



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

June 10, 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.

At the request of the applicant, a regular agenda item, related to the University Park Development, generally located at 1301 Iowa, was deferred for two weeks.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve the City Commission meeting minutes of May 27, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to receive the Sustainability Advisory Board meeting minutes of April 9, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve claims to 382 vendors in the amount of \$3,588,872.79 and payroll from May 25, 2008 to June 7, 2008 in the amount of \$1,821,114.89. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve the Retail Liquor License for Cork & Barrel, 901 Mississippi. Motion carried unanimously.

The City Commission reviewed the bids for one (1) Super Duty One Ton Truck for the Utilities Department. The bids were:

BIDDER	BID AMOUNT
Laird Noller Automotive (2008 model)	\$78,260
Laird Noller Automotive (2009 model)	\$79,298



Shawnee Mission Ford (2008 model)	\$78,554
Olathe Ford (2009 model)	\$81,450

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to award the bid (2008 model) to Laird Noller Automotive, in the amount of \$78,260. Motion carried unanimously. **(1)**

The City Commission reviewed the bids for painting the exterior of Holcom Park Center for the Parks and Recreation Department. The bids were:

BIDDER	BID AMOUNT
Goens Brothers Inc.	\$16,500
JF McGivern, Inc.	\$33,300

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to award the bid to Goens Brothers Inc., in the amount of \$16,500. Motion carried unanimously. **(2)**

The City Commission reviewed the bids for 2008 Overlay Program Phase 2; 18th and Louisiana Raised Crosswalk; and the 2008 Overlay Program Phase 2 Alternate Bid, for the Public Works Department. The bids were:

BIDDER	BID AMOUNT
Engineer's Estimate	
Base Bid Grand Total (Section 1 & 2)	\$857,768.50
Alternate Bid Section	\$232,100.00
LRM Industries	
Base Bid Grand Total (Section 1 & 2)	\$793,117.90
Alternate Bid Section	\$217,665.30
Asphalt Improvement Co	
Base Bid Grand Total (Section 1 & 2)	\$822,646.53
Alternate Bid Section	\$223,462.75

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to award the bid to LRM Industries, for the base bid grand total (Section 1 & 2), in the amount of \$793,117.90; and the Alternate Bid to LRM Industries in the amount of \$217,665.30. Motion carried unanimously. **(3)**

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to set a bid date of June 24, 2008 for Lawrence Avenue, Harvard Road to 9th Street, Traffic Calming Improvements. Motion carried unanimously. (4)

Ordinance No. 8278, providing for a text amendment to the Development Code to permit "Extended Care Facilities" as a use permissible by a special use permit in the IBP (Industrial/Business Park District). As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (5)

Ordinance No. 8281, authorizing the temporary sale, possession, and consumption of alcoholic beverages within 400 feet of a school or church on June 13, 2008, for the Lawrence Live Concert. As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8279, authorizing a Special Use Permit for BC&R Storage located in the 1300 Block of North 3rd Street. As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to concur with the Planning Commission's recommendations to approve the Final Plat (PF-05-06-08) for The Exchange at Lawrence, located on the southeast corner of West 31st Street and Ousdahl Road; and accept the dedication of easements and rights-of-way. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to authorize the Mayor to sign Releases of Mortgage for Helen Gentry, 742 Maine; Michael

Gillman, 1828 Atherton Court; and Hans Harmon, 1220 New Jersey. Motion carried unanimously. (9)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said information was provided concerning area communities that were considering sales tax as sales tax was an item this City Commission was considering. Lenexa voters recently approved a sales tax for roads, parks and a civic center of 3/8 cent sales tax in which that election was done by mail ballot.

Also noted was that Johnson County voters were going to decide on a 0.125% county-wide sales tax for higher education purposes and Johnson County Education Research Authority would manage that funding. Johnson County had special statutory authority for that sales tax.

Regarding the City's building permit valuation and fees, staff saw record highs for the year and those valuation and fees continued to reflect the national and local economy regarding new home construction. Year-to-date, only 34 single family permits were issued, compared to 83 last year and 117 in 2006.

He said the trust that owned the former Farmland Industries received a letter from the Environmental Protection Agency that outlined EPA's position regarding their involvement in approving corrective steps and transfers of that property. Staff received a copy of that letter and had been in discussions with the Kansas Department of Health and Environment about acquiring that site. Staff would be meeting with KDHE and EPA later that month to discuss next steps for using the City's bid on acquiring that property as the next step for auctioning that property. The City had submitted a bid that had interest from the trust. One of the items in the bid was negotiating some of the responsibilities for environmental cleanup on that site using trust funds that were allocated. They looked forward to that meeting and would report back to the City Commission regarding that issue.

Finally, during the City Manager's Report, Chuck Soules, Director of Public Works, said regarding the progress on Massachusetts Street, the milling was completed to North Park Road, but the 1000 and 1100 blocks were in bad shape. He said regarding adjustment of the schedule for this project, the 600 and 700 blocks would be completed this week and would reopen on Friday. Next week, instead of working on the 800 and 900 blocks, the 1000 and 1100 blocks would be repaired.

Corliss asked about 7th Street.

Soules said 7th and Kentucky would be worked on after the 4th of July.

Mayor Dever asked whether the funding of the \$845,000 estimate for the Burroughs Creek Trail included property acquisition as well.

Corliss said that amount did not include property acquisition costs.

Mayor Dever asked if there was an estimate on what that cost might be.

Corliss said no, but staff was in the process of finalizing appraisals and would be coming back with a status report to the City Commission on those appraisals and what would be offered to the property owners. In addition to acquiring necessary property interests, necessary property interest for the abandon railroad and right-of-way was needed because there were important sanitary sewer installations in that corridor. The Utility Department had that major project which was to acquire those property interests because that important installation needed to be protected.

Vice Mayor Chestnut said regarding the memo that was drafted concerning sales tax and its comparison with surrounding communities, it would be relevant to reconstitute that comparison. Obviously, the Lenexa sales tax was approved and Johnson County might pass their proposal for sales tax. He suggested looking at the impact and where that would put the City in the relative ranking. He said Lawrence was in the lower quartile, but the result of that sales tax could place Lawrence close to the bottom.

Corliss said that was a good suggestion and staff would work on that idea.

(10)

REGULAR AGENDA ITEMS:

Consider the following transit related items:

- a) Receive draft letter of intent with the University of Kansas regarding the establishment of a merged transit system. Receive staff reports concerning funding options for transit and transit services. Receive staff reports regarding sales tax funding options for infrastructure.

David Corliss introduced the agenda items. He said staff had been in discussions with KU officials for some time and conducted a joint study on opportunities to consolidate, cooperate, and merge. He said what was before the City Commission was a draft letter of intent essentially setting out the intent of both parties to merge both systems by July 1st, 2009. There were a number of conditions that were precedent and would need to be met. The University was able to show funding sources and staff needed to work out a number of items regarding funding. What staff was intending to do with the letter of intent was to say the City was committed to funding transit at the status quo level. He said he believed funding could be done with a .2% sales tax and the City Commission might want to reflect that amount in the letter itself if that was how the Commission wanted to proceed with the funding. The University also had its obligations. In discussions with the University, it was very unlikely they would be in a position to merge their systems if they did not have revenue to roughly maintain status quo levels of service.

He said staff should continue with a rigorous schedule in finalizing the City's budget and discuss sales tax in the next couple of weeks. If it was the majority of the City Commission's desire, this issue could be placed on the agenda. He said staff's efforts were to keep a sustainable transit system and a transit system that could be merged with the University of Kansas to meet both student and community needs.

He said one other item of discussion would be to begin negotiations with the apparent low bidder for transit services. The City's contract with MV Transportation expired at the end of the year. As staff started to work on options to continue that service into 2009, discussions

needed to take place on how transit would work in the future and how the City would structure their contract based on the City's revenue in 2009 which was unknown.

Mayor Dever said he thought the Commission should have discussion on funding in the event the Commission chose to sign the letter of intent. Part of the letter of intent was for the City to have a stable funding source for the existing services for the transit system. In order to firm up the future funding of the T, it needed to be acknowledged that the University of Kansas had sought out funding from their students through a fee basis as opposed to a ridership basis so that all students would be required to pay a fixed fee for the use of KU on Wheels whether the student used that transportation or not. He thought the University had shored up their funding sources at least for the near future unless there was a change in the student senate or funding directors of KU. Overall, the University sought to formalize and stabilize the funding options for KU on Wheels. In return, the City Commission needed to find out how to seek a stable funding source for the T in the future and discuss a potential for the sales tax initiative for the November ballot. In conjunction with that discussion, it was important to discuss the other transit related taxes that might go along with that type of ballot initiative. He said he wanted to open up discussions regarding sales tax, property tax, and the cost associated for running the T, in its current condition, which was a requirement for any merger in July.

He said in a recent study session, sales tax options were discussed and Commissioner Highberger indicated his desire for the City to do the work themselves regarding mill levy increases. Other City Commissioners spoke on the desire to discuss a sales tax initiative. Commissioner Amyx also indicated his potential desire to discuss a property tax initiative or mill levy increase. He said the Commission should probably start out by discussing how to shape their conversation for sales tax, what level of funding based on the tables provided, and what level to put this to the public's vote, in the event the majority of the City Commission elected to put it to vote.

Commissioner Highberger said the goal was to find a stable funding source for the bus system, what needed to be done was to allocate the property tax revenue to maintain the existing service and reduce the mill levy if that was successful. Otherwise, the Commission would be abandoning their responsibility to make a decision and instead making the sales tax revenue for the bus system. He would like to see the Commission move forward and would support the increase in sales tax, but his preference would be to use the sales tax vote to take the bus system to the next step and look at expanding routes to make it usable for people who would ride the transit system by choice rather than people riding for necessity.

Vice Mayor Chestnut said he agreed with Commissioner Highberger on one point which was based on the tables the .2% was probably more appropriate to make sure they fund it at a level that was basically the status quo, although he thought that moving forward with the sales tax initiative with KU, they could get to a point where they would start to see some efficiency.

He said he was sticking to his proposal in which he wanted to use the mill levy that was currently allocated to Transit partially toward some general fund issues because budget numbers had been looked at and if they wanted to come close to balancing the budget or having a small deficit because right now, they were talking about no increase as far as anything for things like general increase or merit. He would like to move part of that mill levy to the general fund and part to bond and interest. The City was in a situation where the bond and interest fund, although currently there was a healthy reserve, the City would not have that healthy reserve in three or four years if they continued to spend. He agreed with the City Manager that they needed to spend in the community relative to fire equipment or other capital needs.

He said along with considering that 0.3 infrastructure, 0.2 for the transit system, a couple of things were needed from staff which was figuring out, even with putting a sales tax initiative forward, how that \$600,000 shortfall would be made up since the sales tax would not kick in and

only contribute about 60% of the annual revenue in fiscal 2009. Staff had to figure out how to make that gap close.

Secondly, if it was decided they were not basically putting in a mill levy for the transit system as it existed, he asked what kind of contingency there was if the sales tax fails in November. He said it would mean working with other agencies to talk about some other options that might be available, point to point transit and pulling resources together to look at options. He knew they talked about options for the last 6 months and to date, he had not seen anything tangible.

He said a lot of time had been spent on the transit side of the sales tax initiative, but they needed to develop the infrastructure side. In yesterday's budget session, the Commission discussed a laundry list of projects. He said the public needed to understand the City Commission's intentions with the infrastructure fund and how it might start to accelerate a lot of the infrastructure challenges right now in the community.

Commissioner Hack said there was that issue of the \$600,000 plus shortfall and there was no place holder for it in the City's budget which needed to be figured out.

The Commission had the opportunity to work with the University of Kansas to avoid duplication of services. She said as fuel costs go up, the community might become more public transportation dependent. She thought this was an opportunity to take advantage of the University, their expertise, and what the City had gained as well in operating a system.

She said she believed it needed to be a sales tax initiative and appreciated staff and Vice Mayor Chestnut's work to get to this point. She agreed that .02 made more sense because it would not be sustainable with .15 and to be fair to the transit system that needed to be done.

She knew that it was a difficult thing for the City Commissioners because transit was a contested issue in the community. She said everyone was facing difficult times from a fuel standpoint and hopefully that would be recognized and there would be more support.

She said as far as infrastructure, working on that prioritized list from the Capital Improvement Plan and adding some of the basic maintenance to keep up and perhaps get ahead would be valuable for the remainder of that 0.5.

Commissioner Amyx said the \$600,000 shortfall for 2009 leaped out of the page because there was no funding source to make up that shortfall. The current City services needed to be looked at to make up that shortfall.

He said he had been a sales tax supporter for several years now, but when talking about infrastructure and when the Public Works Director previously gave a report on the progress of Massachusetts Street and other infrastructure around the community, one thing to take into consideration when voting on sales tax was that paid infrastructure would take care of existing streets and sidewalks. He would have a hard time looking at new projects, even though the laundry list was very long for Capital Improvement Projects, and it was important to this community to get existing infrastructure into shape.

As part of this sales tax initiative it was important to consider equipment reserve. Fire apparatus needed to be addressed over the next 10 years in replacing an aging fleet. Unless looking at a sales tax issue, a mill levy increase needed to be looked at annually to set back a reserve to take care of the Fire/Medical Department's necessary fleet.

As they looked at transportation and the T, the important question to the public was if the public supported the current T system. He said the City could not continue to support transit funding.

He thought an important part of the transportation system was the paratransit system and that system was necessary for a number of people in this community. The Commission had an obligation, as part of the sales tax initiative, to look at the City's budget to help fund some type of program that assisted people with transportation needs, whether it was going to the doctor or back and forth to work.

If the question to the public was about a new transit system, that system could not be defined at this point, but should be defined by Election Day, so people had an idea of what was seen as future transportation in this community. He said a merger with KU was a good idea to take care of this community's transportation needs along with the students from the University.

Vice Mayor Chestnut said regarding the sales tax initiative, since KU did not have a paratransit system in place, the City already provided that service for the entire community and that service was part of the status quo that was in the letter of intent. He said one thing that came to mind, if there was a settlement on the 0.3 and 0.2, for next year, there was an option to leave part of the mill in for transit essentially to fill that gap for a period of time, and also they had levied a mill of some type in case the sales tax initiative did not pass. It would leave some allocation of money. He said when he talked about the point to point system with the social services, that was what he was aimed at and was another option.

Commissioner Amyx said it was important to work with various agencies to make sure if there was a change in the service and were looking at point to point service, they would want people that dealt with transportation and people that dealt with community needs to look and form this program so the program worked for everyone.

Vice Mayor Chestnut said he agreed.

Commissioner Highberger said he did not understand whether or not to keep the bus system was more of a subject for public vote than any of the other decisions the Commission was in charge of making such as replacing fire engines or economic development projects where the Commission was asked to spend millions of dollars. He said he also did not understand why if Commissioner Amyx did not think the system, as it existed now, was worth supporting with property tax money why they would not support it with sales tax money. Those were all resources that could be allocated to different uses and was still coming out of the pocket of taxpayers.

Commissioner Amyx said he looked at things that were extremely important and did not believe there would be mill levy participation, at least, with the make up of the City Commission. He said in looking at infrastructure needs and equipment reserves they were going to need over time, the make up of the Commission told him where they were heading. He said he would like to get at least part of his program considered at this point.

Vice Mayor Chestnut said relative to the system now, he said it was fair to say there had been difficulty to committing to the system for a long time. The City had deficit spent in transit for five years. The City had not put in as much tax as costs came out of that system and depleted that reserve fund and he thought there was an issue. He said the City was at 1.17 mills now and thought it would take 2.5 for next year and could be 3.5 or 4. Pretty soon, it could consume up to 20% of everything levied and he did not think that was sustainable. To some extent, he agreed the Commission should continue to discuss if Lawrence was going to have a truly robust transit system, they needed to dedicate more resources. For a stand alone system, he did not think they could get from here to there. He did not think the City could sustain or afford on a property tax to get to the level of system needed without merging with KU to where they could leverage and try to make the resources come together with a stand alone system. He thought it would be very expensive. He said right now, the City was on middle ground where it was starting to tax resources and the price was going up, but to even sustain the level of service which many people in the community recognized was not enough and to take that quantum leap to go up as a stand alone system, he was not willing to support that type of system because he did not know if the City could afford to do it. If they wind the clock back about 5 years and look at the growth and assessed valuation and look at sales tax growing, which included the county as well, probably five years ago property tax represented about 60% of the funds coming from the city and county. Sales tax represented about 40%, but now that was completely inverted. Now property tax was supporting 60% and sales tax was supporting 40%. They were getting to a point where they were out of balance to where they were at

because of how much assessed valuation had grown and it was at a point where residential property owners were seeing their property tax grow at three times the rate of inflation. He thought it was a balance given the fact the information they received from the City Manager's Report with what other communities were doing, they were not going to be out of line at .5% with other communities as far as sales tax. Lawrence would be at 7.8% and surrounding communities would be 7% and 7.9%. In his estimation, this was the time to look at this initiative based on what their history had been. He wanted to see transit succeed, but did not know if they could succeed in going it alone.

Commissioner Amyx said the Vice Mayor made a very good point. He said he, and Commissioners Highberger and Hack had been on the City Commission the last three years and had depleted that reserve to the point where last year the Commission had to look at a mill levy increase had to be looked at to extend the operation for two hours a day just to maintain the level the City was at that point. He thought the mill levy increase was at a point where a lot of taxpayers could not afford it.

Commissioner Highberger said he considered a sales tax was probably the best way to continue operations. He said regarding the mill levy, his recollection the mill levy for transportation started out around 3 mills and could have left it at 3 mills for the last five years and would have built up an enormous reserve. They lowered the mill levy for transportation and used the funds elsewhere or lower the tax rate for the citizens. There was a rational strategy and it made sense. He said if he would have known that lowering the mill levy would have threatened the future of this transportation system, he would have never voted for it.

Commissioner Amyx said if he would have agreed with Commissioner Highberger three years ago when they used reserves to reduce the mill levy without reducing spending at the same time, he would look pretty smart today and appreciated Commissioner Highberger's stance.

Mayor Dever said for him this was being able to look in the rearview mirror to think about what might have been a good idea at the time but was not. To answer one of the questions for Commissioner Highberger, he reiterated that this was a stable and allocated identified funding source for a 10 year period that should not be used for any other purposes other than transit and would be at the discretion of the Commission and the Commission might want to make changes without input from the citizens of the community. The Commission achieved two goals, the input and the citizens identifying this as an important service and a guaranteed source of revenue in order to maintain its existence for a long period of time. Transit had not even been around 8 full years and they were talking about trying to sustain transit for a 10 year period. It was one reason why they saw it as a different way of funding and looking at why this decision was different than what they would make ordinarily and did not think it was a core service. Not every community in the United States had a transit system, especially the size of Lawrence. Most communities have fire protection services, police services, streets, sanitation, water and sewer, but this was an ancillary service and one that fell outside the overall requirement to be provided by the community. He thought transit was voted on indirectly, although it might be by the citizens of this community when they elected officials who specifically identified transit as a service they wanted to implant during their tenure. Indirectly transit came about and indirectly spent down the money the City was going to use to pay for transit. Whether it was a good idea or not and whether they knew the valuation would go down or not, was irrelevant and he did not want to dwell on the past, but look to the future and identify a long term tenure method of funding and one that was not able to be borrowed from or utilized for other services.

He said on the issue of infrastructure, it was really important the infrastructure be part be part of the question because infrastructure was also an area although where several people on this Commission did a great job in identifying funds and doing what they could with the money, they had to improve the conditions and earmark the funds for improvements for the streets. They did a great job, but the funds were not there and they were losing grounds as part of

process of moving people around in the community with public transportation. They also needed to look at it as a service to improve the infrastructure, upgrade the roads, and maintain infrastructure and roads over a 10 year period with some guaranteed revenue sources that could be used for those things that would get the City back to the place where it should be from a quality standpoint of roadways.

Commissioner Hack said regarding paratransit, she understood that if federal dollars were allocated towards a transit system, the City must maintain the paratransit as part of the bus system.

Cliff Galante, Public Transit Administrator, said the law stated a City could not target one certain group of population, and in this case it would be targeting people with disabilities. If they were going to use public funds, public funds had to be available to everyone. The City could not use federal dollars and state dollars received just to serve the paratransit populations. The City could still provide the demand response service, which was the door to door service, but then it needed to be opened up to the public at large. The challenge was it was the most expensive element of City services on a per passenger basis. Based on existing demands of their service, if they were to do that, their costs on a per passenger basis would go up.

Commissioner Hack said on the infrastructure portion, she wanted recommendations from staff. She said she agreed with Commissioner Amyx in that they could not launch on new projects before taking care of what this community had already. She wanted to make sure there was some opportunity to move forward on a project that created additional opportunities in terms of infrastructure and economic development purposes. She said she liked the 3-2 split and thought the community would step up provided they could move forward with the university. It was something that made sense. She said Mayor Dever spent a great deal of time on the transit issue and should be congratulated.

Mayor Dever said they had an opportunity to raise sales tax and had a sales tax authority. This was an opportunity that other communities were taking on and could pose the

question to the public in several fashions. One was either a single ballot measure which would increase the sales tax .5 and not identify the question separately or break the questions out separately, which he believed would be best to identify the 0.2 for transit and 0.3 for infrastructure. He thought it tightened up how the money could be spent in the future and also tightened up the question to the community as to what they were really after. He said if this community was like most communities in America, the community would step up to the plate and vote positively for the things they care most about. If anyone thought public transportation needed to be done away with, they needed to think about the future and as price of fuel went up, they needed to have alternate sources of transportation in this community. They had an opportunity to look into the future and if they had the opportunity, they could get that affirmation from the public and also get the funds directly tied to the utilization of purposes intended.

Vice Mayor Chestnut said there was another issue why he would support breaking those questions out. He said it was really more a technical issue which was transit by nature was an operating fund and needed that ongoing infusion of funds on a consistent basis and he thought it was important in order to construct a system around with the university, it would be important to know that stream. The infrastructure and type of projects Commissioner Amyx was talking about in maintaining their current infrastructure or things Commissioner Hack was talking about, such as economic development or wanted to take on a sidewalk project, they tended to come in big clumps. He thought that it seemed to make sense to separate those two issues because they had one situation where it was a very stable 0.2 coming in and be somewhere around \$2.5 million or \$2.2 million and would grow over time. That infrastructure fund, some years if the projects were timed wisely, they might build up reserve and other years they might deplete the reserve, but would be based on big chunk projects coming out of that fund. They had a potential to compete against one another and was something in order to preserve that safe flow for transit, especially making a commitment to the University, it was important that it be a separate issue. For him it would be less of a principle, but more about the application. They

would want to have that steady funding stream versus bounce around a little bit and not being able to live with that.

Commissioner Highberger said he understood the rationale, but feared that breaking it into two pieces they were setting one or the other to fail. He would prefer putting something together that had a possibility of success. If giving people the opportunity to vote for tax, he had a gut feeling that some people would pick the one they liked the best and let the other one go. It was a decision the Commission needed to make before moving forward on those projects.

Commissioner Amyx said he would wait until the questions were written and if they were written to where they addressed the concerns he had and the infrastructure and transportation and they had a plan. He thought it was important for this body to show as much unified support for the items going to the public. He wanted to make sure the questions were written in such a way that they were taken care of in the programs he would support current infrastructure. He thought it was important that when looking into the future, the merger of those systems was going to be the real key because expanding two programs that were not going to be duplicating services and have a service that the public had confidence in, made sense.

Mayor Dever said when he talked to Cliff Galante he was worried about the split between the two taxes but Galante informed him at least 70% of the ballot questions related to transit passed in a positive fashion recently, which was before the steep increases in fuel. He asked Galante if that was accurate.

Galante said yes.

Mayor Dever called for public comment.

Mark Cline said he thought the Commission was making a very serious omission if the bus systems were merged. He assumed the merger would allow terminating employees at the University or City level because of duplication. He said the Commission was forging ahead with some nebulous idea that something might be good without the concrete facts.

Bob Mikesic, Independence Incorporated, said they supported the merger. He said they strongly supported the merger of the two systems because it would be more effective and the ridership would go up. They trust the cooperation to make sure the entire City was served and the routes served everyone. It was especially important for people with disabilities both fixed route and paratransit continued. They provided a variety of services that contributed to expanding people with disabilities opportunity to live in the most integrated setting in the community, get jobs and participate in all aspects of community life. Having a public transportation system was a vital part of those opportunities. They strongly supported the continuation of public transit. They had a transportation service, but it was funded by Douglas County so most of their busses serve people with disabilities as well as the general public throughout Douglas County. In the City of Lawrence they only had one bus operating and did not duplicate the paratransit system; it complimented it. It provided rides for people who needed a higher level of assistance than what the T lift provided. If someone needed help carrying things in, ADA only required that assistance to the door threshold, but their drivers provided assistance through the door and into the house for people who needed more assistance. It was a very limited service and there was no way they could expand it to fill any gaps that were created by lessening or eliminating the paratransit component. Their independent living specialist had a lot of training so there were a lot of people with disabilities using the fixed route bus which had the advantages of not having to plan a day in advance and not have to plan rides. Both systems were utilized, not just the paratransit system. It was fairly easy to learn and knew there were a lot of people using it. He strongly encouraged the continuation of the transit.

Derek Meier said the point to the sales tax budget projection included efficiencies that could be gained through the merger. The duplication of services was minor and there was not over a million dollars that could be saved with respect to sustainability. He said KU provided paratransit service for their students which was called J Lift.

Corliss said he thought one of the things that would be helpful for the discussion as staff worked on merger documents was putting in the 0.2 sales tax. He thought they would want to see that language and talk to KU about that sales tax and the Commission might want to hold off executing that document until they were ready to execute the sales tax election. It committed them to a revenue source and they could talk about revenue sources and the state funding which was actually a state law that was set and would be subject to changes with the state transportation plan. With the sales tax, staff could discuss sales tax with KU and have some level of understanding of what that number was going to be if the voters approved it. It helped as well and got to the issue of defining the service because they were defining it with money in addition to what that money could buy as far as how they were going to finalize their discussions with MV Transportation. He suggested, unless the Commission had other provisions in the letter of intent, that the Commission direct him to modify the letter to reflect the sales tax discussions this evening.

Consider authorizing staff to obligate the Federal Job Access Reverse Commute (JARC) Grant recently awarded by KDOT in the amount of \$496,817.50 for transit vehicle replacement.

Cliff Galante, Transit Administrator, said he wanted to talk about the JARC (Job Access Reverse Commute) grant the City received. He said in January he came before the City Commission seeking approval to apply for a grant. Staff had applied for a grant in the amount of \$520,000 and happily received a grant award in the amount of \$496,817.50 from KDOT. It was a grant that would help the City's transit system with vehicle replacement needs. Specifically what the Job Access Reserve Commute grant was for was money that was targeted to help low income individuals to take them to and from employment. Because of the way the City's services were currently configured, they took a large number of people and served the low income areas in the community and presently serve all the major employment centers within the community right now so this grant would support those efforts. The reason why he was present this evening, was the Federal Transit Administration had notified him that those were

older funds that would lapse at the end of the federal fiscal year, which was in September. In order for those funds not to lapse, which when they lapsed it meant those funds were no longer available, the City needed to obligate the funds and the FTA asked the City to obligate those funds this month because there was an extended approval process that needed to occur. In order for him to obligate those funds, he was going to need direction from the City Commission on what the City would be obligating. Particularly, he needed to know the type of vehicles the City wanted to acquire, the number of those vehicles and the unit cost so he could obligate the grant.

He said his recommendations were contained in a report to the Commission. He said he knew there was a question in the past about comparing life cycle costs and was something he was working with the contractor, MV Transportation, to compare lifecycle cost of heavy duty vehicles versus light duty vehicles. He also included a photo, just as a comparison, to show the different sized vehicles because he knew it was somewhat of a debate in this community, but thought that sometimes a photo said a thousand words. He said the smallest bus that was manufactured heavy duty came in a 30 foot length. Because of the nature of the service the City provided, the buses operated 14 hours a day, 6 days a week and traveled about 55,000 miles a year and the liability of their equipment was important, which was the primary reason for the recommendation of going with the heavy duty vehicle. If they could make a transit vehicle that was heavy duty that would have a 12 year, 500,000 mile service life in a length that was smaller than 30 feet, staff would look at that, but they did not have that type of vehicle. The T Lift Bus by comparison which was considered a light duty vehicle had a useful service life by the manufacturer of 5 years or 100,000 miles. With the amount of use that the City was putting their equipment under, the City would need to replace the vehicle every two years or they could run a heavy duty vehicle for 10 to 12 years.

He said there were many factors when considering a vehicle which was the reliability, safety, and accessibility. The trend in the transit industry for transit busses was called low floor

vehicles where there were no stairs to climb onto a bus. If a person had mobility issues, it was a lot easier to walk on because they would be basically at curb level and made it more attractive for people with mobility issues. He said another factor staff would look at was the efficiency of the vehicle and the last issue would be capacity. Other issues to factor into when buying equipment was the turning radius of the vehicle, the ride quality, public acceptance, the visual impact, route flexibility, legal liability, and the maintenance and storage needs as well as training and training needs. He said there were a variety of factors that needed to be weighed out.

He said he had contacted his peers around the country that had operated this service and asked for their opinions. He had spoken to many maintenance professionals as well as contacting manufacturers and asked for their recommendations based on the level of use the City was looking to put their equipment under. He said staff's recommendation was to use the available funding to purchase two heavy duty vehicles.

Mayor Dever asked what the current level of equipment reserve fund was right now.

Galante said the City's transit equipment reserve was a little over \$600,000. He said at this point, staff had in prior years, earmarked funds, federal funds received from the federal government and with the JARC funds and the prior year earmarked funds there was approximately 2 million dollars in available federal funding that was ready to be spent to replace the City's fleet with the money in the equipment reserve because they needed matching funds to be able to spend those dollars and staff could replace 7 out of 12 vehicles in their fleet presently. The JARC grant was a great shot in the arm to be able to get that funding, the timing was perfect.

Mayor Dever said to simplify those amounts, \$143,182.50 would be required from the City's reserve fund of \$600,000 to purchase 2 new 30 foot medium duty busses.

Galante said correct. He said based on the pricing he had conducted, to receive a 30 foot heavy duty, low floor bus, it would cost approximately \$320,000.

Mayor Dever said regarding the other funds identified, he asked if those funds were expiring soon or funds that could be held off on discussing.

Galante said those funds had already been obligated a while ago for heavy duty vehicles.

Mayor Dever asked if those funds would spend down the City's equipment reserve fund.

Galante said it would spend down a good portion of the equipment reserve fund.

Commissioner Highberger asked if Galante recommended heavy duty or medium duty vehicles.

Galante said he recommended heavy duty vehicles.

Commissioner Highberger said on Galante's analysis, he was curious on the first page in replacing two light duty busses every four years and asked about the figure of 60,500 miles for the light duty and 55,000 for the heavy duty. He asked what the basis for the initial labor cost used for the light duty vehicle was.

Galante said they looked at two different scenarios. He said the first scenario was if they used a regular fixed route vehicle or a heavier duty vehicle and drove it straight out, it would need to be replaced every two years. The second analysis was if they bought two paratransit vehicles for every fixed route vehicle to spread it out instead of replacing vehicles every two years they were replacing vehicles every four years. He said by doing that scenario, the total miles averaged was based on two vehicles instead of one vehicle and with labor costs there would be more vehicles pulling in and out of the facility and vehicle inspections would need to be provided along with fueling and when adding that up, it would be an additional 20 minutes and over the course of the year, when adding in labor costs, that was how staff came up with the \$224,000 which was basically a hidden costs because the labor component needed to be looked at when operating more vehicles. He said the biggest difference that was an impact was that any heavy duty vehicle bought would be diesel powered. The price of diesel fuel, right now, was much more than gasoline which historically had never been the case, diesel had always

been much cheaper than gasoline. He said because of the new EPA regulations, the EPA stated that diesel fuel required more refining and as a result, nationwide, diesel prices were much more than gasoline. He said he and Steve Stewart, Central Garage Superintendent, were working on the pros and cons of alternative powered vehicles. He had also spoken with manufacturers of hybrid vehicles that indicated \$200,000 needed to be added to the price of buying a hybrid bus and at current fuel prices that bus would not pay for itself. He said when diesel fuel, without tax, went up to and over \$5.00 a gallon, that was a break even point. In the future, that type of vehicle might be something to consider because there were 20% to 25% fuel efficiency.

Commissioner Highberger said he still did not understand why the 60,500 miles was used for the light duty vehicle and 55,000 for the heavy duty vehicle.

Mike Sweeten, MV Transportation, said if a vehicle was put in service for fourteen hours a day with one vehicle, 15 minutes of pre-trip in morning, whatever travel time there was to the start of the route, shift change occurred on route and at the end of the route the bus traveled back to fueling and then back to the station and signed off for the day. If splitting that off into two pieces, you would double what happened at the end of the shift. He said there would be fueling and pre-trip twice a day instead of once a day.

He said with the vehicles they had right now that were in paratransit which were essentially the same lighter duty vehicles, on average they operated about 25,000 miles a year per vehicle and that was how they got to the four year service life for paratransit. On fixed route with the current route configuration, per bus, they ran about 55,000 miles per year which put the paratransit bus on the much shorter life span and the reliability would decrease dramatically.

Mayor Dever asked if the additional 5,000 miles was the trips back and forth to change out and refuel.

Sweeten said yes.

Mayor Dever said they were talking about a heavy duty 30 foot vehicle as opposed to a medium duty 30 foot vehicle which the medium duty was currently being operated. He said the fuel efficiency of a medium duty 30 foot vehicle was greater than a 30 foot heavy duty vehicle.

Galante said no, both vehicles had the same engine and the fuel efficiency was going to be the same and obviously, the heavier duty vehicle with a diesel engine would not get the same fuel efficiency as a V-10 gasoline powered engine. The V-10 had greater fuel efficiency.

Galante asked Sweeten about the gas mileage for gasoline powered vehicles.

Sweeten said depending upon the route 6 to 7 miles per gallon and with the heavy duty vehicles, approximately 5 miles to the gallon.

Mayor Dever said the medium duty vehicles had the same exact engine as the heavy duty vehicle.

Sweeten said yes, in the 30 foot transit busses. The difference between medium duty and heavy duty rather than power plant and transmission was essentially in the structure and design of the chassis and frame of the vehicle.

Commissioner Amyx said regarding City's two lift buses, he asked about how many miles were on those vehicles.

Galante said in the last two years, staff had been able to replace nine out of the fourteen vehicles in the City's fleet. He said transit was in good shape in terms of the T-Lift service.

Commissioner Amyx asked how many miles the vehicles had when those vehicles were traded in.

Galante said all of those vehicles exceeded the age and mileage requirements. A lot of those vehicles had approximately 120,000 to 130,000 miles. He said once that vehicle was driven 120,000 miles, structurally those vehicles were dead and the floors would be completely rotted through and would cost about \$5,000 just to replace the floor of the transit vehicle, transmissions would be shot and cracked engine blocks. He said in terms of the transit

vehicles, once going below 30 feet in length it was like comparing apples and oranges in terms the durability of equipment and that was why there was such a difference in price.

Mayor Dever called for public comment.

Derek Meier, Student Transportation Coordinator, said KU used a heavy duty fleet and if the City wanted to talk with KU about merging, KU would probably be interested if the City followed the same plan.

Commissioner Amyx asked what happened if the sales tax vote did not pass.

Corliss said staff had not answered all of those questions yet as far as what would happen to transit if the sales tax initiative did not pass. If the City was no longer going to use those vehicles for the purpose for which those vehicles had been acquired, then the City would need to liquidate those vehicles for fair market value and provide the funds back proportionately to how the City received those funds, back to the granting agency.

Mayor Dever said there was quite a bit of lead time on the construction of those vehicles and the City would not take possession and could cancel the order if there was some type of issue regarding funding.

He said in discussing whether or not to go with 25 or 30 foot heavy duty busses, the math seemed to point toward the more expensive operation of the heavy duty vehicles and would gain a tremendous amount of potential riders in that vehicle.

Commissioner Highberger said it made more sense to go with the heavy duty busses because those busses seemed to be more efficient and compatible with the KU System.

Moved by Highberger, seconded by Hack, to authorize staff to obligate the JARC Grant as recommended in the staff memo. Motion carried unanimously. (11)

Consider approving CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, Ordinance No. 8283, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7.

Amy Miller, Planner, presented the staff report. She said this item had a lengthy history as it had moved through the process. This amendment was originally initiated in 2004 and approved by all three governing bodies. The ordinance/resolution was approved by the City Commission and ultimately denied by the Board of County Commissioners in the fall of 2007.

The two main issues between the City Commission and the County Commission were if the chapter should be made more positive and more flexible especially concerning the location for future industrial sites. Since that time, staff had taken time to rework the chapter as a whole to meet both of those concerns. Staff had worked with the Planning Commission, its Industrial Design Subcommittee, and Chamber of Commerce to revise the location criteria. In addition staff had received comments from the League of Women Voters and other members of the public throughout the process. The produce of this input was in the draft that was before the City Commission.

The major changes to the chapter included the following:

1. Separating Industrial and Employment Related land use into two distinct categories;
2. Adding a "Work-live Campus-type Center" to both Industrial and Employment related land uses;
3. Adding a list of non-exclusive sites designated for industrial and employment related land uses on Map 7-2;
4. Clarifying location criteria that should be used for locating industrial and employment related land use;
5. Giving consideration to the environment, a diversified economy, and a fiscally sable government when making land use decisions;
6. Referencing the work of the ECO² process; and,
7. Updating numerous goals and polices.

The general location criteria were something that was added at the Planning Commission level after direction from the City Commission and Board of County Commissioners. Those general location criteria were that sites had feasible access to federal

and state transportation networks, be of adequate parcel size generally over 40 acres, and outside the regulatory flood plain. Those criteria had been used to identify appropriate sites on figure 7-2. Language was also included to allow for sites to be identified if they were not on the map, but met the location criteria.

She said at the March 2008 Planning Commission meeting, the Commissioners identified multiple issues they wanted staff to look at revising with the help of the Industrial Design Subcommittee. Of those issues, the main problem was how to handle defining prime agricultural farmland. The sentiment of the subcommittee was it should be removed from the location criteria and be in the general location criteria and should be added specifically on page 7-8 to the chapter to talk about it in a general format.

The draft before the City Commission stated what high quality agriculture goals were important to the region and economy and that it should be valued. It was also stated that agri-industry should be encouraged to be located on sites that had a large amount of high quality agricultural land. All of those changes would be sent back to the Industrial Design Subcommittee at the beginning of May and ultimately to the Planning Commission May meeting for a full public hearing.

At that May meeting, the Planning Commissioners made some changes to the draft chapter. This chapter represented a lot of hard work by staff, commissions and the public. The product of that work was a chapter that struck a balance between industrial needs and community interests. Therefore, staff recommended approval of the Comprehensive Plan Amendment and adopt on first reading, Ordinance 8283.

Vice Mayor Chestnut said he received a lot of feedback in the last few days. He said there were some process issues that might make this amendment appropriate to go back to the Planning Commission. The Industrial Design Subcommittee spoke to one member about the language in particular, which was the prime farmland and came from input after the cut-off date that was due to the Planning Commission in an e-mail that was sent to Miller Tuesday for a

Wednesday meeting and this particular member was not even aware the language was put into the draft. There was a lot of dialogue about prime farmland at that meeting.

The other issue was the full audio and he could not listen to four hours worth of audio, even if he sped it up. The Planning Commission minutes, at this point, were draft and were two pages for a four hour meeting. He thought there was a significant dialogue about prime farmland. He was not comfortable approving this amendment because he knew in speaking to several people that attended that meeting there was an expanded dialogue about prime farmland. He knew most of the time the Planning Commission minutes were at least 12 pages and could get the sense of what happened. The City Commission had to be careful about process and thought there were people who felt like they did not have an appropriate time to respond to some of the input at the May 25th meeting. He said at this point, he would recommend referring the amendment back to the Planning Commission and also wait to get the full Planning Commission minutes because it would help him make a better decision.

Commissioner Hack echoed what Vice Mayor Chestnut stated. She said what struck her was reading the minutes where Marguerite Ermeling suggested wording changes, but those changes were not listed and appreciated having written information. She said the City Commission needed to narrow what they were asking staff to rewrite regarding the Planning Commission minutes. She said she was not asking for an entire rewrite of those Planning Commission minutes, but a consideration of a specific topic.

Vice Mayor Chestnut said he agreed and asking staff to rewrite a particular section of those minutes was the general idea of the comments he received, especially when someone from the subcommittee stated there were items that crept in which was not a good thing.

Mayor Dever asked if those were items that showed up in the final draft.

Vice Mayor Chestnut said there was an email that came to Miller Tuesday afternoon suggesting some wording in direct response to prime farmland. He said from the bylaws of the Planning Commission, that cut-off date regarding comments was on Monday and he understood

it was suggested as the wording that should go into the document. He said from a strict interpretation of the bylaws that was probably not good process.

He said the City Commission chose to defer a discussion about land use issue on the 155 acres because they did not have the minutes of the meeting. He said from a process standpoint, it seemed to make sense.

Commissioner Amyx said as to the process, he read comments about language changes that people wished to discuss. By the City Commission narrowing down the discussion to land use types, he asked if there would be opportunity, once referring the amendment back to the Planning Commission, to have members of the public comment on other items of interest regarding language changes. He thought it got to Commissioner Hack's concern about when this chapter would come back to the City Commission. It was important to have a process for a public forum to share concerns about any items. The Planning Commission gave opportunity for public hearing on changes to the Comprehensive Plan and there was opportunity for those concerns to be brought up.

Miller said that was correct.

Commissioner Amyx said the Planning Commission needed to be aware there were other items coming and would not be back before the City Commission for some time.

Commissioner Hack said she knew the Planning Commission minutes could not be restricted, but thought it would be helpful to be part of the record.

Mayor Dever called for public comment.

There was no public comment.

Commissioner Highberger said if there was a specific issue the City Commission thought was not properly considered then it should be sent back to the Planning Commission and limit public comment to that item.

David Corliss, City Manager's said he did not know the Planning Commission bylaws by heart and whether they had that restriction or ability, but the presiding officer could limit

comment to a certain item if that was the desire of the presiding officer or the entire body. He did not know if the City Commission wanted it required, but could suggest the City Commission's areas of concern and discouraged a discussion of things where there was a consensus and encouraged the Planning Commission to work on areas where there were questions of process or wording changes that needed to have additional discussion and input.

Mayor Dever asked if the City Commission would recommend some specific direction to identify the lack of the minutes so they could evaluate those minutes and also the comment on the prime farmland definition.

Commissioner Amyx said before sending the item back to the Planning Commission, he suggested receiving the full set of written Planning Commission minutes, and then a determination could be made based on whether the City Commission wanted to send this item back to the Planning Commission. He said he would not feel comfortable asking the Planning Commission not to hear other comments that might come forward from the public on Chapter 7. If the City Commission had a problem with some portion, they could deal with it.

Mayor Dever asked staff how long it would take to receive the minutes of the Planning Commission meeting.

Miller said she could not speak for Scott McCullough, Director of Planning and Development, who was not present at the meeting, but it was her understanding with the audio they had been moving towards a shorter format and briefer minutes. This was rushed, but could not speak to how long it would take to get the meeting minutes.

Vice Mayor Chestnut recommended discussing the item next week and talk about what progress had been made.

Moved by Hack, seconded by Chestnut, to defer indefinitely, CPA-2004-02, amending Horizon 2020, Chapter 7: Industrial and Employment Related Land Use. Motion carried unanimously.

(12)

Conduct a public hearing for DR-12-151-07 and make a determination based on a consideration of all relevant factors that there is/is not a feasible and prudent alternative to the proposed demolition of the structure located at 1232 Louisiana Street and that the proposed demolition includes/does not include all possible planning to minimize harm to the listed property. The Historic Resources Commission determined on April 17, 2008 that this project will encroach upon, damage or destroy the listed historic properties and their environs.

Lynn Zollner, Historic Resources Administrator, presented the staff report. She said the property was located in the environs of the Oread Historic District and the Hancock Historic District, both listed in the National Register of Historic Places. The property was not individually listed in the register, but was considered historic because it was 50 years or older and defined as a character element of the environs of those two listed properties. She said in the area mentioned in the staff report, were the density of that neighborhood and the cohesiveness and the different sizes of structures.

The Historic Resources Commission reviewed this proposed project under the Kansas Historic Preservation Act. The HRC had a focused review when reviewing projects on behalf of the State Historic Preservation Officer per their agreement with that officer. The Historic Resources Commission conducted reviews for the City of Lawrence and the HRC must use the standards and guidelines for the varying effect of projects in the environs.

She said the HRC determined the demolition of this structure, without a replacement structure, would damage and encroach upon the environs of the listed properties. According to state preservation statute, the City Commission was not being asked to overturn that decision, but to determine if there was a feasible and prudent alternative to the project and if all planning had been done to minimize the harm to the environs of the historic properties. She said if it was determined it did not meet standards one and four in the guidelines that discussed the demolition of structures and the feasibility of the structure required demolition then there should be a replacement structure to mitigate the impact on the listed properties.

She said the easiest way to think about the definition of environs was context and what was the context of the listed property. In this case, the surroundings were looked at and there

was a 500 foot boundary, but that could be larger or smaller depending on the topography. In this case, the Historic Resources Commission determined that this structure was a character feature of the environs on the listed properties.

Based on the agreement the City had with the state and based on the state preservation statute, the applicant could appeal the decision of the Historic Resources Commission to the City Commission. The City Commission must hold a public hearing to determine if there was a feasible and prudent alternative and if all possible planning had been done to minimize the harm to the listed property.

She said if there was a feasible and prudent alternative to the proposed project and that was determined by the City Commission, the process stopped and the applicant could reapply and go through a different project as soon as tomorrow. If a prudent and feasible alternative was available, the City Commission could determine possible planning to minimize harm to the listed property associated with the project was identified.

All possible planning including written evidence and materials from the applicant to the City, clearly identified all alternative solutions that were investigated, comparing the differences to all the solutions, and describing mitigation measures proposed by the project proponent.

Commissioner Highberger said he assumed the structure was currently not occupied.

Zollner said the structure was not occupied. She said to her knowledge, it had been vacant since about 2 years ago, but did not know about occupancy before that time.

Commissioner Amyx asked if there was a structural analysis completed by staff.

Zollner said Neighborhood Resources, at that time, did a walk through along with members from the Oread Neighborhood Association, and then Assistant City Manager Debbie Van Saun. An analysis was completed, two years ago, based on the housing rehab program and it needed to be noted that analysis was to bring the property up to minimum code standards for occupancy. The analysis did not include foundation work.

Mayor Dever called for public comment.

Price Banks, speaking on behalf of the applicant, 1240 Louisiana Associates, LLC, said back in 2006, the property was owned by the Kansas University Endowment Association and they were contacted by the City and told to improve the property, sell the property, or raise the structure on the property. At that point, the association determined to follow one of those paths and in April 2007, the property was sold to 1240 Louisiana Associates, LLC, and after the Neighborhood Resources Department contacted 1240 Louisiana Associates, LLC and again said there were serious code violations and the property either needed to be rehabilitated or raised.

He said there had been a fire at that structure, but someone from the HRC testified that it had not been a fire, but the damage was caused by smoke from a space heater. He thought the damage was caused by someone cooking because when the current owners took possession of that structure, they found what looked like evidence of some drug use or experimentation. He said most of the floor was gone, the interior plaster on the walls was deteriorating, and the ceiling had fallen in. He said the press asked if the structure was demolition by neglect which it probably was.

He said when 1240 Louisiana Associates purchased the structure and became aware of the city's issues, it was determined they needed to take a look at the possibility of rehabilitation. A bid was received for rehabilitation and the amount was over \$500,000. At that point, they decided to comply with the City's directive and demolish the property. They found no prudent or feasible alternative and decided to demo the structure. The HRC's primary concern was that there was not a plan for a replacement and given the timeline the City placed on 1240 Louisiana Associates, there was not an opportunity to develop a feasible and prudent alternative for replacement of the structure.

In addition to the City's concern about whether the property was inhabited, he did not know and no one knew whether it was inhabited. He said regardless of the efforts taken to secure the structure, someone always found a way to unsecure the structure. There were calls

from neighbors and police and the property owner employed a contractor a number of times to re-secure the structure. It was dangerous inside and there was no stairway between the first floor and the basement. Having been on all three floors and on the outside balcony, he would suspect that the floors were not safe. A structural engineer and a construction company indicated there were serious foundation issues. The foundation had moved and it was evident inside the house and there were cracks in the foundation. The property was suffering from demolition by neglect, but had gone too far to repair at this point.

They were requesting the City Commission find that there was no feasible and prudent alternative to the demolition and clear the way to move the structure for something in the future to be rebuilt on the site. When that time comes, that project was going to undergo a rigid scrutiny because of the same facts that were cited by staff earlier. It was required when a new project was built, that the project complied with the historic requirements of the environs. They were asking the City Commission to relieve the applicant and the City of the issue that was an eye sore and serious hazard in the neighborhood.

Commissioner Highberger asked if the current owners, other than security, had done any maintenance on the structure.

Banks said the property owner had done weeding, security and emergency repairs.

Candice Davis, Oread Neighborhood resident, said she did not have an opinion as to whether this structure should be torn down or not. The structure had been neglected for a long time and thought it was a perfect example of what had been going on in some of the older neighborhoods in Oread and East Lawrence where things were allowed to disintegrate and damaged the surrounding areas in the neighborhood. She knew regarding this property, the Oread Neighborhood Board had contacted the State of Kansas when it was owned by the Endowment Association and asked them to please maintain the property, which Endowment owned property, state property, did not need to abide by City codes. Nothing was done and this was an example of the University doing similar things throughout the neighborhood, in the past,

where they had bought homes and have done nothing to as far as maintaining those homes. The prior owner, no doubt, also neglected the property which was a point she was trying to make time and again. This was why she wanted rental registration which was code enforcement for all properties in the City. This was an example of what happened to properties and no one could say any of those properties ever met standard code two or three years ago. She said she was disappointed the property was neglected. She said to replace the structure, because of its size, would cost more than \$500,000. Two years ago when the property was inspected, it was deemed the property could have been restored, but instead, the structure was allowed to sit and now the roof was collapsed and the structure was water damaged.

She said leaving the property vacant, opened the door for taking properties down and building another structure that would be quite large. In light of that, it would be disappointing to allow that structure to be taken down without a plan. She thought those people were sophisticated enough to know how to plan something that could replace the current deteriorating structure and there might be an opportunity to save the other houses on the block.

Dennis Brown, President, Lawrence Preservation Alliance (LPA), said this property was in a holding pattern when the Kansas University Endowment owned that property. He said when talking about neglect, that neglect went back to the previous owner which had been going on for a long time. LPA had been involved with this piece of property for several years and the Oread Neighborhood, for longer. Members of their board toured the structure two years ago with the Historic Resources Administrator and representatives of Neighborhood Resources and found the structure, at that time, to be restorable. The interior had original, unpainted trim, pocket doors, beams and hardware that at the very least, were salvageable. The first floor joist had been shored with steel beams and the conversion of the house into apartments was done in such a way that it was reversible and desires were there to return to single family.

As the LPA talked to the owner at that time, the KU Endowment Association, it became apparent they wished to sell the property and the LPA was told there were several interested buyers and weight would be given to buyers interested in rehabilitating the property.

There were several aspects of this proposal that should be disturbing to the City Commission as a decisionmaking body. First, this structure was demolition by neglect at its most blatant and was the number one case in Lawrence, Kansas. Demolition by neglect was a despicable process that was dangerous to tenants, decreases property values for neighbors, and destabilizes neighborhoods. The LPA upheld this process and knew the City Commission was concerned as well, but the process continued in Lawrence because it was profitable at both the front and back ends. They should of thought about this structure five or ten years ago and determine what could have been done to stop this degenerative process and apply those lessons to situations entering the pipeline today. He said this applicant was asking the City Commission to place their stamp of approval on the final part of this terrible process where the property was sold to a new owner who requests demolition with the reasoning they were not the ones responsible for the rundown condition of the property. He said if there was a case in Lawrence of a buyer accepting liability for the gross misdeeds of another, it was this one. He said it was perfectly reasonable to tell this applicant no.

Further, this application was rejected by HRC because no replacement plan was offered. With demolition proposals, HRC guidelines required thorough estimates for both repair and replacement plans. The applicant offered a repair estimate that might be feasible for a structure of this size, particularly for a rental unit.

He said he wanted to make a few points about the loan estimate, which was thorough, that the applicant had received for renovation of approximately \$518,000 including a builder's fee of 10%.

1. The LPA received three bids for the renovation project beginning at 1120 Rhode Island. The more information, the better decisions could be made.

2. Some of the estimated costs were fixed costs associated with the site, so no matter what the applicant did, they were fixed costs. Particularly, over \$40,000 estimated to produce five parking spaces in the back, or about 8% of the renovated budgeted. Also, the line items calling for replacement that experienced renovators would not to repair.
3. There had been other rental renovations in Oread recently with similar renovation numbers. Those figures were for a seven bedroom, three bath structure and current rents in Lawrence were running as high as \$500 per bedroom in some cases.
4. If a replacement structure was proposed, demolition and removal costs of the original structure, \$10,000 - \$20,000 to send all the irreplaceable old growth lumber to the dump, would need to be incorporated to the replacement structures budget. Demolition, parking, site work, permit and architectural fees, they were closing in \$100,000 before they would ever start building a replacement structure. He said the applicant offered no plan at this time with what they would intend to do with the property.

In March 2007, another Oread environs issue, 1019 Kentucky, came before the City Commission because the owner did not wish to replace the structure she sought to demolish. LPA had toured this house and deemed that the house could not be saved. Yet, because she offered no replacement plan, that owner had to go through protracted negotiations with the City to get her demolition request approved with protective covenants. Replacement plans were needed with demolition requests for two reasons which so a block did not suffer from a gapped tooth appearance if a rebuilt option came to fruition and to provide the City Commission and neighbors a transparency in planning so one shoe was not dropped without knowing when or how the other shoe was going to fall. Many other applicants in districts and environs had to adhere to those requirements.

The likely reason they were not being informed of the applicant's plan was that this issue, in fact, might involve more than one lot. There were currently "For Sale" signs on four of the other houses on this block, all listed with the same agent and the same Kansas City real estate company. If the City Commission approved this demolition request tonight, the Commission might be starting a domino like destruction of this residential block. There was not nearly enough information from the applicant to make that kind of decision. The City Commission was being asked to rule that the only feasible and prudent alternative for 1232 Louisiana was that it becomes a vacant lot and being asked to rule that there was no feasible way to renovate this property on the basis of two facts, a structural engineer's report provided by the owner and one repair estimate.

He said the LPA believed that 1232 Louisiana could and should be rehabbed. The current owner could also sell the property to another entity determined to rehab that structure. Even if this or a future applicant proposed demolition with a comprehensive salvage plan and new construction in a similar footprint that could pass HRC review, LPA and neighborhood opposition would be much less likely. Those were three legitimate alternatives they could recognize as feasible and prudent. However, if they approved this demolition request tonight, the Commission could potentially open up a devastating push to destroy a block with LPA and the neighborhood likely fighting it all the way, much like the 1300 block of Ohio some 8 years ago.

LPA would be willing to walk through the property again with owner representation, staff, a civil engineer, a renovator in the Oread Neighborhood and a renovator from Old West Lawrence. He would not be willing to pursue the walk through unless he had an assurance from the LLC, who owned the property, that they were interested in renovating the property or proposing a one lot replacement structure that would pass HRC review.

Marci Francisco, Lawrence, said a reference was made to the 1300 block of Ohio and was one of the properties the University purchased. Other properties were for sale, including

the property at 740 Rhode Island that had been renovated. She said all of those properties were in a compromised position, but at that time, there were people who were interested in purchasing those properties for renovation. She said the University owned the 1300 block of Ohio for some time, and she understood the University did not want to continue the ownership. She said it needed to be acknowledged there had been rules in place regarding environs, since the University first purchased that property. It was understood if they wanted to tear the property down, the replacement structure had to be known. That was done in the case of the 1300 block of Ohio.

One issue not mentioned was parking which was discussed for a number of years by their neighborhood. She said if the property was allowed to be demolished, it made sense to know what the replacement would be, the parking requirements for that replacement, and if there was adequate access to create that parking. This decision should be decided upfront ahead of making those changes so in fact if there was an opportunity to produce enough parking for a new structure, that it would also be considered as part of the decision whether this existing property should be renovated or if it made sense to build a new property with appropriate parking.

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

Vice Mayor Chestnut asked if there was any record regarding communications the City had with KU as far as their options of bringing that structure up to code or razing that structure.

Brian Jimenez, Codes Enforcement Manager, said in the most recent violation report, at no point did staff tell the property owners that structure needed to be taken down because of where the structure was located and its historic environs. It would be contradictory to what was trying to be accomplished in that area and there needed to be a process before taking a structure down. It was the same case with KU. Staff dealt with KU for a long time and there was a lot of correspondence. He said KU kept telling staff there would be a sale soon and staff

kept hoping that sale would happen and finally in May 2007, staff received notification. Staff had been in contact with Lynn Zollner, Historic Resources Administrator, throughout this whole process and knew the procedure that was in place. Staff knew that if the structure came down, HRC was going to require something pretty detailed about what was going to be put back in its place.

Commissioner Amyx asked if the last Notice of Violation was the one listed in the staff report dated August 9, 2007.

Jimenez said that was correct. He said he spoke to Banks around that time, on a couple of occasions. In September of 2007, Banks had contacted staff about a demolition permit and he told Banks the Historic Resources Administrator needed to be contacted which Banks understood. He said anytime dealing with historic environs, he and Zollner worked together on those issues. He said from that point on, from September until now, it took them that long to get to this point.

Banks said he had a letter addressed to Victor Torres, former Director of Neighborhood Resources, from the Endowment Association. The letter read: "During our last phone conversation, I understood you to say that Endowment had three options; to improve the property, sell the property, or raze the property."

Mayor Dever asked if there was a letter written back.

Banks said no. Banks said in his conversations with Neighborhood Resources, early on, was if the property owner was to proceed with demolition, then the property owner did not need to worry about violations.

Mayor Dever said he and Commissioner Hack toured the structure last year. He said he toured a number of buildings on a regular basis that were in need of repair to determine the current status. He said he was shocked at the level of disrepair in the building and the unsafe nature of the property and structure. It was not the type of place you would feel comfortable walking around in, even in the middle of the day.

He said he thought the structure was a major eyesore. The back side of the building was horrible and not very compelling to look at, unsafe, and attracted vagrants. He said if he was a neighbor to the east, north or south of the property, he would feel compelled to wonder what was going on in the building and whether it was safe to have that building next door. He was not in favor of demolition by neglect, but clearly this building had gone past the point of being repaired. He said he spent the day trying to determine what a reasonable amount of money would be to repair that building and spent hours tracking down cost estimates for repair and evaluating the City's estimates to come up with the idea of how the City determine its cost estimates versus what the applicant's cost estimates. It was clear the City's estimates did not include several improvements including parking and foundation repair that he believed were necessary to maintain the structure and at least keep it upright. Before anyone would do additional work on the building, the structure needed to be shored up to be made safe from a structural standpoint. He thought the City did a great job in trying to enumerate the amount of repairs to meet minimal code levels and adding the cost to repair the foundation and putting in a reasonable amount of parking, he thought the cost estimate might be in the \$300,000 range.

He said he talked to people who did rehabilitations on homes and asked what it would take to rehab this building. He did not want to leave it to speculation or use his limited knowledge of the property, but wanted to ask people who did rehabs for a living and had knowledge and resources available to know the cost. He said he understood the structure was beyond repair. There were a lot of salvageable components in the building which needed to be addressed, but they needed to discuss whether the building was salvageable or not and with our economic conditions now and in the future, the building would continue to deteriorate and did not think there was any way to save the structure as it stood today. There was a lot of paint coming off the building and the odds that it was lead based paint was substantial, and if the structure was going to be left standing, they needed to take responsibility in order to protect the environs.

Commissioner Hack said the tour was pretty horrifying and agreed with Mayor Dever in that she had no clue what it would take to rehab that structure. She said her concern was the replacement for that property and what the domino effect was. She said it appeared that structure might need to be demolished, but she could not support that decision without knowing what the future held for that site. The issue of demolition by neglect was something on the City Commission's plate for a long time and was not something they're trying to neglect either. The City Commission was working hard to manage limited and declining funds and meet the needs of so many citizens of all kinds in the community. She said she would ask staff to provide costs when looking at the budget. She said she might support demolition, but not now because there was no replacement.

Commissioner Amyx said because the City Commission had to make a determination tonight based on the relevant factors that there was no feasible and prudent alternative to the proposal, without a replacement plan, he was not sure the City Commission could make that determination about demolition. The City Commission was required, as part of this public hearing process, to make a determination and without that replacement plan, the Commission did not know.

Commissioner Highberger said based on the information given, he did not see enough information to determine that there was no feasible and prudent alternative to demolition.

Vice Mayor Chestnut said the LLC would have known the HRC process was going to happen. He did not know if there had been miscommunication, but it did not sound like there was enough evidence that someone purchased that property with the understanding they would be able to raze the structure without going through the process of HRC.

He said a statement was made that the owner had the responsibility, in purchasing the property, to know what they were getting into, which he agreed with. He said the LPA was engaged in rendering their opinion, but ultimately the owner of the property had to make the decision about making the investment because they were putting in half a million dollars and

trying to figure if they would have a return. If a structural engineering analysis indicated it would cost half a million dollars, the property owner had some obligation to get other bids, but the property owner had to take the risk. From that standpoint, he supported the finding that he did not know if this was a project that could be rehabilitated, but then he went back to talking about what the Commission was obligated to do where the City Commission was obligated to talk about by state statute and whether there was a feasible and prudent alternative. The City Commission considered the factors as far as technical issues, design, and economical issues and looked at alternative solutions, but what had not been seen was describing the mitigation maker proposed by the project proponent that would address an adverse effect and determination by the HRC, which was another structure. They needed to know what would happen after and there was no mitigation. He said he thought there was enough evidence to determine if this structure could not be salvageable and the property owner had done the work of obtaining a structural engineer. He said Zollner's memo made a statement that talked about structurally sound, but was in direct conflict of what the structural engineer indicated that the applicant stated.

He said if he was spending somewhere between \$350,000 - \$500,000, he had to make some determination as an investor of the risk factors. There had to be some balance, but was it reasonable to say in all possible planning what was in the future. That was part of the picture and it was incomplete to him. It was reasonable to have an expectation and that could raise a whole lot of issues which they might need to start talking about parking and what needed to be done if the structure had to be smaller to accommodate the parking. He could not rule on demolition at this point because he did not know what the future held.

Commissioner Amyx said if the City Commission made a recommendation against demolition, he asked what would happen in the process and could the City Commission give direction as to what they would like to have to come into that appeal. He asked, could the

Commission not make a decision on a demolition, but to ask for additional information which included that plan.

Zollner said yes.

Mayor Dever said mitigation was a good term. He said mitigation of the existing hazard which the City had cited the property owner for, needed to be discussed at this time because there was a non-conforming use and that property was not conforming to City code. He said there were really not too many things the property owner could do to the building in order for that building to be in compliance with the code. He said the City was allowing this unsafe structure and this non-conforming use to go on while determining what the future of this building might be. He said the City needed to do something about this property, if not for the safety of the people that lived in the neighborhood, but for the future land use of that property. He said if there was a non-conforming land use right now, he asked if they could mandate some sort of requirement to fix up, board up, or structurally improve the building. He said in a worst case scenario, demolish that structure, but require a plan be placed on the property prior to demolition. He said he did not want to dismiss what would happen in the future, but he was worried about the building that was currently at that location and the fact there was no future if the City Commission let the structure sit for another year. He said it was the City Commission's responsibility to think about mitigating the present circumstances, not demolishing, but requiring some sort of action in the interim time because there was a non-conforming use and a violation that needed to be addressed.

Commission Highberger said the Commission had an estimate provided by the applicant to tear the building down. He said he was not willing to make the determination there was no feasible or prudent alternative. He said he would like to see other estimates on rehab plus a financial analysis factoring in those costs and if the structure at that location could be economically viable before he could even move on to the part of feasible and prudent alternative.

Amyx said our responsibility is to ask our staff to make a determination whether the structure is dangerous and unsafe.

David Corliss, City Manager, asked Jimenez what was the current status of the property under the unsafe and dangerous code requirements.

Jimenez said the unsafe and dangerous structure section of the code gives staff the ability to come before the City Commission to ask for demolition of the property or require that the property owner fix the dangerous structure.

Corliss asked staff if they cited the property as an unsafe and dangerous structure.

Jimenez said not specifically, but for the condition of the structure.

Commissioner Hack asked what it took to be cited as an unsafe and dangerous structure.

Jimenez said there were a number of factors that came into play such as structural. He said when staff inspected the property last August 2006, there was much debate what the costs would be and he agreed the cost would be somewhere in the middle of what was stated earlier. He said at that time, there were several people with staff who he felt were good in the area of analysis. The structure had good bones, was pretty level and had straight walls, but there was quite a bit of deterioration. He said staff did not cite the structure necessarily under the state statute as dangerous and unsafe, but rather a blighted property under the City Code.

He said staff was very excited when hearing the property had been sold. He said it was always clearly identified, if that structure was to be taken down, a replacement plan was needed. He said the Neighborhood Resources Department was worried about code compliance, but the question was how to make it code compliant before knowing the plan of action and what was going to replace that structure. He said he did not think there was a feasible way to make the exterior of the structure code compliant and wait for a plan of action on a replacement.

Commissioner Amyx asked if staff needed to make a determination on whether or not the structure was unsafe and dangerous.

Jimenez said from his experience, a building in that condition with the weather elements coming into play, it did not take long for a property to become worse. It had been almost two years since the last inspection. It would probably be beneficial for staff to inspect that structure again. He said it was awful hard for staff to make a determination using that statute without going inside.

Commissioner Amyx said a determination on the structure needed to be made on whether or not that structure was dangerous and unsafe to the public along with Commissioner Highberger's concerns. He said staff could have follow up information for Banks and others about questions regarding the financial feasibility of that property. The City Commission's responsibility was to have staff make the determination on whether or not the structure was unsafe and the City Commission had a responsibility to take care of the public.

Vice Mayor Chestnut agreed, but there had to be a balance when talking about the structure having good bones because the fact was the City was not going to write a \$400,000 check, but someone else would. He said they needed to look at the balance of private property rights along with conformance and everything else. The thing he was frustrated about in this process was the City put somebody in a box. He said the City needed a process to define when talking about feasible and prudent alternatives or what was the City's expectation when there was a situation when someone did buy a property and might not know at that point whether the property could be rehabilitated or not. He said right now ambiguity drove people crazy. He said the City needed to provide more direction in those types of situations as to what the City's expectations were to make that determination. He said when looking at a parallel situation when the City Commission was considering the Oread and the TIF and TDD that was a laid out process. He hoped as the City Commission went forward they could start to help people walk through this labyrinth to some extent and try to figure out what it would take to make that

determination. What he was hearing was ambiguity about the City's expectation. He said he agreed the City Commission did not have enough to move forward, but was concerned the Commission was not providing enough direction as far as their expectations.

Commissioner Amyx said the City Commission could direct staff to make a determination if the structure was dangerous and unsafe and after that determination was made, require the applicant provide a replacement plan and any other relevant information deemed by the Commission.

Mayor Dever said Corliss mentioned in that statute the applicant needed to have some sort of economic analysis of putting back something.

Commissioner Highberger said even if the estimate provided by the applicant was accepted, the Commission did not know if it would be financially feasible or not. He said he did not feel like he had enough information to make that decision. He said he would be more comfortable with an independent estimate to make the structure habitable again.

Commissioner Amyx said the determination on whether the structure was unsafe and dangerous needed to be made first because there was no point in receiving all of that additional information if the City's professional staff made a decision to recommend to the City Commission the structure was an unsafe facility. He said once that decision was made, the City Commission could require a replacement plan be put into place or did the City Commission need that plan in order to determine feasible and prudent alternative and at that point the Commission could add the information that Commissioner Highberger and Vice Mayor Chestnut brought up about what would be required to make that feasible and prudent alternative decision.

Vice Mayor Chestnut said when talking about an independent analysis, he asked Commissioner Highberger if he wanted the applicant to pay for that analysis and did that number come from the other example, or was that number from the applicant.

Commissioner Highberger said his recollection with 19th and Kentucky, the analysis was provided by the applicant for replacement costs. He said he would be more likely to make a determination there was no feasible or prudent alternative if he had an independent analysis.

Mayor Dever said the cost estimate was provided by the applicant. The cost estimate the City prepared was prepared historically and construction costs had gone up. He said the Commission could just assume the cost estimate the applicant provided was 50% more based on some of the documentation he had seen, not including parts of the building that were addressed in their assessment which might have occurred since their assessment or might not have been included in the assessment of the cost. In general, they were talking about at least \$350,000 and the professionals he had talked to agreed with the half a million estimate. He said he was sure if there was a third party, that part would come up with a price tag that was equal. He said hopefully the dollar amount was not as relevant as the disagreement or the questions whether or not to have a replacement structure. He said in discussions with Zollner earlier that really seemed to be the sticking point which as they really did not have a plan as to what happened after the structure was demolished. He said if that information was what the Commission was asking for then they needed to direct the applicant for that and whether it was reasonable to ask for that information seemed clear. He said the majority of the Commission wanted to know what was going to happen next before approving demolition.

Commissioner Hack said Zollner indicated that two year old \$100,000 was to bring that structure up to minimum standards and that amount was not for rehabilitation. Aside from that issue, there were two more issues which was could they, as Commissioners, allow that building to exist in a way that was dangerous to the surrounding neighbors and the Commission needed to direct staff to find that answer out.

She said in terms of the HRC review of this particular demolition of the structure, the replacement plan needed to happen. She said the Commission needed to ask staff to look at the structure to make sure it was not a danger to anyone which was the Commission's

responsibility. The applicant's responsibility, if they wanted the Commission to look at this issue, the applicant needed to come up with part two which was the replacement plan. She said what she was concerned about if this went down with nothing else.

Mayor Dever said the Commission should direct staff to determine whether there was another standard to compare this issue to.

Corliss said the Commission could defer their decision on the feasible and prudent alternative in minimizing harm; ask staff to take a look at the status of the property particularly whether or not the structure had any qualifications under the unsafe and dangerous structures law; ask the applicant to provide additional information regarding the possible planning to minimize harm to the environs, specifically what would be the plan for the replacement if demolition of the structure took place. The Commission might want an interim plan when the structure was gone would there be parking allowed or other issues involved, what would be the schedule for replacement and what would be the likely replacement. He said one thing he was not sure of was whether or not there was additional information that was needed on the costs to rehab the structure. There was probably a consensus of the Commission that there was a \$300,000, \$400,000, or \$500,000 cost estimate appeared to be within range. There had been some discussion about the lack of improvements and whether or not to go ahead and make that level of investment on that property. He said he did not know if they could assume that cost meant they could not recoup from the building, but he had no idea and seemed like a lot of money to put into a structure. He said the Commission could follow through with that idea and ask the applicant to give the Commission a rate of return analysis. He said he was not sure there was a consensus to ask for that information, but that idea clearly could be part of the previous issue in that was it prudent to try and rehab that structure.

Commissioner Highberger said it was a two step process. The first determination was whether there was a feasible and prudent alternative for demolition and if there was a finding that there was no alternative then the Commission would determine possible planning to

minimize harm to the listed property, but if the Commission determined there was a feasible and prudent alternative then the process stopped.

Corliss said that was generally the way the statute was followed.

Commissioner Highberger said there was still the question of whether the structure was unsafe.

Corliss said the decision could be deferred; ask for that additional analysis of whether or not the structure was unsafe or dangerous and the applicant could provide the information about the planning to respond to, if the demolition occurred, that would trigger the anticipation for that other information. He said he did not know whether or not the City Commission was expecting a rate of return analysis on the prudence of putting \$500,000 into the building.

Commissioner Highberger said for the record, he was not willing to make a determination that there was no feasible or prudent alternative without some financial analysis.

Corliss said the applicant could provide that information as well. He said the applicant had been fairly instructed about the replacement issue and staff would provide additional information on whether the structure was unsafe and dangerous. He said he was also going to have staff look at other structures up and down the block because it seemed to be part of the concern.

Mayor Dever said if the Commission would be opening up the door of finding that structure to be unsafe, he asked what would be required from the owner of the property.

Corliss said the property owner would need to follow state and local laws regarding demolition, but then the City would have the authority to require that structure be made safe, but that did not mean the property owner needed to spend \$500,000.

Banks said he heard the City Manager indicated the applicant understood what was expected but he would like to get something in writing.

(13)

Receive staff report for the Queens Road special assessment benefit district formation

John Miller, Staff Attorney, said most of the information was preliminary and not something set in stone. The staff report provided an overview of Queens Road, north of 6th Street and provided an example based on three methods of assessment which were:. 1) The typical method for straight streets was splitting the front footage on the east and west side of the road then front footage per tract and then area per tract; 2) Splitting the front footage on the east and west side of the road and then by the square footage; and 3) By total square footage per tract of land of the entire improvement district.

He said for comparison purposes staff chose a single family residence in the Westwood Hills Subdivision and a one acre rural residential tract of land zoned urban reserve. The assessment amounts were examples based on preliminary analysis and were subject to change depending on the land area and configuration of the improvement district and did not include the interest that would be added to the total assessment.

The second issue to discuss would be the property to include in the district. There were two properties along Queens Road that were not currently in the City limits of the City of Lawrence. He said there were three ways to include that property which were: 1) annex the property; 2) pursue an improvement district to include property outside the City limits by state statute in which the City could initiate the district or property owners in the County could petition for the improvement district which needed approval by the Board of County Commissioners; 3) include the property outside the city limits by state statute in which the city would create an improvement district that only included property inside the City limits and would include a provision stating the City's intent to collect a benefit fee from property outside the City limits at the time the property was annexed into the City.

The third issue was apportionment of costs and whether the City-at-large would pay a portion of the cost for street improvements north along Queens Road. As an alternative to participating in street improvements, the City at large could pay for the signalization at the

intersection of 6th Street and Queens Road. This approach would eliminate the need for the creation of third improvement district for traffic signals

The City Commission might want to consider deferring the assessments on some of the property included in the district until the property develops.

David Corliss, City Manager, said south of Overland Drive there were four residential lots, three of those lots were rural residences and it would be staff's recommendation to defer those assessments until those properties redevelop. He said the Commission might want to think about whether to extend Queens Road to the far northern boundary, to Queens Road just to Overland, or to Queens Road to Wakarusa Drive, but his experience was that any time they could get infrastructure ahead of development, the City would be that much further ahead of dealing with transitional issues into the future. He said obviously there would be a cost associated with infrastructure as well.

It was at this point, the development pressure was on the south side of 6th Street and there was property for sale on the west side of Queens Road extended. He said there was 300 feet between 6th Street and Branchwood connection and staff did not see the need to make that connection, at this time, and would be something that would be triggered likely with development on the south side of 6th Street, but there was the LINKS project and Creekstone and thought it was appropriate to discuss that area.

He said one of the things staff struggled with special assessment benefit districts was development could occur and the developer could sign agreements not to protest the benefit district and those agreements would be hopefully appropriately executed, but then those property owners would not know about those agreements as well as those property owners should. He said other communities require the developer to pay a fee, some communities call it an impact fee and other communities call it a plat excise tax that Lawrence was not allowed to do. If it was an impact fee, that money would be held onto so the money would eventually pay for road improvements. He said when the Commission had the public hearings for the benefit

district there would be property owners who would be surprised they were going to be paying special assessments. They were not to that point yet, but he anticipated that discussion.

Commissioner Amyx said was there currently a benefit district in Westwood Hills or Parkwest and was that all paid for by the developer.

Corliss said there was a benefit district for Wakarusa Drive that those property owners were paying and also a sanitary sewer through a County benefit district.

Commissioner Hack asked about the interior roads.

Corliss said none of the interior roads were benefit districts.

Commissioner Amyx said the property owners were paying for Wakarusa Drive and sanitary sewer.

Corliss said that was correct. There was also a benefit district for Overland Drive and Congressional Drive.

Vice Mayor Chestnut said there were tracts to the west (The Links), two tracts to the south, one tract closest to 6th Street which was Creekstone, and asked about the tract in the middle.

Corliss said that tract, at different times, was called Stultz Land. The tract was annexed into the City but he did not know the zoning district. He said there were earlier plats that showed that area as single family residential and at one point, duplex. He said he believed those plats had expired and the property had not been platted, but that property was participating in a benefit district for Overland Drive and Overland was being extended to the west to Stoneridge. That project had been bid, contracts were signed, and that road would be built within the next year.

Vice Mayor Chestnut said one thing that would be helpful information wise was that he saw where Wakarusa came into Queens Road and how that area lay out with The Links project because there was a preliminary development plan. In other words, going to the north, he asked how far Queens Road needed to go. Obviously, for The Links, that road needed to go to

Wakarusa, but asked if the road needed to go up to the property line or not. He said the property owners would not want to pay for frontage at that location and then have a gravel road from the end of the property to 6th Street.

Corliss said they would provide additional information on The Links development.

Commissioner Hack said she thought there was economy of scale in terms if they were hauling stuff out at that location, to go ahead and extend it to the north made sense. She thought they tried to get major roads in prior to development and then would determine where those roads would go. She said her preference would be to figure out one of those options on the northwest quadrant and if they were going to construct that road, construct that road all the way up to N 1700 Road.

Vice Mayor Chestnut asked Commissioner Hack if she would prefer to go to the County and ask for the authority to form that benefit district or annex the tracts.

Commissioner Hack said she would start with the County. If that did not work, they could move forward. She appreciated what the City Manager said about deferring those assessments along with the assessments on the southeast section. She thought that was fair. She already heard from one property owner that when The Links was done, not to put their property in the benefit district in which she indicated the builder placed their property in the benefit district. She said notification did get washed out and was an issue that needed to be discussed another day.

Mayor Dever asked if the east half of Queens Road was in the City limits.

Corliss said yes.

Mayor Dever asked if the west half was not in the City limits.

Corliss said very north was where it cut off.

Mayor Dever said the west half of that road was in the county limit and the east half of the road was in the City limits. He was on that road a lot and saw it many times on a bike and would say that it would be prudent to pave the road as Commissioner Hack indicated up to N

1700 Road if not for a nuisance to the City, for general aesthetics. At least half of that road was in the city limits and if that was the case there were probably a lot of neighbors wondering why they did not finish the road all the way. If the road was not affordable or cost effective, then they could not do it. It made more sense to do it and would probably stop at the intersection of the road, if the road to the north was there or to the intersection of Wakarusa as it cut into The Links. The northern part of the road was in better shape than the southern half. He said as Commissioner Hack indicated there needed to be an economy of scale to finish the road to 1700 Road and would be best if they could.

Corliss said what would help that decision would be the costs and see what needed deferred.

Commissioner Amyx said he did not think the city-at-large should participate financially in this project.

Corliss said this street would be a collector street. Under the City's development policy, Resolution No 5614, they would not be forecasting any City at large participation.

Commissioner Hack asked about the intersection.

Corliss said one of the questions they would need to study was at what point did the development want the signalization of Queens Road and 6th Street. Congressional would be signalized and were going to redo a benefit district for the signalization and road improvements at 6th and George Williams Way.

Commissioner Hack said there was history in participation in some benefit district and not in others. She said with the Queens Road benefit district, she would not ever want to participate 100% because the City did not create the need. However, there was at large City traffic that traveled that road and to that extent the need had been creating.

Corliss said staff would provide the Commission history on signalization of intersections.

Mayor Dever asked if Eisenhower Drive was completed.

Corliss said he did not think Eisenhower Drive connected to Queens Road. He thought it was platted, but did not physically connect.

Mayor Dever said he knew that parcel was vacant and he had not seen Eisenhower Road curve around that area and knew the road was a dead end at White Drive.

Commissioner Highberger said on the comparison of assessments on Westwood Hills and the urban reserve, he asked if they were comparing a single lot in Westwood Hills to a single acre.

Miller said yes.

Commissioner Highberger said it would be helpful to compare per square acre and this seemed like pretty dramatic disparities, but could not tell what the actual disparity was by looking at this.

Miller said staff could provide that analysis.

Mayor Dever asked if there was any better way so the Commission could understand what they were doing to the average homeowner.

Chuck Soules, Public Works Director, said it seemed like that question came up every time. He said if the assessment was based on front footage it would be 50/50 on each side of the street and depended on which way the assessment was done.

Commissioner Highberger said it would be helpful to look at an analysis on the impact on one acre versus the impact on one lot.

Vice Mayor Chestnut said a person could not take those numbers and make a relevant comparison.

Mayor Dever said if subdividing that Urban Reserve into 10 parcels of land, he asked if that was now \$9,000 a parcel. He said that was what staff was getting at because they had to compare a lot to lot or the potential lot size relative to the neighboring properties.

Vice Mayor Chestnut said if they used the typical method of assessment and looked at the zoning on the west side, with RM-15 and RM-12 they could get down to converting what that

was per unit. They would know what The Links was if using that assessment per unit. He said he thought assumptions could be made on that middle tract with some type of mid density zoning and try to make some assumptions and compare one side of the street to the other side. If they used three different methodologies, it would be more numbers than he would care to look at.

He was said he was concerned about the carrying costs and was it based on what was known now and what was the percentage of the total project that needed to be deferred because as they had discussed the bond and interest fund, that was one of the things that would sneak into that that would squeeze their ability to do other capital projects. He said that would get down to who signed petitions not-to-protest and who had not. He said it sounded as if the City would be carrying 30% of that project possibly.

Mayor Dever said the City needed a cost estimate for Wakarusa and the City would need to carry 50% of the cost of the road between north Wakarusa and 1700 Road and the City might not be able to afford to carry that cost.

Corliss said staff would look at that issue.

Miller said if the statutory provision which included the property in the northwest portion, they would need to go to the County Commission before staff drafted the resolution. He asked if the City Commission wanted staff to look at some of the numbers before going to the County Commission.

Corliss said he thought the Commission would want a report back before doing anything.

Mayor Dever called for public comment.

No public comment was received.

(14)

FUTURE AGENDA ITEMS:

- 06/17/08
- Receive update from KDOT and HNTB on the design effort for the replacement of the 23rd Street Bridge.
 - Public hearing regarding a request for vacation of city right-of-way along

Indiana Street between 11th Street and 12th Street related to the Oread Inn project

Consider the following items related to the annexation of approximately 155 acres, located at the northwest corner of N. 1800 Road and E. 900 Road:

- Consider approval of the requested annexation, A-02-02-08, of approximately 155 acres, located at the NW corner of N 1800 Road & E 900 Road. Submitted by Steven Schwada, agent for Stonewall Farms LLC; JDS Kansas LC; Pert LC; Penny J Tuckel; Axrom LLC; Venture Realty Corporation; Arco Sales Corporation; Venture Properties Inc; Industrial Square Corp; JDSS Limited Company; Radol LC; Tuckel Russell L JR; Northland Ventures LC; and Oread LC, property owners of record.

ACTION: Approve requested annexation A-02-02-08 of approximately 155 acres, located at the NW corner of N 1800 Road & E 900 Road, and authorize staff to draft ordinance for placement on a future agenda, if appropriate.

- Receive County Commission findings concerning proposed annexation of property at K-10 and the Farmers Turnpike.

- Public comment on 2009 Budget.

08/05/08

- Public hearing on 2009 Budget.

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.
- 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.
- Consideration of airport industrial park annexation and rezoning items.

Receive minutes of May 5, 2008 Traffic Safety Commission meeting. **(Consent Agenda)**

Approve unanimous recommendation from the Traffic Safety Commission for the following: **(Consent Agenda)**

- Deny request to establish NO PARKING along the south side of 17th Terrace between Barker Avenue and New Hampshire Street. (tsc_5_5_08_item2) (8-0)
- Deny request to establish a STOP SIGN at the intersection of Cambridge Road and Sunset Drive. (tsc_5_5_08_item5) (8-0)
- Consider approving the recommendation from the Traffic Safety Commission (TSC) for the addition of a pedestrian-activated signal to the mid-block pedestrian crossing on New Hampshire Street between 9th Street and 10th Street. (tsc_5_5_08_item3) (8-0)

ACTION: Approve recommendation from the TSC for the addition of a pedestrian activated signal in the mid block pedestrian crossing on New Hampshire Street, between 9th Street and 10th Street, if appropriate.

- Consider Traffic Safety Commission (TSC) item requesting a mid_block crossing on New Hampshire Street between 7th Street and 8th Street. (tsc_5_5_08_item4) (4-4)
- Consider Traffic Safety Commission (TSC) recommendation to establish a 20mph speed limit on Crescent Road between Engel Road and Naismith Drive. (tsc_5_5_08_item6) (5-3)
- Wastewater Facilities Master Plan Improvement Project.
- Pump Station 9 (Four Seasons) Wet Weather Storage Expansion Project.

COMMISSION ITEMS:

Moved by Hack, seconded by Amyx, to adjourn at 10:15 p.m. Motion carried unanimously.

APPROVED:

Sue Hack, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF JUNE 10, 2008

1. Bid – 1 Super Duty 1 ton Truck to Laird Noller for \$78,260.
2. Bid – Painting Holcom Park Center to Goens Brothers for \$16,500.
3. Bid – 2008 Overlay Program Phase 2 to LRM/18th & Louisiana Raised Crosswalk; to LRM for \$793,117.90 & 2008 Overlay Program Phase 2 alternate bid to LRM for \$217,665.30.
4. Set Bid Date – Lawrence Ave, Harvard to 9th on June 24th.
5. Ordinance No. 8278 – 2nd Read, text amendment to include “Extended Care Facilities” as a use permissible by special use permit in IBP (Industrial/Business Park) District.
6. Ordinance No. 8281, 2nd Read, Alcoholic Beverages, Lawrence Live Concert.
7. Ordinance No. 8279 – 2nd Read, SUP for BC&R Storage, 1300 N 3rd.
8. Final Plat – (PF-05-06-08) The Exchange at Lawrence, SE corner of W 31st & Ousdahl.
9. Mortgage Releases – Gentry at 742 Maine; Gillman at 1828 Atherton Ct; & Harmon, 1220 New Jersey.
10. City Manager’s Report.
11. Transit – Merger Transit System & potential sales tax for infrastructure.
12. City Ordinance No. 8283/County Res – Industrial & Employment related land use May 2008 Edition.
13. Feasible & Prudent Alternative - Demolition, 1232 Louisiana.
14. Benefit District Formation – Queens Rd.