \$76,458.25. Motion carried unanimously. **(3)**

The City Commission reviewed the bids for one (1) trailer mounted vacuum excavation machine for the Utilities Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Vermeer Great Plains	\$41,412.00
EH Wachs Company	\$44,285.00

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to award the bid to EH Wachs Company, in the amount of \$44,285.00. Motion carried unanimously. **(4)**

The City Commission reviewed the bids for janitorial services for the Community Health Building for the Public Works Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Nelson's Property Management	\$41,000.09
ISS Facility Services, Inc.	\$64,520.00
Smart Building Services	\$66,435.00
Lawrence Janitorial Services	\$70,200.00
Servicemaster	\$70,200.00
Bob's Janitorial Service	\$87,744.00
Jani King	\$94,260.00

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to award the bid to Nelson's Property Management, in the amount of \$41,000.09. Motion carried unanimously. **(5)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve Change Order No. 4 to the construction contract with CAS Construction, LLC of the Phase II Clinton Water treatment Plant Expansion increasing the contract amount by \$48,529.62 and adjusting the completion dates by an additional 44 days. Motion carried unanimously. **(6)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize the purchase of 74 water meters from Midwest Meter for \$42,733 in order to complete the 2008 Meter Change Out Program. Motion carried unanimously. (7)

Ordinance No. 8268, for Landmark Designation, L-08-01-07, placing the structure located at 805 Ohio Street on the Lawrence Register of Historic Places, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (8)

Ordinance No. 8269, for Landmark Designation, L-09-02-07, placing the structure located at 934 W. 21<sup>st</sup> Street on the Lawrence Register of Historic Places, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (9)

Ordinance No. 8271, rezoning approximately .39 acres (Z-02-06-08) from RM-12 D (Multi-Dwelling Residential) to RS-7 (Single-Dwelling Residential), located at 1309-11 W. 8<sup>th</sup> Street, and a portion of 820-22 Canterbury Lane, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (10)

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, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt Resolution No. 6769, for providing assistance to other jurisdictions during times of disaster. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve, subject to conditions, SE-04-17-08, a Special event request for a downtown film festival located in the 900 Block of New Hampshire Street, more specifically the southwest corner of 9<sup>th</sup> Street and New Hampshire Street. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve as a “sign of community interest” a request from Downtown Lawrence, Inc. to hang a banner on the north side of the New Hampshire Street Parking Garage from June 2, 2008, through August 22, 2008, to promote the Downtown Lawrence Film Festival. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve as a “sign of community interest” a request from the Convention and Visitors Bureau to hang a banner on the north side of the New Hampshire Street Parking Garage from May 28, 2008, through June 15, 2008, advertising Lawrence Live. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve use of right-of-way permits to the Convention and Visitors Bureau for the closure and use of North Park Street from 4:00 p.m. – 10:30 p.m. daily from June 18-22, and the bagging of three parking meters on the south side of 7<sup>th</sup> Street near Kentucky Street from 6:00 a.m. June 18 through 5:00 p.m. June 22 for events associated with the Kansas-Nebraska Cautauqua. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize the City Manager to enter into a license agreement with LFF, LLC to allow for the

continuation of existing parking within the right-of-way along the east side of 704 – 728 Connecticut Street. Motion carried unanimously. (17)

Mayor Dever pulled from the consent agenda the authorization of the expenditures of budgeted funds for the renewal of public entity insurance coverage for the City of Lawrence with CEK Insurance for \$73,777.

Commissioner Hack withdrew and excused herself from the City Commission Chambers for the Commission's vote.

**Moved by Chestnut, seconded by Amyx,** to authorize the expenditures of budgeted funds for the renewal of public entity insurance coverage for the City of Lawrence with CEK Insurance for \$73,777. Aye: Amyx, Chestnut, Dever, and Highberger. Nay: None. Abstain: Hack. Motion carried. (18)

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

During the City Manager's Report, David Corliss said the City received a letter regarding Kansas Department of Transportation funding for local transportation programs. KDOT had been an important partner with the City for a number of years on a number of projects. He said staff also knew that state transportation funds were not going to be available. It was a major retreat from the state's ability to fund those important road projects. Staff would send a letter to the Secretary of Transportation regarding the City's concerns about that issue. He said he wanted to make sure it was on record that this funding issue was a substantial setback for the City. Without those funds, staff could not do much in the way of community improvements in the area of the City's surface transportation.

He also reported the Turnpike, with their user fees, was able to embark on the Kansas River Bridge Project and enhancement of the toll plazas in the area. Staff would be working with the Turnpike Authority in helping motorists know about traffic configuration changes which would have a significant impact on the community as those plazas were reconstructed.

He said other items in the City Manager's Report included planning staff began the process of drafting a sector plan around K-10 and I-70, in the Farmer's Turnpike area; the Utilities Department began work on the Stoneridge Elevated Tank Construction and the Kaw Water Treatment Plant Transmission Main Design; City staff was investigating options for the Burlington Santa Fe Depot, located on East 7<sup>th</sup> Street; a Flood Information Brochure was sent to property owners located in the Special Flood Hazard Areas; and, the Utility Department was going to contract to obtain after hours support from a local answering service in providing cost effective and improved customer service response. (19)

**REGULAR AGENDA ITEMS:**

**Consider adopting on first reading, Ordinance No. 8275, establishing STOP signs at the four (4) traffic booth entrances on the KU campus.**

Chuck Soules, Public Works Director, presented the staff report. He said the Traffic Safety Commission heard a request from KU to place permanent stop signs at the four entrances to the campus on Jayhawk Boulevard southbound at the traffic control booth south of 13<sup>th</sup> Street; Jayhawk Boulevard eastbound at the traffic control booth east of West Campus Road; Mississippi Street southbound at the traffic control booth south of Memorial Drive; and, Sunflower Road northbound at the traffic control booth north of Sunnyside Avenue. The Traffic Safety Commission voted to deny the request, but staff was recommending approval. Some of the issues were security, pedestrian safety and other issues. If allowing KU to maintain and control traffic on their campus, an ordinance needed to be passed and could be enforced through Municipal Court.

Mayor Dever called for public comment.

After receiving no public comment, **it was moved by Hack, seconded by Highberger,** to place on first reading Ordinance No. 8275, establishing "stop signs" at the four (4) traffic booth entrances on the KU campus. Aye: Dever, Hack, and Highberger. Nay: Amyx and Chestnut. Motion carried. (20)

**Presentation on Pilot Demonstration Project for the Green Energy Gateway Fuel Station located at 9<sup>th</sup> and Iowa Streets. Opening day is scheduled for June 30, 2008.**

Scott McCullough, Planning and Development Services Department, presented the staff report. He said this item came in a bit of a premature showing as no formal application had been submitted for this project and staff was mainly looking for direction.

The project was a demonstration project on green methods of energy and involved Iowa Street, 9<sup>th</sup> Street, 9<sup>th</sup> Street Terrace, and on the southeast corner of 9<sup>th</sup> and Iowa was the biofuel diesel station. The project involved constructing elements to the private fuel station and to the public right-of-way. Improvements included adding wind turbine and solar panels to the existing gas canopy, converting the storage building to a drive through coffee shop or hut, adding a green roof to another building which supported other structures that would be a type of guttering system that drained into a new manmade rain garden. There would also be landscaping around the perimeter of the project. He said there were water and sewer lines in a portion of the right-of-way as well as easements.

He said staff informally took this issue to a Plan Review Committee meeting which was a team of City and outside agencies that looked at site plans and development applications. He said the project was interesting in a number of ways, but was complicated in terms of process, detail and all the entities involved. Under the traffic engineering comments, it noted that there were previous discussions with exchanging old right-of-way for new right-of-way for a development project and they had to be mindful of that as they moved forward with any development of this property. Also, the public right-of-way portion, it appeared from research that it was zoned RS-7 as an accessory to the commercial gas station which needed to be addressed. There might be variances needed for the development of the private property and the site plan itself might require changes to the property in terms of its impervious area and drive way widths.



Also notable was some of the history he was not aware of such as a small massing of trees located east of the storage building. According to Parks and Recreation comments, those trees were requested by the neighborhood to help buffer the commercial area with the neighborhood area. He understood that there was at least one dead tree and some opinions about the aesthetics of that screening. There were also utility agencies issues that the applicant needed to meet individually with utility departments.

Vice Mayor Chestnut asked where the RS7 zoning came from.

McCullough said he believed it went with the residence on the northeast side of the bio fuel station.

Commissioner Amyx asked if the Commission's goal was to give direction on how to proceed and to allow a temporary use of the bio fuel station.

McCullough said a grand opening was scheduled for June 30<sup>th</sup>, which was why the applicant was present at a preliminary stage of this project and to open up issues to the Commission. Procedurally, the applicant needed to obtain a right-of-way permit for those improvements in the right-of-way and to close 9<sup>th</sup> Street Terrace to have the grand opening media event.

Staff had a meeting with the applicant's engineer the next day to talk about site planning processes, but anticipated variances and a number of other complications for the site plan itself. Staff was looking for direction on the demonstration weekend and the applicant might be able to do some things that were not permanent. Staff was not asking the City Commission to bless anything that needed to go through the BZA or staff administrative approval or anything else. Staff was looking at this as if it was a good site to create a pedestrian user type of facility because the applicant wanted more permanent structures. Staff was also looking to see if the City Commission wanted the City to do some tree and brush removal to clean up the site and proceed if they thought this was a good project in concept, staff could continue to facilitate the project along.

Commissioner Amyx asked if the tree work was on private property or on the right-of-way.

McCullough said it looked like the trees were on the public right-of-way.

Commissioner Highberger asked if there had been any thought about how pedestrian access would work under the changed footprint.

McCullough said no. Staff identified that access as an issue in terms of the sidewalks and parking for the facility. The site plan process included notification to the neighborhood and staff saw notification as an important part of the site planning process.

Commissioner Highberger asked if neighbors were given notification of this presentation.

McCullough said to his knowledge, no.

Commissioner Hack asked about the T stop on 9<sup>th</sup> Street Terrace.

McCullough said site distance triangles were an important element and staff needed to be considerate in making sure there was a clear zone along with the car pedestrian issues. There was not much topography that segregated those two modes of transportation. The applicant proposed landscaping and building rock walls which helped segregate the park use from the vehicle use.

Commissioner Hack said there was a stop for Transit on 9<sup>th</sup> Street Terrace so that would also have to be something considered.

Mayor Dever said there were a number of issues to be discussed such as what types of changes the applicant wanted to make to the property, wind turbine and solar panel questions about screening for those types of devices. Also, there were discussions about the use of the public right-of-way and the permanency of all those changes. The City Commission needed to discuss if this was something they wanted to do long term or if they wanted to move forward quickly in a fashion to expedite this event to meet some deadline the Commission might or might not agree with.

Commissioner Amyx asked if the City Commission was trying to give the applicant a temporary use for the grand opening event and then allow everything else to go through the process as it normally would. It was obvious if the Commission was looking at a vacation of right-of-way on 9<sup>th</sup> Street Terrace, there was a public hearing process required by law.

Scott Zaremba, owner of Zarco 66 No. 3, said those were two different issues. The dedication of right-of-way was brought up because it was a discussion they had four or five months ago with Chuck Soules. It was a much larger issue further down the road when KDOT had money again and they could put all those things in play to clean up 9<sup>th</sup> Street. He asked the City Commission to totally set that issue aside.

Commissioner Amyx asked if at this time, they were talking about the temporary use for the June 30<sup>th</sup> event.

Zaremba said they started this project a year ago and the Green Energy Gateway portion was something that came up in the last 6 – 8 months. Through discussions with KDHE when deciding to put in the earth friendly location and change the tanks out, through that process and through KDHE, KDHE contacted the EPA to look at what was being done at the site and it was something that had not been done anywhere else in the country through the blending dispensers and how the their fuels were blended was something totally new. It caused a lot of people to look at what they were doing, how they were doing it, and the advantages. They also were looking at other things that could be done with this site because of its unique location.

He said the EPA asked if they would be interested in creating this area as a Green Energy Gateway. The definition of a Green Energy Gateway was still up in the air on what they wanted to accomplish, but wanted to show the public, as the public were fueling at that location, all the aspects of reducing the energy footprint in day to day life. The Green Energy Gateway was used with the four R's in mind: reduce, reuse, recycle and renew. He thought those were positive things needed in everyday life. When the EPA came to him and said they wanted to

explore the four R's, he agreed with all the things the EPA wanted to do. The opportunities could provide to consumers access to green house gas intensive fuels. It gave something else to bring into the community other than the standard energy forms and could engage to consumers about utilization and options, minimize the environmental footprint of the facility, and demonstrate various techniques and technologies.

He said areas to explore were education and there were actually television screens in the dispensers that could education the consumers on all the day to day activities to help move forward with the four R's. He said right now, the objective was a grand opening. He said he opened his gas station in February and dealing with the EPA and trying to move things forward took time and with the EPA on board, KDHE and all the other people involved, he thought the June 30<sup>th</sup> date was a good starting point in moving forward.

He said they needed help with some of the small things such as the zoning, use of the site, tree removal on City right-of-way, easement, pedestrian resources demonstrating efficiency for the pilot location, and creating a repeatable program. The EPA wanted to see if they could create and move this program throughout the country to show people in the retail fuel or any other business about all the small aspects that could be done to improve their locations with those four R's. He said if everyone did a little bit, they could make a big change and he was excited of what the EPA had come up and their ideas. Getting those ideas moved forward was not easy, but something that needed to be done because it was good for the community.

He said on the opening day all that was needed was to have the 9<sup>th</sup> Street spur closed for a short time, 8:30 am to noon, to set up the stages and have the demonstrations on the site. The sustainability pavilion was the rain garden and the KU design students that created it could talk about it since they created it.

He said the wind turbine was something that was interesting. The wind turbine had yet to be massed produced, but was still on the cutting edge. The piece of equipment was 7.5 feet wide and 8.5 feet tall, so it was not a very big unit. The vision was seeing that wind turbine on

top of the canopy and to demonstrate what could be done with wind energy in a small area. It was the same with the solar panels and the evolving technology. The whole aspect of the site, besides selling earth friendly fuels to everyone, was educate everyone on what could be done to help improve their community and their life. He said the idea behind the site was simple; help promote the 4 R's to help create a viable business.

Mayor Dever said the first question revolved around the due date, basically 30 days from now. He asked Zaremba to elaborate on the significance of that date.

Zaremba said the importance of the date was being able to get it open, functioning, and bringing it to the public. He had been holding off to the public because the EPA had asked him to so the EPA could get everything lined up to promote this facility properly. They did not expect to have everything in place for June 30<sup>th</sup>, but wanted to do everything they could.

Commissioner Hack asked what exactly Zaremba needed from the City by the 30<sup>th</sup>.

Zaremba said the 9<sup>th</sup> Street permit allowed him to work with the solar and put the green roof on and have the coffee building opening and functioning by then, but there was not much change there. The rain garden was something they would like to put in play, but there were a lot of aspects in play right now and there might be a smaller version that could be put together if the Commission felt like the rain garden was too elaborate. He was pushing it forward because he was a business man and needed to make money.

Mayor Dever asked Zaremba how the EPA became involved in the process, the importance of its initiative, and the education toward the community.

Zaremba said the EPA became involved about 6 months ago and EPA came to him and said they saw what he was doing with renewable fuels, which was something that had not happened in the US to their extent. Because of that uniqueness, the EPA thought it was a good site and location to bring other people in and show them the ability to show them the 4 R's into the business. They were still evolving and were probably 6 months away from the EPA having

a comprehensive package or 2 years away. He liked the EPA's concept and thought it was solid.

Vice Mayor Chestnut said the things Zaremba was asking for such as zoning use, tree removal, and easement, they had to walk through with McCullough and understand the process issues. The zoning was an issue and public notice as well.

Commissioner Amyx asked Zaremba how he saw traffic issues on the day of grand opening, if blocking off traffic on 9<sup>th</sup> Street Terrace and asked how traffic was going to circulate in and around the current station to the south.

Zaremba said traffic would go in and out the two entrances to the west side of the property. He said they wanted to keep it a short time frame which was on a Monday because a lot of the elected representatives traveled back to D.C. on that Monday.

Commissioner Highberger said compared to the trees on site now, what were the relative merits to the pavilion in terms of carbon footprint and screening activity of the site from the neighborhood.

Neil Steiner, KU design student, said they took into account the line of site coming off 9<sup>th</sup> Street Terrace along with the utilities and water utilities. The water utilities seemed wide because of the offset at the request of Public Works. The protection of the site from traffic, they talked about a sidewalk going along the side and a crosswalk on 9<sup>th</sup> Street Terrace if it remained. He said otherwise, there was vegetation and stones that were approximately 24 inches high and three, five, and seven feet across that encompassed the site.

The educational aspect was because energy came in many forms, they were showing the energy of water and how life thrived through photosynthesis. It was a do-it-yourself project that a lot of people could do with rainwater at home to help water quality.

Commissioner Highberger said it sounded a little counterintuitive to start a green project by cutting down trees. He asked if there was going to be enough biological activity in the pavilion to offset what would be lost by taking the trees out.

Steiner said considering half the trees were dead, he would say yes. It was an issue at first and thought about transplanting those trees, but did not see that as a viable option. He said they would incorporate as much vegetation as possible.

Mayor Dever asked about KDHE's involvement in this process and if Zaremba could elaborate how Michael Pomes, KDHE, was interfaced with this process.

Zaremba said Pomes was the key to starting this process. When he approached KDHE to let them know they were taking the tanks out of the ground and replacing those tanks it would improve the site dramatically, that was where Pomes came into play.

Michael Pomes, KDHE, said they had 25 State inspectors undergo training on the site, so it was also a valuable training resource because of the different things Zaremba was doing with the blended fuels on site.

Zaremba said it was a unique facility throughout the Midwest because no one had anything like it. Because they also had a site next door, it was a perfect training facility and had discussions with EPA about evolving that out and bringing that in. They were training the trainers through this site and showing all the aspects.

Commissioner Amyx said the items requested, if the City Commission allowed those items on a temporary basis to get Zaremba through, until going through things like the process of permanent zoning, he asked how hard would those temporary items be to move or change, especially the botanical garden to the east of the coffee hut. He said if there were changes that needed to happen because of site plan regulations to allow on a temporary basis, he asked how hard it would be to change, once final approval was given.

Zaremba said it depended on how involved they got in creating the botanical garden and other things. If they created something that was less than what they wanted permanently, he was all for working for whatever it took to get to the end which was to have something that was viable and improve the site and the community. Whatever it took to get to that point, he would go for it to move forward.

Steiner said their design was a semi permanent structure. A lot of it was rock work that could be moved by bulldozer and could move the structure to be temporary or if there was an idea for the site further down the line, they would love to work with that idea and work the design around it.

Zaremba said the ultimate goal of that location was to improve the 9<sup>th</sup> Street intersection so there was no backup on the 9<sup>th</sup> Street turn lane and move all the things around to get the corner cleaned up to make it an organized, functioning corner and to get traffic flowing which was their ultimate goal. He did not know how long it would take, but as they evolved, the Commission needed to keep that in mind.

Commissioner Amyx said he would hate to see Zaremba spend a whole lot of money to make permanent changes to the site which Zaremba had already made a large investment at that location, but there were things the Commission was required to do through the site plan and zoning processes. He wanted to make sure those changes made, could be moved.

Zaremba said they could change or do anything. It was the leeway the City could give them to get this idea achieved.

Commissioner Amyx said the Commission should discuss a temporary use permit to allow the use of 9<sup>th</sup> Street Terrace and allow the items Zaremba needed to put on this pilot program, but make sure Zaremba understood it was a temporary nature and subject to any final approval of a site planning.

Commissioner Hack said the City's Parks and Recreation Superintendent indicated there was only one dead pine tree in that area. She asked who would maintain the garden because it was indicated on the Superintendents report the City would be asked to maintain the garden.

Zaremba said if the City would not maintain it, he would. The whole idea behind that garden was to try to make it as self sustaining as possible. They needed to make it quasi self sustainable but just like anything they needed to maintain it. They would do whatever it took to maintain the garden. It was not only an energy gateway, but a gateway into the community.



Commissioner Highberger asked if there were any concerns about the temporary closure of the roadway.

David Woosley, Traffic Engineer, said no, since it was only for four or five hours.

Commissioner Highberger asked if there would be signage. He did not know if a lot of people knew that they could go up to 9<sup>th</sup> Street to take a right.

Woosley said they would only need to block it off at that point.

Commissioner Highberger said they needed to make it clear to people they could not go up to 9<sup>th</sup> Street to take a right.

Commissioner Amyx said this seemed like this was the first time the City had been involved in putting in temporary changes to a site that might involve a permanent nature in the future. He asked if there was a legal document needed to make that work.

Corliss said a Letter of Understanding between Zaremba and the City to clarify that if the City were to allow those temporary uses and it would be the City's expectations that a site plan or any other land use requirements would be in place within a reasonable period of time afterwards, would be appropriate, and the consequences that they were to be removed. He said with previous Commissions, at one time, the City had an agreement to plat which allowed property owners to pull a building permit before they followed all the subdivision regulations for platting. The City had that agreement to plat, originally, in situations where property owners needed to get a City water connection, but the property owners needed to follow through to get the necessary easements in place for the water connection and plat the property. It evolved where someone was caught in a situation where that person needed land use approvals and wanted to go ahead and build for business reasons, but the plat was not in place to approve. A previous Commission directed staff not to use that instrument anymore so that instrument was removed and not used.

He said this project was a balance between a good project that had a lot of merits and a set of good rules that provided the City with things for the community. Staff was trying to work

with this exceptional situation, but staff did not want to make it a precedent, otherwise that was what the Commission would be doing every Tuesday night which was designing site plans. To the applicant's credit, the applicant was doing something different which was to have a place for a community celebration and educational opportunity as well. There were a lot of scheduling issues to get people in place and there were a lot of extenuating circumstances.

If the City Commission wanted to proceed and allow for the temporary uses, the Commission needed to make it clear the uses and what uses were not allowed. Then there needed to be some type of letter of agreement with the applicant stating what the applicant could proceed with, but if there were problems, there would be a concern if it was appropriate to be at that location. The city owned the right-of-way, but there were discussion whether the City was going to sell the public right-of-way and did not know if the Commission wanted to proceed with that idea. He said the intersection might change where the City might trade the right-of-way. He suggested a letter of agreement that gave a clear understanding of what would be allowed. Clearly, closing the street on a temporary basis and allowing temporary banners would not be a problem, but when talking about permanent installations on the site, staff wanted to make sure it followed code.

Vice Mayor Chestnut said he did not disagree with what Corliss was recommending, but he was concerned about public notice and also, because use changes were being discussed and typically would require quite a bit of process relative to notification. He said regarding the coffee kiosk, he was assuming it was not a permitted use based on the zoning.

McCullough said he needed to check the zoning, but believed it was a permitted use and took site planning to revise the traffic flow.

Vice Mayor Chestnut said he understood there were variances, but they were not talking about any uses that would be outside the permitted uses for that commercial zoning.

McCullough said the only uses were the actual demonstration plot in the public right-of-way which was zoned RS7. If it was determined that it was a stand alone, passive recreation

area, it was allowed in RS7 zoning. If it was more accessory to and physically attached to Zaremba's property, which was the way staff understood, it was more akin to accessory to the Zaremba's commercial property. It would determine more on how it was developed and the relationship, but it was undetermined at this point. He said there might or might not be a zoning issue with the right-of-way parcel.

He said one option would be to entertain a request for a special event permit for the private property and a right-of-way permit for some development of the public right-of-way in closing the street which could be firmed up with a site plan for the entire special event permit with a timeframe and draft a letter of agreement. He said all those things together would make it a temporary project for the June 30<sup>th</sup> date and then they would follow up with all the zoning approvals. He would not recommend taking down the trees until determinations were made, but it would get a good sized project, on the ground, even if there were temporary permits for the wind turbine, solar panels and those types of things.

Vice Mayor Chestnut asked if there was some way to do what they typically did for notification, during this period of time. He had some concerns that some people were going to be interested in what was going on and people would be seeing a lot of activity.

Corliss said on site plans, staff notified adjacent property owners, but could notify property owners in a wider area about that area being under review, and then staff could provide the Commission with the comments received following up with placing the project on a Commission agenda.

Mayor Dever said the most irrevocable thing he could see would be changes made to the storage/restroom building. He said that building seemed like a permanent change and would immediately impact the land owner and associated costs which could be subject to denial. He said that was important process in allowing a site plan and a building improvement to be made and that would be setting a precedent the Commission would be setting for other

people who would want to make the same changes without the appropriate timeframe. He said the other requests from the applicant were more temporary.

Corliss said this was a continuation of a commercial retail use and it was in a transition area. He said there might be the argument where it was reasonable to expect that if a gas station was already at that site, that the applicant would have some type of ancillary uses.

McCullough said it was not a use issue per se, but it was consistently called changes in circulation to add drive through items in major development plans.

Mayor Dever said they have come across that issue before and not allowed it in other commercial areas.

McCullough said it was not that they did not allow it, but laid out the code requirements and the applicants chose whether or not to follow the code requirements. They saw the same issues at this site especially as it related to the amount of impervious material on the ground and business owners like Zaremba would need to come in and add green space. There were more ways to move through the process and seek waivers too and that was how staff approached those issues.

Mayor Dever said would they be approving those requests under the assumption that this project would be approved, which was his only concern. He said he thought the City Commission should focus on those permanent changes and how those changes might affect Zaremba's ultimate costs.

Commissioner Amyx said the building would be a permanent cost that was subject to the Commission's approval along with public scrutiny and notification. He said regarding those trees, he assumed those trees were planted for screening.

He said the area to the east of the bio fuel station by the Commission granting a letter for those changes, he thought the applicant was making a permanent improvement that could be taken away by the City Commission.

Zaremba said anything could be changed to make it work. All he was looking to do was improve the site. Those trees were right underneath a power line and were cut because of those lines and did not look good. The botanical garden was not connected to the site, but was part of the sustainability that EPA wanted to show. He asked the Commission not to place too much on that single aspect because it could be worked out when moving forward with City staff.

Commissioner Amyx said if the area to the east, where the coffee shop and botanical garden would be located, was important to have in place by the 30<sup>th</sup>.

Zaremba said the green roof on the building was important and he would like to have the coffee shop portion opened at that time. He said regarding the botanical garden portion, he asked for some small portion for that garden and it could evolve that area moving forward if the City wanted to see that improvement made at that site. He said they needed to make the site presentable for the community. He said the site was halfway completed and he wanted to finish that site up.

Commissioner Amyx said if the applicant was allowed to put in the temporary use of the coffee shop, build the green roof, add some portion of a botanical garden, and leave some of the trees up, it would allow the City to go through the public notification process along with determining whether or not to extend notification to a larger area because of the change that would happen in the public right-of-way and thought this issue could be worked out.

Commissioner Hack said what Zaremba had done at that intersection was phenomenal because that area was now cleaned up and was a 1000% better. She did not want any of the Commission's conversations and hesitancy to be interpreted as not being supportive of what had been done and Zaremba's plans for the future. It took a big community to leap to get to some of the sustainable things Zaremba was talking about and those things were expensive. She did not want the Commission's discussion to be interpreted as not liking Zaremba's forethought and ideas. She said Zaremba's collaborations with the various agencies were terrific.

Commissioner Amyx said that Commissioner Hack's comment were to protect Zaremba which was the concern of the Commission.

Commissioner Hack said she wanted to make sure the Commission did not allow Zaremba to do something massive and then it needed to be changed. She did not anticipate a large group of unhappy people because Zaremba enhanced a part of their neighborhood already. She said she could support the temporary closure of 9<sup>th</sup> Street, the special event permit, and the temporary use of the kiosk with the green roof, solar panels, and wind turbines.

Mayor Dever said it was important to think ahead so the Commission did not move quickly. Anytime rushing into something, things were often overlooked and thought the Commission was doing a good job at identifying some of the potential pitfalls.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Highberger said he wanted to make it clear that he was supportive of the project and thought it was a good idea, but was uncomfortable with approving uses without neighborhood notification or public comment. As long as they were clear that those were temporary approvals and if staff or neighborhood raised any objections, they would make changes if needed. Other than that, he would support Commissioner Amyx's recommendation.

Mayor Dever said he wanted to make sure this temporary process was appropriate methodology for the City Commission to be taking so the Commission was not setting precedent and/or violating any existing rule that needed to be followed.

Corliss said everything the Commission did set a precedent for or against the Commission in the future. He thought there were enough unique circumstances with this site and the celebration that was occurring at this location, that someone who wanted to come in and do a coffeehouse at another location and wanted to be under construction for less than a month, the Commission could say that person was not doing something similar.

It was staff's recommendation to draft an agreement with the property owner to allow certain things, but the property owner still had to follow the site planning process. If there were any issues and the ultimate City decision was that those temporary changes were not allowed, then those changes needed to be removed within a certain period of time. He said that was their recommendation and if it was acceptable to the applicant, then they could work out those things.

**Moved by Amyx, seconded by Chestnut,** to direct staff to draft a letter of understanding between the City of Lawrence and Zaremba that included a special event permit, the temporary solar panel and wind turbine request, the temporary closure of 9<sup>th</sup> Street Terrace, the green roof, the temporary improvements to the coffeehouse, a small display of his botanical garden to the east, the City's involvement of the removal of one dead tree, and the application for permanent site planning received by the applicant within 60 days. Motion carried unanimously.

Mayor Dever said the only problem he had was with the wind turbine.

Commissioner Amyx said everything he suggested for approval was temporary.

McCullough asked if that was a motion for a letter of understanding to set up a special event permit and right-of-way permit applications and then notify under those guidelines.

Mayor Dever said yes.

(21)

**Consider setting bid date of June 24, 2008, for the construction of George Williams Way from 6<sup>th</sup> Street to the north city limits, including streets, sidewalks, multi-use paths, storm sewer, and waterline improvements for Project #14-CP4-407(BD), George Williams Way, 6<sup>th</sup> Street to Overland Drive, and Project 15-CP5-407(BD), George Williams Way, Overland Drive to north city limits.**

Chuck Soules, Public Works Director, presented the project details. He said the plans and specifications were completed and the project was ready for bid June 24<sup>th</sup> with Commission approval. He said all necessary right-of-way and easement documents were executed by the appropriate owners.

David Corliss, City Manager, said two additional benefit districts were created; one benefit district for signalization of 6<sup>th</sup> Street and George Williams Way and one district for improvements on George Williams Way south of 6<sup>th</sup> Street. There was litigation regarding the formation of that benefit district and the litigation was still active. It was staff recommendation, which would be seen in a future City Commission agenda, to draft resolutions that would repeal those two benefit districts and conduct hearings to reestablish those benefit districts and at that time recommend the City Commission included property at the southeast corner of 6<sup>th</sup> and George Williams Way, which was owned by Collister. Staff would also recommend deferring those assessments on that property until the property developed. The Commission needed to make sure what the cost of that deferral would be because the City had to service that debt until such time, if any, that property ever developed. He thought the deferment could be done, in a timely way, given the pace of development. This road was going to take about a year to build and the sewer would be getting bids in the next couple of weeks. There was also the internal work that needed to be done on the north side and staff thought the project could proceed with the design work and construction work could be fairly timely with that development. There would be signalization at Stoneridge and 6<sup>th</sup> Street and 6<sup>th</sup> Street and Congressional. He said while there would be more traffic and more development there would also other ways to slow down that traffic at that location. He said there was also an issue with visibility which was why it was important to have it signalized.

Commissioner Highberger asked about the distance between 6<sup>th</sup> Street and Overland Drive.

Soules said the distance was 1,500 feet.

Commissioner Highberger said he did not see a way for pedestrian to cross between those two areas.



Soules said there would be a crossing at 6<sup>th</sup> Street and then would need to go all the way to Overland Drive. Depending on how the tracts developed, staff was anticipating an access to the property.

Commissioner Highberger asked if a crosswalk could be added in the future, if necessary.

Soules said a signed crosswalk could be added in the future. Further to the east they would have to use Overland or 6<sup>th</sup>.

Corliss asked how much the City's participation was.

Soules said \$200,000.

Mayor Dever asked if there would ultimately be concrete added on the north section.

Soules said the north section could have concrete, but revisions needed to be made. The roads being constructed, whether asphalt or concrete street, would handle the traffic. They would want to put the right treatment in the right areas and would not want to over spend.

Vice Mayor Chestnut said the two benefit districts that would be reconstructed that were mentioned, he asked if signalization would be first.

Corliss said the reconstruction of those benefit districts would be done together.

Soules said the intersection needed to be widened in order to get the signals spaced appropriately.

Vice Mayor Chestnut said his concern was if they split it apart and did the signalization separately, the south leg would be unprotected.

Mayor Dever said people would wonder if the northern part of the intersection was built and would install the infrastructure that was capable of receiving the signalization that was required.

Soules said it was all included.

Mayor Dever called for public comment.

Mark Anderson, on behalf of the three property owners who constituted 100% of the benefit district to the north of 6<sup>th</sup> Street, said the City Commission unanimously approved the benefit district, the special assessments for each of those benefit districts, and tonight they looked for the City Commission setting the bid date so they could get started.

Commissioner Highberger said he appreciated the design but was still concerned they were not giving adequate consideration to pedestrians. He hoped they could continue to work on pedestrian crossing and appreciated the efforts.

Mayor Dever said with the 18 foot multi-use path and sidewalk being constructed, it would help a little.

Commissioner Highberger said the 1,500 feet to between the through crossings for most pedestrians was seriously discouraging.

**Moved by Amyx, seconded by Hack,** to set a bid date of June 24, 2008, for the construction of George Williams Way, from 6<sup>th</sup> Street to the north city limits, including streets, sidewalks, multi-use paths, storm sewer, and waterline improvements. Motion carried unanimously. **(22)**

## **PUBLIC COMMENT:**

### **FUTURE AGENDA ITEMS:**

- 06/03/08
- Discussion of transit related items.
  - 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 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.
  - Consider modification to site plan conditions (SP-08-53-04), Louise's West, 1307 W. 7<sup>th</sup> 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 23<sup>rd</sup> Street Bridge.
- Public hearing regarding a request for vacation of city right-of-way along Indiana Street between 11<sup>th</sup> Street and 12<sup>th</sup> Street related to the Oread Inn project

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 6<sup>th</sup> 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 & 6<sup>th</sup> 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.

**Moved by Chestnut, seconded by Amyx,** to adjourn at 8:12 p.m. Motion carried unanimously.

**APPROVED:**

\_\_\_\_\_  
Michael H. Dever, Mayor

**ATTEST:**

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

### **CITY COMMISSION MEETING OF MAY 27, 2008**

1. Bid –Logic controller hardware for Wastewater Treatment Plant to Logic, Inc. for \$23,098.
2. Bid – Supervisory control & data acquisition software to R.E. Pedrotti for \$68,065.00.
3. Bid – Programmable logic controller hardware to Logic, Inc., for \$76,458.25.
4. Bid – One trailer mounted vacuum excavation machine to EH Wachs Co. for \$44,285.
5. Bid – Janitorial Services to Nelson's Property Mgmt for \$41,000.09.
6. Change Order No. 4- construction contract, CAS Construction, increase to \$48,529.62.
7. Purchase of 74 water meters, Midwest Meter for \$42,733.
8. Ordinance No. 8268 – 2<sup>nd</sup> Read, 805 Ohio, Lawrence Reg of Historic Places.
9. Ordinance No. 8269 – 2<sup>nd</sup> Read, 934 W 21<sup>st</sup> St, Lawrence Reg of Historic Places.
10. Ordinance No. 8271 – 2<sup>nd</sup> Read, rezone (Z-02-06-08) .39 acre, RM-12 D to RS-7, 1309 - 11 W 8<sup>th</sup>.
11. Ordinance No. 8276 – 2<sup>nd</sup> Read, alcoholic liquor at Lawrence Municipal Airport on June 11, 2008.
12. Resolution No. 6769 – Assistance to other jurisdictions during times of disaster.
13. Special Event Request –Downtown film festival, SW corner of 9<sup>th</sup> St & New Hamp.
14. Signs of Community Interest - DLI, Banner on N side of New Hamp St parking garage.
15. Signs of Community Interest - Convention & Visitors Bureau, Banner N side New Hampshire St parking garage.
16. ROW Permits - Convention & Visitors Bureau to close & use North Park St.
17. License Agreement – LFF, LLC for continuation of existing parking in ROW, E side of 704-728 Conn.
18. Renew entity insurance coverage - CEK Insurance for \$73,777.
19. City Manager's Report.
20. Ordinance No. 8275 – 1<sup>st</sup> Read, STOP signs at 4 traffic booths on KU campus.
21. Pilot Demonstration Project for Green Energy Gateway Fuel Station presentation.
22. Bid date- June 24, 2008 for construction of Geo. Williams Way, 6<sup>th</sup> St to N city limits.