



# City of Lawrence

DAVID L. CORLISS  
CITY MANAGER

City Offices  
PO Box 708 66044-0708  
www.lawrenceks.org

6 East 6<sup>th</sup> St  
785-832-3000  
FAX 785-832-3405

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

June 17, 2008

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

## RECOGNITION/PROCLAMATION/PRESENTATION

With Commission approval Mayor Dever proclaimed June 19, 2008 to be "Dump the Pump Day."

## CONSENT AGENDA

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to approve the City Commission meeting minutes of June 3, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to receive the Public Transit Advisory Committee meeting minutes of February 12, 2008 and April 8<sup>th</sup> 2008; and the Board of Electrical Examiners & Appeals meeting minutes of May 7, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to approve claims to 469 vendors in the amount of \$2,349,263.79. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to approve the Drinking Establishment Licenses for Carlos O'Kelly's, 707 West 23<sup>rd</sup> and Jefferson's Restaurant, 743 Massachusetts. Motion carried unanimously.



As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to concur with the recommendation of the Mayor and appoint Beth Johnson to the 31<sup>st</sup> Street Steering Committee. Motion carried unanimously.

The City Commission reviewed the bids for roll-off trash containers for the Public Works Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
Roy Conley & Co.	\$25,232
American Equipment	\$32571
Burnip Equipment	No quote: can not guarantee price due to rising costs

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to award the bid to Roy Conley & Co., in the amount of \$25,232. Motion carried unanimously. **(1)**

The City Commission reviewed the bids for West Baldwin Creek Interceptor Sewer for the Utilities Department. The bids were:

<b>BIDDER</b>	<b>BID AMOUNT</b>
McAninch Corporation	\$2,104,550.80
McCorkendale Construction	\$2,168,350.00
King's Construction	\$2,207,728.95
Emcon Construction	\$2,237,000.00
Meadows Construction	\$2,368,710.00
Rodriguez Mechanical	\$2,498,085.50
Redford Construction	\$2,498,155.00
Rose-Lan Contractors	\$2,567,397.94
Beemer Construction Co.	\$2,662,762.25
R.D. Johnson Excavating	\$3,199,999.00
Nowak Construction Co.	\$3,387,576.15
Engineer's Estimate	\$3,967,387.00

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to award the bid to McAninch Corporation, in the amount of \$2,104,550.80. Motion carried unanimously. **(2)**

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to approve a Comprehensive Plan Amendment (CPA-2008-1) for the Southeast Area Plan, Recommendations section; Land Use, Land Use Descriptions, Commercial Zoning Districts to

change CC400 District to CC200 District, and place on first reading joint Ordinance No. 8282/County Resolution No. 2008-05, approving amendments to the Comprehensive Land Use Plan "Horizon 2020" by amending Chapter 14, specific plan, Southeast Area Plan, Section 3.11, Commercial, Zoning Districts and repealing the existing Section. Motion carried unanimously.

**(3)**

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to authorize the write-off of certain water, sewer, sanitation and miscellaneous receivables deemed uncollectible by the Finance Department for the period of January 1, 2006 through December 31, 2006. The total request write-off is \$140,042 for 890 Utility Billing customers and \$97,410.77 for miscellaneous receivables accounts. Motion carried unanimously.

**(4)**

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to authorize payment to Johnson County Licensing Program in an amount up to \$76,600 for continuing education classes for Lawrence licensed contractors who will attend training during the 2008 program year. Motion carried unanimously.

**(5)**

As part of the consent agenda, **it was moved by Hack, seconded by Amyx**, to authorize the Mayor to sign a Release of Mortgage for Matthew and Tayloe Grafel, 765 Ash. Motion carried unanimously.

**(6)**

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

During the City Manager's Report, David Corliss said work was underway in the Public Works Department to convert a number of key intersections in the community with battery backups for traffic signalization.

The Public Works Department also provided information regarding the downtown street maintenance project. City inspectors were keeping that project moving and there was great progress in the 600 and 700 blocks. The order of construction had been changed to respond to

situations on other blocks of Massachusetts Street. The project would be completed on time, weather permitting.

Other information in the City Manager's Report included the KTA Bridge Replacement and Plaza Improvement Project update; the Temporary Set Aside Agreement process for protecting sensitive areas; the Sustainability Advisory Board received the results of the recycling survey; City staff attended the City Attorneys Association of Kansas Spring 2008 Meeting; vehicle maintenance personnel achieved certifications; and staff's involvement with the Parks and Recreation events and projects. (7)

**REGULAR AGENDA ITEMS:**

**Receive update from KDOT and HNTB on the design effort for the replacement of the 23<sup>rd</sup> Street Bridge.**

Chuck Soules, Public Works Director, presented the staff report. He said KDOT had begun the preliminary design process for the replacement of the 23<sup>rd</sup> Street Bridge. City and County staff, KDOT, and the consultant met as a design team to go over issues.

Kris Norton, KDOT, said he was going to discuss the K-10/23<sup>rd</sup> Street Bridge located between Barker and Haskell Avenue. This project was a group of pooled projects where KDOT was currently performing preliminary design. Those projects, along with other projects, were funded for preliminary engineering for possible lettings in the years 2010 – 2012. Those types of projects were system preservation projects which were pavement rehabilitations, bridge replacements, and those types of projects.

KDOT anticipated about \$380 million in federal funds to be available for 2010 – 2012.

If this project was selected for construction, it would most likely let to construction in 2011 and would be constructed in the spring/summer of 2012.

Eric Saggars, HNTB Project Manager, said the project location was the bridge replacement project located at 23<sup>rd</sup> Street, northeast of Haskell Indian Nations campus. It was an existing bridge with a road beneath that went from the Haskell campus, underneath that

road, to other roads. They looked at eliminating access and planned a different route to put in that location. A rail trail was located at the beginning of the bridge which headed south with plans for a future extension to the north and they looked at how that trail would impact their project. Another issue was the volume of traffic and how to regulate traffic during construction.

He said KDOT hired HNTB, the design consultant, in the summer of 2007 and began work in August and completed a field survey in November. A team comprised of City and County staff, KDOT and the consultant evaluated alternatives.

The first team meeting was in November to evaluate the project, determine goals, and set the tone to discuss the project. In February, they met with local land owners and invited adjacent property owners, including Haskell Indian Nations University to come discuss the project and their concerns, how construction would impact the property owners, and weighed that into their decision making process.

He said in the second team meeting, five alternatives were looked at in detail and selected three alternatives to carry further that had some potential and promise. Following that meeting, several phone interviews were conducted with the Lawrence Police Department, Douglas County Sheriff, and Johnson County Transit, and how the construction would affect those entities.

He said at the third team meeting discussions on bridge and roadway design costs from staff at HNTB took place and a recommended alternative was taken both to the City and KDOT.

He said their ultimate goal for the condition of 23<sup>rd</sup> Street, was 5 lanes with curb and gutter, sidewalk on both sides and the majority of the widening was south and fits best with constraints at the west end. He listed the options for the design alternatives.

1A Option – Pedestrian Box Structure Only (4:1)

- 4:1 side slopes outside of clear zone.
- Carry traffic on top while pedestrian structure is built, lower the roadway; and carry 2 lanes WB on north side and 2 lanes for EB on south side of 23<sup>rd</sup> Street.
- Significant retaining walls needed due to width increases; approx. <10' height, but not studied in detail yet.

- A 10' x 10' box structure, could be built between existing piers; 110' long & lighted (it had earlier been mentioned that this may be undesirable in urban areas).
- The building with the loading dock on northwest quadrant requires additional retaining wall and a large pad, to allow truck turnaround space.
- Shoo-flies shown are conceptual only:
  - South side shoo-fly is less desirable than north because more work is probably needed at southeast tie-in due to existing parking lot and trees in the southeast quadrant.
  - No intention to leave any portion of shoo-flies in place after construction. KDOT is not interested in keeping them and adding access points to 23rd Street.
  - It is possible to sequence construction with north shoo-fly only and carry two lanes on the existing bridge.
  - Pushed shoo-flies inward to keep limits of construction from west of Learnard and off from Haskell Ave.

#### 1B Option – Pedestrian Only Tunnel (3:1)

- 3:1 side slopes outside of clear zone.
- Reduced height and length of retaining walls needed (1000' vs. 450') due to steeper slopes.
- Guardrails would need to be added depending on what is at the bottom of the slope using the 3:1 slopes
- Pedestrian box structure is the same as 1A option: 10' x 10' tunnel structure, built between existing piers; 110' long & lighted (undesirable in urban areas). A taller box (12') may be desired for comfort and would not affect proposed profile.
- Profile -
  - Same for 1A & 1B – can be lowered by 8.7' from the existing profile.
- Truck movement
  - Assumed WB-62 truck to be conservative with turning movement required.
  - Additional cost associated with needing extra surfacing and a retaining wall to maintain truck movement at loading dock.
  - Dock would not be accessible during construction if north shoo-fly is used. The building owner had earlier stated he would work with KDOT on this issue. He is trying to evict current tenant. He is open to working around loading dock access during construction.
  - Turning movement with a truck from the northwest frontage road dock to EB 23<sup>rd</sup> Street in this scenario is difficult due to short spacing. A turning truck would block vehicles coming and going from Learnard Ave...

#### 2A Option – Pedestrian & Vehicular Box Structure (separate structures)

- Two separate structures between spans
  - Ped - 10' x 10' tunnel structure, built between existing piers; 110' long & lighted (undesirable in urban areas).
  - Vehicular – 28' x 16'-4" – must go through existing longest span.
- By adding the vehicular structure, retaining walls are reduced to placement between two structures and to the south side (shoo-fly).
- Easier to construct during traffic than a combined structure but headwall and hubguard details need to be studied further.
- Profile
  - Assumes 16'-4" vertical clearance in vehicular structure.
  - Profile lowered by 7' from the existing profile.
  - Gets rid of dip in existing profile west of bridge, so still a significant improvement for sight distance.
- The space between structures is a concern of the City – possible difficulty with compaction presents possibility of a bump emerging in 23<sup>rd</sup> Street. Granular backfill would help with compaction and help avoid hard spot in the pavement.
- Location of vehicular tunnel has implications for loading dock access during construction.

- May need to pave more due to offset of vehicular structure.
- Wing wall could be close to turning trucks and should be protected with guardrail or bollards.

#### 2B Option – Pedestrian & Vehicular Box Structure (combined)

- 45' x 16'-4" Conspan structure – aligned with existing roadway beneath bridge
- Could construct footings and stem walls before demolition of existing bridge, thus reducing construction time.
- South retaining wall still required
- Long pedestrian structure eliminated and comfort level of user is likely increased.
- Structure is too wide to construct under the existing bridge between piers.
- If utilizing 2 shoo-flys during construction, with traffic on both
  - Bridge taken down in one phase and a new structure built
  - Cost of additional shoo-fly
  - Contractor must work between traffic
- Utilizing 1 shoo-fly
  - would allow bridge to be taken down 1/2 at a time
  - temporary shoring needed (= increased cost)
  - build con-span structure to carry 2 lanes, and north shoo-fly would carry 2 lanes
- Cost implications for scenarios still need to be studied/evaluated
- Profile – can not be lowered by as much as 2A, but still about 5' depends on Conspan geometry.
  - Shoulder width in lower roadway through the structure needs further study – with low traffic volumes, could it withstand 2' shoulders? May be limited in standard sizes available from Conspan. Look at cost of both 42' and 48' wide openings
  - nice aesthetically – stamped, etc.
  - Build cast-in-place stem walls and foundations entire width in Phase 1. Place precast conspan units on south 1/2 only during Phase 1.

#### Option 3 – Open-span Bridge

- 3-span bridge structure, accommodating both vehicle and pedestrians
- KDOT's past bridge concept study needs further refinement of spans and location
- 2 walls at frontage roads are still needed on south side
- Can be constructed in phases with 1 or 2 shoo-flys similar to 2B.
- Cost of second shoo-fly could be as much as extra cost of phasing construction – need to evaluate before next team meeting.
- Profile – lowered by 3.4'
  - Conservative estimate based on prestressed concrete beam bridge
  - Shallower structure type can be used to lower profile more – RC slab or steel beam (profile would be similar to 2a & 2B options)
  - Construction time can be decreased - Cost needs to be studied

He said next week, a public meeting at the Douglas County Fairgrounds would take place that included City staff. They were moving towards a stage known to designers as field check, which was at about 60% completion, which would be done in February. This project had been selected to not move forward beyond that point, but if the project did that phase would begin next summer.

Commissioner Highberger said the design of the project included 12 foot lanes and asked if there was consideration about using 11 foot lanes.

Saggars said there was some discussion about 11 foot lanes, but because this road was a state highway, KDOT felt strongly in staying with the 12 foot lanes due to truck traffic and the volume of traffic.

Commissioner Amyx said regarding the shoo-flies on the north and south sides, he asked if those shoo-flies would only be one lane each.

Saggars said no. He said there would be two lanes in each direction and traffic would be split. What was intended was to design those areas for 35 miles per hour and they looked at preliminary vehicle profiles to save time on each end. Two lanes of traffic would be diverted down and the westbound traffic would be diverted another way making two lanes in each direction. Both had right turns only at those locations, but there would be no way to accommodate two head to two head traffic on each lane.

Mayor Dever asked about the stoplight to the left of Barker Avenue.

Saggars said an extensive traffic analysis was conducted, but there would be some impacts no matter what was done. He said they proposed closing Learnard Avenue during construction to prevent conflicting traffic in and out Learnard.

Commissioner Amyx said regarding the shoo-flies, he asked if the reason for the two lanes was to minimize traffic off of K-10/23<sup>rd</sup> Street going through the neighborhoods.

Saggars said yes. They looked at 12 different scenarios as far as existing conditions and future conditions and thought the Q's back up well past Harper. People tended to line up and get into that one lane. He said his recommendation was to carry two lanes through construction. The vehicular traffic would need to slow down and could take the shooflies at 35 mph and at least people could get through that area without going through the neighborhoods. They were going to try to capture all of that traffic and keep the traffic on 23<sup>rd</sup> Street.



Commissioner Highberger said he had a problem with improving the sight distance so much because it was going to speed up the traffic through that area and asked to give narrower lanes more thought because data showed those narrower lanes tended to slow down traffic and decrease accident rates.

Saggars said he agreed, but the problem was the amount of traffic which was close to 40,000 cars a day in that corridor.

Mayor Dever said at site distance the traffic just stops suddenly. He said it would be better to see the brake lights when traffic came to a stop.

David Corliss, City Manager, said it would be good to point out other additional opportunities for public comment.

Saggars said there would be a meeting on the 25<sup>th</sup> and there would be the ability to leave comments or make comments with contact information from both KDOT and HNTB staff. Once they were through the public comment period, they would move forward with design. He said through July, comments would be allowed.

Mayor Dever called for public comment.

James Grauerholz, Lawrence, said this was going to be the first fully designed road of the trail, which was great and wonderful. Bartlett and West emphasized in their master plan an idea for a trail head with a few parking stalls shown. He said he was pleased to see the amount of public input that was trail related. He said for example, Chuck Soules, Public Works Director, emphasized that on the sidewalks east or west on 23<sup>rd</sup> Street there would be a pedestrian connection down to the trail. It was nice the passage way would stay the same. He said the passage way was 241 feet, but the actual level part was about 50 feet.

He said he understood why two lanes of road were being closed, but had anyone considered closing Learnard at 23<sup>rd</sup> Street and wanted to put that idea in the grab box and if the idea was no good, then the experts would say so.

Saggars said they had not thought much about closing 23<sup>rd</sup> and Learnard, but one of the concepts was the 14 foot median making it a two way left turn lane actually made it a safer and protected location.

Michael Almon, Lawrence, said he was a member of the Burroughs Creek Corridor Planning Committee and they had been following and advancing this project for the last three years which was adopted by the City of Lawrence in 2006, the Burroughs Creek Corridor Plan along with the trail and linear park. He wanted to remind HTNB and KDOT the Burroughs Creek Corridor Plan Committee was still an active committee. Their committee was no longer commissioned by the City Commission to complete a plan, because the plan was completed and adopted, but they were an active committee, active in their neighborhoods, active in their position towards the Burroughs Creek Corridor Plan to follow up and advance some of the details of that plan including the trail and implementation of the trail. He said he was dismayed when he heard about this issue after the fact that no one had invited the members of the Burroughs Creek Corridor Plan Committee onto this design team. Nevertheless, he was gratified that HNTB and KDOT came up with a good design and thought most of the committee members would be pleased.

He said one issue he wanted to make clear in the public record was this option of the open-span bridge, particularly the one shown in option 3, he thought would be the preferred option and certainly not the reinforced concrete box, that would feel like the underpasses on south Louisiana Street or 6<sup>th</sup> Street at Pinckney School. Trail users would feel very confined, particularly at night time. The open-span was the option they would prefer and also gave the space for vehicular traffic, which was important.

He said the alignment of the Burroughs Creek Trail and the Haskell Rail Trail was approximately 50 feet offset and maybe even more from where HNTB had located the bicycle/pedestrian trail. He said one problem with that being very awkward and offset, the bicycle/pedestrian trail needed to cross auto traffic two times, whereas if the trail stayed at that

certain location, the auto traffic only had to cross once. He said that was an idea that could be addressed at the meeting on July 25<sup>th</sup>.

As far as sidewalks and multiuse trails, it was an excellent idea to bring a 10 foot wide multi-use trail down to connect to the Burroughs Creek Trail, but the connection was going to be critical, particularly at the turn of an auto street where a trail crossed at a turn was problematic and there was a similar situation at approximately 23<sup>rd</sup> Terrace and Ousdahl when a major trail crosses right at that curve. The site distance for bicycles and autos was very critical.

In the discussions with Bartlett and West, when coming up with a conceptual design for a corridor and a trail which was used to apply for the \$500,000 grant with KDOT, with that conceptual design it was mentioned the ideal places for the trail heads would be 15<sup>th</sup> and a trail, 11<sup>th</sup> Street and a trail, and 23<sup>rd</sup> Street and a trail. 23<sup>rd</sup> Street was a gateway to Lawrence where a lot of the incoming traffic from Kansas City adjoins the older area of Lawrence, especially Learnard Avenue. He said Learnard was at one time, up to the 1960's, the eastern City limits of Lawrence and was very much of a gateway. This location for a trail head for that reason and as well as the highway, Haskell University, and the trail to the south, was an ideal location for a trail head and during development discussions, this came up because at some point 23<sup>rd</sup> Street bridge might be redesigned and rebuilt, that would be the time to build the trailhead. He thought those were the main design elements that would make it work better for the bicycles and pedestrians, which right now precedent was on autos, but not to overlook the amount of money and time put into the bicycle trail too.

Saggers said the location to that span was to be finalized and there were also looking at other options. He said they were also looking at a 3 span bridge which was more open and addresses those concerns, but they were looking forward to those discussions on the 25<sup>th</sup>.

The City Commission received the report.

(8)

**Receive public comment on 2009 budget issues.**

David Corliss, City Manager, said state law required the City to give the County Clerk the City's budget by the end of August. There would be a statutory required public hearing in the first part of August where the City Commission would consider the adoption of that budget so the City could meet that statutory deadline. One of the things the City historically did was to have public comment on the budget early enough in the process before establishing the top mill levy rate. He thought it was helpful to staff and the Commission to reflect a little bit where they were with development of the budget. Projection information was seen, but did not have the final property tax projections from Douglas County, but the information indicated there was not likely to be any change in the assessed valuation to build the 2009 budget. They were assuming the same amount of revenue from the property tax general fund in 2009 that they were receiving this year. They were estimating some other revenues would increase, about \$880,000, which was 1.15% increase in the general fund.

The direction they gave their City departments were very challenging. Staff made 6% reduction to general fund budgets already this year. Not to agencies outside the City, but general funds supported departments were cut back 6%. The direction given to the departments in the 2009 budget was to hold the line in 2008 expenditures levels. That was a significant challenge, particularly with fuel. The direction given to City departments when looking at \$4.00 a gallon gas next year, was to budget 40% more in 2009 for fuel, than the 2007 actuals. He said they thought that was conservative, but might not be conservative enough and would see how that worked.

He said what staff had come up with the 2009 revenue projections in the general fund was about \$55.5 million which was a little bit above 1.5% increase over 2008 anticipated revenues. The budget submitted was about \$60 million, which did not include any upward movement in City employee compensation, merit increases, inflation adjustment or longevity as submitted by the departments. He said there was a difference between the anticipated

revenues and what was seen in expenditures from the departments which was about 3.8 million dollars and that was where staff had been making adjustments on the expenditure side.

Staff continued to keep open a number of non public safety positions, which totaled 15 positions. The Parks and Recreation Department did not include 5 of their positions because they were advised those position were unlikely to be filled. He said again, there were 15 positions that would not be funded and had made a number of other reductions to the department requests, all with the goal of trying to balance expenditures and revenues because they were at the lower end of their policy on fund balance where they try to keep a fund balance of at least 15% of expenditures.

The City's Health plan expenditures had increased about 10% and staff was continuing to look at that. They were also looking for other opportunities to reduce expenditures without reducing services and were looking to the City Commission as to what other items they would like to see in the 2009 budget.

Mayor Dever called for public comment on the 2009 budget issues. He said he would limit public comment to one hour.

Jennifer Brinkerhoff, DCCCA, said she was representing those agencies that received funds from the Special Alcohol and Drug Program Funds. She said she wanted to share concerns regarding the funding of the special alcohol fund grants given by the City Commission. The purpose for their correspondence was to voice their support of the recommendations given by the advisory board as well as the current system of distributing funds.

She said per Chapter 1 Article 14 of the City Code, set up a special alcohol advisory board that reviewed all applications for funding and made recommendations to the City Commission during the annual budget process. The group had been impressed with the commitment made over the years by the advisory board to learn about substance abuse prevent, intervention, treatment and programs. They, as program providers, appreciate the dedication and support given by the volunteer board as they implemented their program. Their

concern was that the system of distribution had been circumvented in the past which could lead to a radical departure from the intent of special alcohol and drug program fund, set forth in Charter Ordinance 33. This details that the expenditure and use of local alcohol liquor funds. Of those funds, 1/3 was placed into the local alcohol liquor fund programs, 1/3 went to the general fund of the City, and 1/3 to special Park and Recreation funds.

She said they knew the City Commission could disregard recommendations made by the advisory board, however they believed the current form of distribution was fair, equitable and consistent. They noted the group took time to review criteria set forth in the program proposals, such as measurable outcomes, defined objectives, and reasonable budget requests. The advisory board looked at all funding streams including total program budget for programs, thus being able to make sound decisions for funding. If this funding was not protected, there would be significant impact on existing programs in the community, such as Van Gogh, Lawrence Community Shelter, Bert Nash's Wrap Program, Women's Transitional Care Services, and DCCCA.

David Kingsley, Lawrence, said he served on the Alcohol Tax Advisory Board for three years. He said the reason he decided to serve on that board was that the City was looking for volunteers to work on Boards and Commissions, so he mentioned that to one of the City Commissioners and they appointed him to the board. He had served for three years and had one year left.

He said when he first joined the board, he learned they had a history and tradition and one of the traditions was an unwritten rule that they would be able to give \$100,000 to any one agency. He said it took him a couple of years to learn the ropes, because there was quite a lot of work to do. His time was money because he was privately employed. They spent several hours and were very serious about the work they did. Their board looked at all the RFP's submitted to the advisory board and would go back to the agency and ask more questions and consider the quality. He said this might be the time to look at that process.

Last year things changed. The board received an RFP from the Police Department for about \$250,000 and unanimously decided zero for that grant because they did not think it should be funded and did not fit the categories in the RFP. He appreciated the police department in the City and had a great department. Last year things changed and this year things really changed because what the board recommended this year was modified. Apparently there was a different structure set up. Their board met with the City Manager prior to undertaking the process this year and someone on their board indicated if the City was going to take the \$250,000 and make changes to the boards recommendations, then the board wanted to know how much they had to work with. They were told no, and that it was the board's job to make the recommendations and the board recommended \$75,000 for the Police Department School Resource Officers (SRO). He thought that was fair and the actual application of the grant that was submitted by the Police Department was not clear what they were going to do exactly, but it did look like a lot of the time that the money was going to go to SRO's. He said when he came to the budget study session, someone mentioned six SRO's, but the grant was actually for 3. It looked that most of the grant, the \$255,000, was going to be spent on policing bars around town, KU tailgating parties and very little of that time was going to be in schools. He was sure the SRO's did a great job with the kids and thought the schools like those officers.

He said the board had a \$59,000 grant application from the school district for prevention and education and the board recommended that \$59,000, recommended \$50,000 to WRAP Program. What they were trying to look at was a relationship between those three programs. In that discussion, they were concerned about why those three programs were not getting together and talking to each other about who was doing what. If the Police Department was doing prevention education, it would be nice to know how many hours they were overlapping with other work that was being done in the school. If the Police Department was intervening with troubled kids, he asked how that was overlapping with WRAP. They needed to take a look at the entire process and thought there would be a lot of conflict this year that there was not last

year. He said if the board was going to give the Police Department \$250,000 of the \$550,000. He said the board recommended \$30,000 to the Women's Shelter and it was reduced to \$17,000, recommended \$42,000 for Van Gogh and was cut \$4,000, and the WRAP cut totally. He looked at the Police Department budget submitted, and \$237,000 were for people in jail and that cost had increased 20% since 2006 and cost about \$61.00 a day per person to keep people in jail.

He said as for the homeless shelter, as a community, he asked where the community's priorities were and what was an effective way to use that money that would save the City the cost of putting someone in jail. He said if they looked at the Women's Shelter and the Homeless Shelter, those two shelters impacted public safety. If they had some of the chronic offenders off of the street and taking them to Topeka for treatment, it was less work for the Police Department. If they had a battered wife that could find shelter, that was less work for the Police Department. Neglecting those types of preventative programs was going to cost the police department a lot of money down the road. He thought it would be better to take a look at the process and talk about it.

He said he would hate to see that person on DCCCA job eliminated because it was essential, unless they decided to take the money back and let them make the decisions. If it was going to be a volunteer advisory board, they took it seriously and attended meetings.

Delores Tolar said she was a retired teacher and a longtime resident of Lawrence. She said in 1979 she started the first social services directory for the public. There was no list of where to get food stamps or utility help. The directory was still being published and was called, "Where to Turn" and was published by the Seniors' Center which could be obtained at that center. She said she was seriously concerned about the lack of comprehensive emergency preparedness methods. It was obvious there was a lack of coordination between the City and the County. It was obvious the emergency preparedness staff, supervised by the County Commission needed some common sense consulting.



She said after May 1<sup>st</sup> and 2<sup>nd</sup> tornado in Douglas County, they neglected to sound the sirens. That tornado hit Kansas City and destroyed 20 homes and damaged many. Some citizens were concerned and inquired what was going on. It turned out the County had a policy that sirens were sounded if a tornado was not seen at night, which she thought was a problem because they did not have x-ray vision. When it got to the point where people were being paid to do this job and they could not figure an elementary thing, it was time for a citizen review.

In general, she asked an Assistant City Manager if there was a written set of priorities for the City and the answer was no. She asked if there was a list of written priorities for the City, such as public safety.

Mayor Dever said they had a set of mission goals the City Commission strived for.

Tolar said goals were not the same as priorities. Such as taking care of priority number one which was public safety, fire, utilities, and police and other emergencies. Lawrence could have been hit by a tornado, Manhattan was hit and Chapman was hit. She said if the City had definite priorities and then came down to the budget decisions, they needed to cover the number one priority first, and then go to the second priority, and so forth. She also thought they needed to have a citizen meeting that was more participatory, just not one hour for all comments, but a true democratic participation that she was going to call for. She said if they cut money on certain things, like helping homeless and people in dire straights, then all those things were going to build up and cause all kinds of problems. She said for an example, in education they knew every dollar spent at the preschool level saved \$7.00 later on in special education. All dollars were not equal. A dollar spent in investment of education and prevention went further than a crisis dollar. She said a list needed to be created and needed to create a list of priorities. The public needed to participate and it needed to be a participatory thing. What the City had now was a mish of chaos, loopholes, wasted money, and when giving priorities it was who had the most money, big developers, or who could pack the City Commission room most.

She had been observing City government for many years and was time for them to get out of the horse and buggy era. She said the only reason the US was floating right now was because the US borrowed over \$1 billion a day from foreign governments, like China, and if they stop the entire economy would crash. Kansas was \$87 million in the hole because the federal government and gave people money, but tacked on \$87 million in a tax break, so Kansas would be \$87 million less. The community needed to switch the way the City had been running for years. It needed to be a rational, professional management approach and needed to go to a new paradigm.

Nora Murphy, Lawrence, said she served on the WRAP subcommittee of the Central Junior High School Parents Group and wanted to comment on the outside agency funding. In 2007, the City Commission pulled funding from Bert Nash's WRAP Program, which provided mental health services to children and adolescents. This loss of \$350,000 participated layoffs among WRAP workers who worked with elementary aged children. This month, the Alcohol Tax Advisory Committee suggested that the City restore \$50,000 of that funding to Bert Nash WRAP Program and encouraged the City Commission to follow that advice. She sat as an observer, along with several other parents and parent subcommittee members during last Monday's City Commission study session on the 2009 budget. The discussion perpetuated a belief that had been repeated so many times that they accepted as true. The belief was the City was justified in denying funding to Bert Nash's mental outreach to children because the Lawrence Public Schools did not fund a police officer program; that statement was illogical and without merit. First of all, WRAP was not a Lawrence Public Schools program; it was run by a non profit mental health agency Bert Nash. WRAP connected mental health services to Lawrence children and their families. The only connection to schools was that Bert Nash clinicians have offices inside the school buildings in order to give easy access to children who needed services.

WRAP was a brilliant program supported by the County, the schools and until last year the city, but it was wrong to consider the program a "School Program." She asked if funding of

WRAP should be in any way tied up with how school police officers were funded. She did not see the connection. She recognized in 2007 the City was short on money for the school police men. The money was taken out of children's mental health services and in a roundabout way given to school police officers. It was an expedient way to solve the City's accounting problem, but did not reflect any logic or clear thinking. It was a short term solution and by pulling funds from WRAP, it put the community's children in harm's way.

She said parents encouraged the City Commissioners to follow the recommendations of the Alcohol Tax Advisory Committee, funding WRAP at a reduced but significant level of \$50,000. To fund WRAP would recognize the significant launching of resources offered by the City's partners who already put money on the table; the County, Bert Nash and Lawrence Public Schools. As a side note, she reminded the City Commission that even in the worst economic times, Lawrence Public Schools always paid for indirect costs. That would translate to 40% of the total WRAP budget. The \$50,000 was enough for one elementary level clinician, perhaps someone who would be placed near the most at risk children. They understood there was a tight budget picture this year and would be a struggle to restore funding to an outside agency that was zeroed out in error the year before. It was doable and in doing so, it would prove the City had a true commitment to accessible mental health services to Lawrence children.

Michael Almon, Lawrence, said he was not speaking for any particular group, but encouraged everyone to do that. He said he wanted to address a couple of things. First he was not in a position to wade through the extensive tables and numbers and applauded City staff, Commissioners and particularly Vice Mayor Chestnut for having to do a lot of heavy detail lifting. One issue he wanted to point out was Lawrence was in between a rock and a hard place because people were extending out cups and were reaching out to a bucket with a hole. He said revenue growth was definitely slowing and part of that had to do with property tax real estate valuations which were a whole other issue, but sales tax drop had to do with peak oil. When people had less discretionary funds to spend, gasoline did not provide the City any tax

revenue at a local level. He said when people were spending more of their money on gasoline and less on other things the City received sales tax from, it could be seen how the equation worked out. Likewise, peak oil was cutting majorly into everyone's budget, household and City as well.

The analysis for transit that Cliff Galante, Transit Administrator, pointed out, the fuel per gallon had increased 79%. That increased affected transit, but was affecting everyone. The price per barrel for oil was a record high yesterday, \$139.89. It was going no where but up. City operations with fleet fuel, electricity and natural gas were going up the same as oil prices. It was one of the reasons why the City was in this problem.

He said the Peak Oil Action Committee was going to get the opportunity later this year to make a more detailed presentation and would go on more detail. He said he had a question about the sales tax proposal for the transit system. He said at this point ridership in every transit system in the United States and probably around the world was on the increase because of the increase of fuel prices for gasoline and diesel. He appreciated the City was looking at an alternative to cutting the budget of the transit system. It was counterintuitive to cut the transit system budget at a time when people needed it the most. He said if the City could pull off the sales tax proposal, he hoped that would be possible, but it was a big "if" because it depended on how the vote would go. He wondered if the City had a contingency plan if there was a no vote on that sales tax. He said he hoped the City had an alternative option.

He said in the section on outside agency funding allocations, one of the line items, ECO<sup>2</sup> operations was zero in the recommendations from the City Commission. He asked if ECO<sup>2</sup> received funds from other sources.

Commissioner Hack said that issue was discussed in a meeting and the things ECO<sup>2</sup> was asking for in that request were things that could be done in-house without placing a line item in the budget. A lot of it was copying, collating, and distribution of materials. That zero did not indicate a lack of support for ECO<sup>2</sup> at all, but it meant the things they were asking they could

do without putting in outside agency money into that as a line item. It was much more efficient to have the City do it than a private business.

Almon said his concern was ECO<sup>2</sup> was established to have parity with economic development interests in the community in funding so as to preserve ecologically sensitive areas such as farmland and that sort. He said he would be upset if ECO<sup>2</sup> was curtailed or limited in their ability to advance the agenda for ecological sensitivity and farmland protections where the Chamber of Commerce Economic Development efforts were getting \$185,500 which were promoting the industrial economic development and as they knew, it came down to flatness of terrain. The Chamber of Commerce, ECO<sup>2</sup> and other interests in the community were vying for the flat terrain, which was the best prime farmland in the county. He would not like to see one party given an advantage in promoting that agenda if ECO<sup>2</sup> was cut out of the picture because they were supposed to be in parity of that issue.

Commissioner Hack said ECO<sup>2</sup> was not being cut out of the picture and hoped that was clear because that was not what this was about.

Almon said he just wanted to make sure it was maintained.

Commissioner Amyx said the things ECO<sup>2</sup> was requesting could be done in-house and that \$7,500 could be transferred to other agencies as requests were made.

June Jones, Lawrence Arts Center, said she was going to comment on the funding proposal in recommendations that were made at the June 6<sup>th</sup> meeting for the Lawrence Arts Center under the general operating fund. She knew this was a difficult time for the City, so it went without saying everyone was running for the same dollar. She said she appreciated the effort the City Commission had to go through to try to allocate a limited resource. At the same time, she would be remiss if she did not bring up some of the issues they faced every day as do other organizations in trying to fund an organization operationally.

She said this was not a simple request for a handout or gift for the Lawrence Arts Center and was an organization that rose 80% of its funding from revenue which was unusual for a non

profit organization. They were asking reconsideration of the request they made for \$120,000 which was the amount originally granted at one point when they moved into the City building that had been reducing each year at a time when the service to the public, the number of programs and people served and expenses were increasing. She said it was their goal to try and provide services to the Lawrence community and become a partner with the school systems, community agencies, with people who were in very need of support and a number of the organizations listed on the funding were recipients of a number of services.

She said the City's building, built in 2002, continued to age and needed maintenance and repair. The building needed expert staff to keep it in the shape for visitors to the Arts Center. It also required staff that could provide the level of support required and that staff needed adequate space and resources to do what needed to be done. Very few people think of operating expenses as something they could relate to fund. Therefore, the City dollars were very important to the organization. It was providing more with less, not maintaining or shrinking. The Arts Center focused at becoming more effective of using the dollars the City did give to their center, so with her presence she asked they would reconsider their request for \$120,000. They would deliver more with what they were asking for and what they desperately needed. They would like to continue to help the community's children and families.

Mike McAtee, Lawrence Police Officers Association, said the LPOA and the International Association of Firefighters (IAFF) was currently engaged in the IBB process where they have negotiations with the City in reference to memorandums of understanding. They were hopeful during this process time as they were listening to citizens tonight, that they kept in mind they were currently working with the City during this process. They had several meetings so far and looked forward to continue to work with Chief Olin, Chief Bradford, and Diane Stoddard, Assistant City Manager, during this process. Their main concerns were that while they continued with this ongoing process, the City Commission keeps an open mind in regards to wages, benefits, working conditions and longevity pay. They were confident the City

Commission and City staff would put the priority of the quality of employees the City has, which provided the needed and very important services to the City of Lawrence.

Saunny Scott, Lawrence, said she was disappointed to the lack of commitment to the transit system. She was concerned and believed there was money available for economic development for this and to her the transit system was economic development. It allowed people to get to work and shopping. It was the most important economic development the City had.

She said if they were going to have a joint system with the University, an agreement needed to be made, but if one half was not sure it was going to be part of the agreement, it could fall apart. One of the things that were keeping the expenses up was that there was no one place for maintenance for systems. She kept wondering why they were taking so long to get Farmland grounds available. It was the one area that was not going to be turned back into farmland and there was no way that soil was going to be useful. It was an ideal place and would be plenty of room to set up a maintenance facility to serve both the KU system and the City transit. She felt there were a lot of things that needed to be done to move transit up and the way it had been handled, it made it teetering on the edge. She hoped somehow it would pull together and did not understand why transit was not seen as economic development.

Mayor Dever said Commissioners Hack and Amyx spent a great deal of time trying to cobble together the funds that were necessary to do what the City needed to do to make this community a great place to live. He said it underscored the importance of trying to maintain a healthy tax base so they could afford to do all the great things from the transit system, to WRAP, and the Arts Center, but those were services that had to be paid for, but unfortunately the City did not have excessive cash.

Commissioner Hack asked staff to review the additional times for public comment to keep people advised of the process.

Corliss said they would review the budget calendar and would be submitting a recommended budget the week of July 4<sup>th</sup>. The City Commission would have a study session on July 14<sup>th</sup> and a public hearing on August 5<sup>th</sup> when the City Commission traditionally considered adoption of the budget. The City had to send the budget to the County Clerk by the 13<sup>th</sup> of August. Also, on the City's website there were specific portions devoted to the budget and included department submittals and information about the outside agencies along with the City Manager's recommended budget the week of the 4<sup>th</sup> of July.

Commissioner Highberger said he appreciated the work of Commissioners Hack and Amyx and making the outside agency recommendations were not easy. ...

Commissioner Amyx said he has had the opportunity to serve on Commissions since 1983. When he first started as an elected official in 1983, there were federal revenue sharing dollars and was able to fund a lot of the outside agencies funded today. It was at the end of that program from the federal government when the City Commission decided to help programs in this community. Over the last 25 years, the Commission saw an increase in valuation and was able to fund a number of programs to the amount of dollars requested and even beyond some of those requests. Now the City was seeing flat valuation and was in a situation in making decisions with no increase in valuations. He said the City was placing a lot of stress in outside agencies and strain on folks the City Commission asked to volunteer to make decisions as was brought up on the Alcohol Fund Board. He said he would suggest the City Commission have discussions about that Alcohol Fund Board and someone on the City Commission serve as a member of that board or an ex officio member to take the feelings of the City Commission to that board so the board did not feel like they were taken for granted.

He said these were slow economic times and decisions had to be made, but the community would get through these times.

Commissioner Hack said she echoed what Commissioner Amyx stated. She said she did not want anyone to think that decisions to fund one outside agency over another were made



to harm one and favor the other because that was not the Commission's goal. The City had an obligation to be a better community than simply an institution, but in order to serve all citizens well, it was extremely expensive and every decision made this year was difficult. She said this year was her 8<sup>th</sup> year and least favorite because of decisions like these. She hoped people understood the City Commission was committed to provide the best public service to the citizens of this community. She said each one of the City Commissioners had spent hours on the budget issue which was nothing compared to how many hours City staff spent. She hoped that as moving forward citizens would keep that in mind.

Vice Mayor Chestnut said he appreciated all the work everyone had done because it was a tough process and much more time consuming when it was harder to fit expenses into revenues. He said they spent a lot of time talking about outside agency funding. One thing he asked of staff was to put together a five year time window of what their outside agency spending had been. They have grown outside agency spending, exclusive of Chamber of Commerce, bioscience contributions, and of Bert Nash by a compound rate of 10% from 2004-2008. The fact was, the Commission had remained committed to that but right now they were at the end of the line. In 2006, bioscience was included and in 2007 funded Bert Nash out of the general fund and those were years where the City deficit spent in the general fund \$3.3 million. He said the City was at a point where it was a City Commission decision that there was a fund balance to spend, but now working themselves down to what was left which was a much tighter ship. The City Commission had shown a history of remaining committed to outside agency funding, it just could not come at the same rate it had in the past.

Commissioner Chestnut said he agreed with one public comment about priorities. The City's priorities should be police, fire, providing water, sewer, solid waste pick up, and all of those things. Then it went to Parks and Recreation and Transit, but they had to go from the inside out and that was the Commission's obligation. He said he was committed to finding a way to fund transit, but transit could not be funded under current revenue resources at the level

it needed to be effective. The entire initiative behind sales tax was the fact across the nation, ridership was up, but not in the City of Lawrence, it was down at a time on the fixed route system when gas prices were going through the roof. What it was telling him was transit was not providing the right level of service to meet the needs, but to provide that level of service it needed significant funding and could not come from current revenue without sacrificing the City's core services. It was a tough decision to make and it seemed to be a consensus outside funding was needed. He was in support of providing a system that was integrating with KU that provided a higher level of service, hopefully more efficiently, but could not come from the City's current revenue system. He said the Commission was showing the commitment to give the right level of funding and consistent level of funding, but if not approved by the voters could not be compromised for the next 10 years. The mill levy was moved down in years past in transit and they were where they were right now. He said the budget had shown the priorities and priorities to outside agencies and tried to provide core services, but now they were at a point where tough decisions needed to be made. He appreciated the comments from the public and it was a tough job. He was confident they had to continue to invest in the community, whether it was in infrastructure, economic development, and also outside agencies for the community. It was a delicate balance, but the City would get to that point. (9)

**Consider approval of the requested annexation, A-02-02-08, of approximately 155 acres, located at the northwest corner of north 1800 Road and east 900 Road, and adopt on first reading, Ordinance No. 8285, allowing for the annexation.**

Sandra Day, Planner, said the item the City Commission was continuing to consider was an annexation with the property being located at the 1800 Road just north of the intersection of K-10 and I-70. The subject property was located within an area where active planning was being conducted known as the I-70 Farmer's Turnpike Plan. There were a number of items and steps towards this annexation request and took the item to the Planning Commission in March. It was recommended for approval and staff recommended to defer the annexation for completion of the plan. The Planning Commission recommended approval and forwarded it

back to the City Commission on April 15<sup>th</sup> and then went to the County Commission for their consideration and their request was to find and determine that the annexation would not hinder or prevent growth of the area or any other incorporated City within the County.

She said other land use considerations that were ongoing included a rezoning request for industrial zoning, which would be considered by the Planning Commission and would come to the City Commission in the middle of July, Comprehensive Plan Amendment for Chapter 7 that was currently under consideration and an amendment to Chapter 14 of Horizon 2020 for the area plan. They were all items related to the annexation, however the annexation was a separate and distinct item the City Commission was being asked to consider.

Commissioner Amyx asked Day who provided the steps they were supposed to make in considering the annexation.

Corliss said the County Commission provided those steps with the findings and under state law the ordinance was ready for first reading if the Commission desired. There were no findings of the City Commission that were necessary for this evening.

Commissioner Amyx asked if there were any rules or requirements the City Commission needed to follow.

Corliss said all of the conditions precedent were met.

Jane Eldredge, Barber Emerson, said their request was for the City Commission to move forward and follow the direction in the staff memo that if they adopt the annexation ordinance, that it not be effective until the zoning ordinances were effective. The annexation ordinance was important to act on tonight because they had the considered wisdom of the Planning Commission to whom they sent it. They sent the annexation to the Planning Commission in February and on March 26<sup>th</sup> approved the annexation. The reasons for the approval, as seen in the Planning Commission minutes provided, were that it was consistent with Chapter 7, the industrial chapter of Horizon 2020 and would help them move towards their goal of providing 20,000 new jobs by the year 2020. It would improve their tax base and it was

more than 20 years ago they approved the last industrial site of any size, which was East Hills. The site had some problems in terms of needing fill to move forward. Annexation was not a zoning discussion. They were happy to answer any questions, but the Planning Commission had not considered any CD zoning categories and they would make those considerations next week. In looking at what the County Commission did, Corliss referred to KSA 12-520(c) which was the governing law on annexations. She said to answer Commissioner Amyx's question, the governing body, could by ordinance, annex land that did not adjoin the city if the following conditions exist:

1. The land is located in the same County as the City. It was located in Douglas County and so was the City of Lawrence.
2. The owner or owners of the land petition for or consent in writing to the annexation of such land. Staff said that condition had been met.
3. The Board of County Commissioners was the only elected board that had any specific findings to make which was because their jurisdiction covered the entire county, not just the City. After an extensive hearing, the Board of County Commissioners made the finding that the annexation of such land would not hinder or prevent the proper growth or development of the area or that of any other incorporated City in such county. That was within their jurisdiction to decide and they made that decision. In addition to the minutes provided today, they had been provided their resolution regarding that.

She said Day showed the location of the site, but wanted to draw their attention to that this site was located a little over 100 feet from the interchange of I-70. It had the best I-70 access of any open ground in Douglas County. It also provided access directly to Highway 59, US 40, and to K-10. The street directly in front of this site, often referred to as the Farmer's Turnpike, was a primary arterial street. It was not a local, collector, or not meant for a residential street. Around this site, they showed a map which was referred to as a notification area and in this case, the surrounding ground was entirely in the county. It would be a 1,000 foot notice area and there were 15 property owners surrounding this site on lots of varying sizes. They had in many ways already considered this site with planning efforts they were aware of with the work of the staff and Planning Commission. One of the efforts was the T2030 that was adopted by the Metropolitan Planning Organization in March 2008. It was the

transportation plan the city was required under federal law to provide and provided guidance. In T2030, land use decisions and assumptions had to be made in order to properly determine what the transportation routing should be. It showed this site as an industrial site and the primary arterial street in front of it. There was good connection with all the roads in and around Lawrence that connected to this site, therefore making an industrial use one that would not go on local roads, but had the proper access for industrial use. Also, T2030 defined what a gateway was in terms of a corridor or entry into the City. It specifically defined the gateways in Lawrence. There were six major gateways that were shown there, which included 6<sup>th</sup> Street, 23<sup>rd</sup> Street, Clinton Parkway, North Lawrence entrance and Iowa. The map also showed the minor gateways, which were still to be considered when considering development on those streets. On the gateway of 23<sup>rd</sup>, were East Hills Business Park, the Farmland site, and the southeast area sites. Along the Farmer's Turnpike, there would be the minor gateway they hoped to talk about zoning with an industrial purpose.

She said in addition to Transportation 2030, Day referred to the K-10 Farmer's Turnpike Draft Plan. Planning staff was recommending a site become the heart of an industrial district in the event the other owners chose to annex. She said staff was clear this was a plan in the event that property owners chose to annex. It was not a plan for annexation. The annexation was a voluntary activity at this point. She asked if people wanted to annex and was one of the ideas that might be presented. The appropriateness of the proposed industrial use had been supported with staff recommendation in the long range planning process. With regard to Chapter 7, which dealt with the prime farmland issue, the issue of whether this was an appropriate industrial site was not one of those that was still being talked about, as far as where. The proposed land use in Chapter 7, in terms of the snowflakes that identify potential industrial sites included this very site. This Chapter 7 with the snowflake map had been prepared by the Planning staff and recommended by the Planning Commission.

She said ECO<sup>2</sup> discussed the industrial sites and had been presented to the City Commission. It discussed the open space sites and identified this particular site as one that ran through the ECO<sup>2</sup> criteria and as seen in the consideration of the ECO<sup>2</sup> final summary, this site, the I-70 interchange, received a 3.84 score, which was the second highest of all the scores considered in industrial lands. That score might have been higher if those under consideration had considered that there were actually plans underway. It received a lower score because those evaluating it were unaware of the sector plan processing at the time.

She said the purpose of the annexation was for industrial use. She said when the Planning Commission considered this annexation, she thought the Planning Commission felt it was more advantageous to have this site annexed so the City could regulate and control this site. The City's land development code was much more detailed and much more thoughtful about buffering, transitional areas between different uses than the County code had been. That difference in the regulations that were available in the City provided greater protection for those 15 land owners around the site than the County zone could provide. Additionally, the Fire/Medical Chief prepared an 8 minute response map at their request, and the site was covered as much as the other sites in the City of Lawrence and surrounding areas by the appropriate response time by the Fire Department. It was important to dispel some of the rumors that were more persistent than the dandelions in her lawn. She said the site was not for the purpose of building a truck stop and at the City Manager's request and with the help of a number of City staff members, they talked about whether there were other uses that could be excluded. They proposed to exclude from those uses explosive storage, a salvage yard, and a slaughter house. She did not want to go any further with the discussion of uses unless they had specific questions because it was a premature discussion before the Planning Commission had the opportunity to review it and make recommendations.

She said they wanted the City Commission to understand that if they were fortunate enough to have a tenant of certain sizes, what the impact financially might be on the City of

Lawrence. Under the current taxing system, the total taxes paid on this piece of ground right now were just under \$500.00 a year. This went to the State of Kansas, Douglas County, the Perry/Lecompton School District, Lecompton Township, and the Northeast Kansas Library and Fire District #1. She said using the same mill levy assumptions were made on the value of 100,000 square foot building and the change in taxes that would be provided to the State of Kansas, Douglas County, Lawrence, and the Perry/Lecompton School Districts. Just the 100,000 square foot building, without any consideration about changes, would be just under \$140,000 a year. If there were a 500,000 square foot building, the change in taxes would be a little over \$695,000 with a share of that amount going to the school district and then the City and County each receiving about \$187,000. If they could tell the City Commission or even guess who the tenants would be or the size of the buildings, they could give a better example. This was simply an illustration.

She said she wanted to remind the City Commission that when East Hills was approved for their island annexation and the zoning was granted, it took three years before the first tenant was in the ground. It was not completely built out yet, 20 years later. This was not something that was going to happen overnight, but they were asking the City Commission to consider the annexation because unlike East Hills, this was not something the City and the County or DCDI were putting money into. DCDI was a group of private property owners who were trying to provide an opportunity for this community to have a place to invite new businesses and new jobs to come. They had no other at the moment.

She said she wanted to remind the Commission they had reached a consensus that they were in critical need of industrial space. This property was considered by a number of bodies and had been determined to be an appropriate site for industrial uses, both by professional planning and long range plans they had presented to the Planning Commission in T2030 and the property owners had applied for IG zoning, which would allow for full industrial purposes with the exception of the truck stop, the explosive storage, the salvage yard and the slaughter

house. She knew they wanted to find immediate resources but this would not meet the immediate resource needs of all of the outside agencies now, but in the future hoped it would help them to meet those needs.

Commissioner Highberger asked Eldredge to review the zoning history of this property at the county level.

Eldredge said approximately four years ago, there was a request to zone this area under the County zoning category that was recommended for approval by the Planning Commission and was denied at the County Commission level because of a three vote required which failed on a 2 – 1 vote. In December of 2007, another application was made at the County level and that application was still pending.

Vice Mayor Chestnut asked Eldredge to clarify IG zoning and when excluding truck stops, would that be considered as a commercial use.

Eldredge deferred to Planning staff for an answer to that question.

Scott McCullough, Director of Planning and Development Services, said gas and fuel sales was a use for IG zoning on the commercial retail category.

Vice Mayor Chestnut said there were other uses in IG. No commercial uses were allowed.

McCullough said that was the difference between IG and IL. IG did not permit commercial type uses, but IL zoning did permit that type of use.

Mayor Dever asked Eldredge to review the applicants' expectation for city services.

Eldredge said at this time, there was no request for any city services. There was an available residential service from Rural Water District 6 and believed the initial use was most likely to be a use that could be accommodated by that level of service. They anticipated there would come a time, in the future, when City services were extended, pursuant to the planning that was going on now, but this was not something they were asking for nor was it something they were depending on. There would be a building restriction in terms of any tenant that came



to this site that was able to use the rural water district services that were available and be able to use sewer storage on site consistent with all of the regulations of the state and all of the health regulations. They looked to the City for fire protection and sanitation services upon annexation because obviously those were available and part of the taxes that would be supporting those services along with police protection.

Mayor Dever asked for an estimate of the number of employees that could be hired and what type of employment center could exist using the current water supply and/or septic that might be required for treating.

Eldredge said the on site sewer was an easier question to answer because that had been used in Olathe with a fairly large sized employer. It was considered a temporary measure and was not something they would anticipate and wanted to go on indefinitely. She understood there was one user that had 250 employees and those were accommodated with the on site sewer storage. With respect to the water, that was something that would have to be determined on the number of people hired and the type of business. At this point, a manufacturer who needed water in their process was not going to be satisfied, but she did not know and it depended on how much water. There needed to be more discussions with the rural water district. If sometime the property owners or tenant wished to invest their own money in extending city services, she expected that would be available. That would be a decision for the City to make.

Mayor Dever asked about the estimated time between possible approval and actual development of the site. He asked if they were talking about the same time frame as with the East Hills Business Park from the time the land use was approved and the first building was built. He asked the applicant to touch upon the sense of urgency or how far in advance this might be occurring.

Eldredge said this could not be marketed until annexation and zoning approvals. That allowed for the rent sign to go up. Once a tenant was located and had an interest, they would

have to provide a preliminary and final development plan to ensure subdivision regulations would be met and assumed they would have industrial design guidelines and how all of those things would be met. The last time they had a tenant that went through the site plan, they managed to scare the tenant off by the process so she could not tell how long that process would be; it could be a long time or a short time. They needed to have as much available ahead of time so the community knew they were committed to those types of uses, given the restrictions on the water and sewer, so they could relay to a tenant the plan could be done. It had been her experience that preliminary and final development plans could move as quickly as 6 months or could sometimes take 18 months or more.

Mayor Dever asked what the applicant had done regarding a feasibility studies on the actual implementation of a sewage treatment plan or facility. He asked if the site was capable of handling those types of activities, if those activities were investigated, and would it be possible for it to exist for several years without city sewer services and still be a viable piece of land for the applicant to market.

Eldredge said since it was not going to be a septic system, it was not going to be the kind of percolation testing that took place. At this point, the level of investigation that had occurred was to check with other cities that permit this type of thing and also with the state. The concept was that it would be built and designed to accommodate each user. It was not a community kind of user. It would then be emptied as long as it needed to be emptied. She did not know if it would be on a weekly, monthly, or yearly basis and would not know until they knew who the user was. Because that was the building of a structure and the kind of engineering that would go into determining if any structure could be built, would need to take place if there was annexation and zoning that would allow any building of the structure.

Commissioner Amyx asked if the agreement as to when services were available, that would be a part of the agreement that would need to be signed the hookups to those would happen when city services were available to that site.

Eldredge said yes. What was built on site would be built to City standards so those hookups could occur when the services were available.

Commissioner Highberger asked Eldredge to elaborate on the tenants that were scared off because of site plan agreements.

Eldredge said a tenant was granted the permissions, but the process was so ugly and unwelcoming, the tenant chose to locate in another nearby community.

Commissioner Highberger said he still did not know what she was referring to.

Eldredge said she was referring to the American Eagle decision.

Commissioner Highberger said he did not understand a part in the findings from the County Commission which was Section E, page 2. It referenced Horizon 2020 and said the Planning Commission approved the annexation of Chapter 7 and the growth recommendations in Chapter 4 that provided for annexations outside the urban growth area. He reread Chapter 4 and did not know what they were referring to and did not see references outside and did not find references to the page in Horizon 2020.

McCullough said staff did not author the findings that would be the Planning Commission minutes from the April meeting.

Mayor Dever called for public comment.

Elizabeth Hatchett said for 19 years she had been driving on the Farmer's Turnpike to go out to Lakeview. She was an artist and art educator. She had thought about this deeply before she stood up in front of the City Commissioners, with whom she respected. Some of Commissioners had been kind enough to communicate with her and explain things clearly. She said she wanted to read something she wrote,

"As I drive on the Farmer's Turnpike and turn on Highway 7, I view the Taylor Stone Barn, the sunflowers in the fall, and wild turkey. It was in my mind as scenic as southern France, this I believe was why many people love Lawrence. I have been told that 1/3 of the population commute to their jobs outside of Lawrence. If they decide to live here, I am partly

sure these residences have selected to move to Lawrence because of the beauty and what Lawrence has to offer.”

Ron Schneider, attorney representing Scenic River View Neighborhood Association, said he first wanted to address the issue of whether or not the Commission should consider this annexation and vote. He said as Corliss had pointed out, they filed a notice of appeal with the Clerk of Douglas County and anticipated it being forwarded to the court tomorrow. They were asking the court to review the decisions and recommendations made by the County Commission on May 21, 2008. He thought Corliss and he agreed that if the County Commission’s decision was reversed, then this decision, if made tonight, was wasting their time. He did not think it would be appropriate to talk about the merits of that appeal; however, the fact was the court would rule one way or another, and if the Court ruled the way he thought they should then they were spending an incredible amount of time that was unnecessary. He suggested the appropriate thing would be to continue their decision tonight until that was resolved. However, it appeared they were proceeding with this item and they would proceed with the public comment portion no matter what. He asked the City Commission to consider all those issues as the law required.

He said there had been talks about due process, public hearing, and transparency. As a lawyer, he had done a lot of research on the subject and there was one Supreme Court case in the United States that asked about due process. The term “meaningful” was repeated and in essence, the Supreme Court said that due process required a “meaningful” hearing at a “meaningful” time. Meaningful was to actually listen and reason objectively. They all came to the matters with a world view, with an opinion and predisposition. He said he was asking the City Commission in their capacity to serve as a judge or a juror. He asked the City Commission to not have their mind made up and be genuine, honest and meaningful. If the Commission had their mind made up, they would not be serving their duties as required by law and was expected by their constituency.

He said he wanted to remind the City Commission that this was a request for an island annexation. It was uniquely different from the typical island annexation and therein laid many of the problems and issues that the City Commission must face, and he did not think had been answered. When there was a traditional annexation which by definition meant that it was adjacent or contiguous to the City's boundaries, one of the reasons it was important, was the annexation was adjacent to or contiguous, it was nearby a City's facilities and infrastructure. The waterline and sewage was very near or right next to the annexation. City services, trash, fire and police did not have to go miles to arrive at the location. Most importantly, they had issues concerning water. Those issues with water were not necessary for daily use. If they had 11 people working at a warehouse, they could provide a port-a-potty and gallons of water to take care of their needs. It was really the issue of fire protection. There was evidence and testimony that if any of the structures that had been discussed by the applicant were going to be built there, fire protection was inadequate when it came to water resources. The rural water district had said they were strapped as it was with inadequate water supply to their current users, which were primarily, if not exclusively, residential and farm. They were not going to provide any additional water, which was what the rural water district stated at public hearings. As he understood the law, that was their prerogative. He said as he also understood from talking to the District Assistant Fire Chief, the water requirements to attend to fire, were not adequate now nor had he heard any discussion about how that was going to be addressed. If the applicant was going to build the water resources or a water tower that was necessary, they were talking about a big expense. He did not think that was being communicated to the City Commission. The wastewater services they had heard some discussion but not much. Stormwater was a big concern that had not been addressed. They had farmers and people downhill and any increase of soil water runoff was going to be disastrous. He said he trusted the City Commission had heard those issues and discussions. He asked if there was any report from the fire department, from an engineer talking about the issues they were raising. He

thought the answer was no. He said road use or road maintenance had not been addressed along with intersection needs or intersection reconstruction and the probability of some type of intersection traffic control. They heard figures from discussions with the County and City expecting to contribute something, but he heard figures all across the board. He had no idea what those numbers were going to be and wanted to know the cost analysis.

He said they heard somewhere from Planning and zoning and were urged not to consider that. Zoning had been discussed to the advantage of the applicant and should be discussed also to the disadvantage of the applicant. He said the only comment he had was they were being told of the uses and the uses they were willing to exclude as possible uses. He said that was the surface of the type of uses that could be in the type of zoning they were discussing for the future.

They learned there were 12 – 15 neighbors in the notification area, which he agreed with counsel and that was correct. He said if they stepped beyond that, the next quarter mile, they were talking about a rural neighborhood composed of 30 – 50 homes and farms. This was not open countryside with a few scattered houses. It was a neighborhood. If they wanted to look at tax benefits, if they looked at tax revenues developed by construction and development, ultimately, residential neighborhood would be the answer if they wanted to analyze that component. If they took 150 acres, put two houses per acre, which was a country estate, they were talking \$3,000 at least for tax revenue or \$900,000 - \$1,000,000 worth of revenue.

He understood it was all analysis of potential warehouses. He said Eldredge had been forthright to tell them that it was all speculation and it could or could not apply. In the highest case with tax revenue assessment, it did not even approach what could be utilized through proper residential development.

They were talking about potential zoning with and industrial purpose and a conditional annexation. He would question under the law if that was correct and legal. He did not think it was. He said as a lawyer, he could tell them that conditional annexation was prohibited by law

in the State of Kansas. He could tell them they should not decide to annex this property given all the unanswered questions from the memo and how it affected the City's budget and after today's initial discussion about budget, restrictions and decisions that needed to be made, to consider annexing this property without really knowing what needed to be a certainty that they would be asked in the near distant future or very present future, to contribute a lot of money to enhance the development lights of the individuals so they could have a good, profitable business.

He thought under the circumstances it was ludicrous to consider spending such funds and asked under the circumstances there was not a completed area study or sector plan that worked. Horizon 2020 Chapter 7 was not completed, was being reviewed and there were some significant questions unanswered. Chapter 7 was in flux and might be defined in 30 -90 days, but right now, right here, the City Commission did not know what it would be. To cite ECO<sup>2</sup> as criteria, he thought that was a misstatement as to determine if they should annex this property for a future use. Given all these questions, the pending appeal, and the Planning staff's recommendations early on, which was to delay any decision under the area plan or sector plan was complete, and that was consistent with their request.

Kirk McClure, Lawrence, said with economic development, timing was everything. Premature investment was very often wasted investment which was currently before the City Commission. This annexation, by any definition was a leap frog development, the submission already was showing it was outside the City Limits. He said it was so far out of the City limits it was outside the urban growth boundaries and the City would need to extend City services. He said this annexation was sprawl at its very worst. He said there could be a compelling argument for this type of development. He asked what if there was an enormous unmet blatant demand for this type of space. He said building buildings did not cause jobs to come to this community, where population grew, workforce grew and there was a need to locate that workforce. He said look at what was happening to our workforce in Lawrence, Kansas and was not a whole lot

different from any place else in the industrial Midwest. The City's industrial and manufacturing employment was going down not up. The community did not have a need for additional industrial space. In fact, IG zoning was a little bit questionable under these types of circumstances. He asked if it was possible there was an existing need for industrial space per se. He said there could be a shift in the composition of the labor force leaving our inventory of space suited to our needs. Possible, but unlikely, everyone knew there were empty buildings sitting all over town. There was so much surplus, industrial space was now being shifted into contractor storage space. He said some of the City Commissioners sat on the Public Incentive Review Committee and there were buildings that gave up their tax abatement because they went out of business and now those buildings were being used to store trucks and tractors for contractors. He asked if there could still be a demand for such space and said it was possible because the composition of demand itself changed, but what they knew right now was they heard some exaggerated claims in terms of jobs.

He said he wanted to discuss the arithmetic. He said to look at the 154 acres located at East Hills Business Park and the business park on the north side of town. He said with 154 acres they were looking at 10 to 12 sites. Optimistically, if they went to high quality intensive manufacturing uses, they would be looking at 400 jobs, not thousands of jobs, but 400 jobs. He said to think about the City's existing track record. He said Serologicals did not make it a year and they could go through the lengthy list, but everyone knew the history. In fact, everyone knew that there would be a spin off for warehousing space throughout the region. He said there was nothing desirable about warehousing space because it produced few jobs per square feet, nothing like the type of numbers that would support the exaggerated job findings just relayed to the City Commission. In fact, instead of 400 jobs, the community was probably looking at 150 jobs. Those were low wage jobs, jobs that offered little or no opportunity for advancement. He said there was one other additional problem, and since the City hired an economic development planner, he would like to see that new person pursue this issue. He said when talking to some



of the communities warehousing facilities, they had to recruit not only out of City, but out of County to find workers in warehousing. He said there was not a shortage of those types of jobs in the community, but a surplus. The City Commission was being asked to do leap frog development outside the urban growth boundaries for employment opportunities that would not serve unemployed Douglas County workers.

He said the City Commission was now in the position of declining employment in this particular sector. There was a very big 400 plus acre parcel that was going to come on line, but the Farmland property would be back in, could not be ignored, and was inside the City limits. He said it made little to no sense to build against ourselves. He said they were going to have to find a very difficult economic plan to make that site come back into productive use. He asked the City Commission not to bid against itself and do leap frog development outside the City and outside the Urban Growth Boundary and it would make it harder for the community to succeed on the inevitable project that would happen on the Farmland site.

Gwen Klingenberg, Lawrence, spoke against the annexation. She said at present, the City was already promising to raise, build and clean up several pieces of land for industrial sites. The southeast area plan had 200 plus acres with 30 acres for warehouse, Farmland, which they already starting building on, and the rest of East Hills which they were looking into. Those alone were already 500 acres of industrial zoned property. They had not yet had the discussion because Chapter 7 was not approved yet as to where there should be an industrial site. According to the sector plan by the Farmer's Turnpike, those maps show a large gap in infrastructure between the City and the industrial site. She said it was a very large area to get utilities to and getting utilities under I-70 itself would be a very large cost. The City already had \$17.3 million in special assessments outstanding and general obligation bonds that they were going to take 7 years to recoup. The City has considered increasing sales tax to maintain infrastructure and City services. She said her concern was how the City was going to pay for infrastructure for this industrial site when they could not maintain what they already had. As a

community, they did not have excess cash lying around and City services should come first like police, fire, transit, the WRAP program, and the Women's Shelter before they started spending a large amount of money for infrastructure. She said they had not even finished the urban growth area for the rest of the community. It was going to be a long time before the urban growth area was evaluated and updated. They were working on the wastewater master plan, but they had a very large expensive area to deal with. The applicant had informed the Planning Commission that IG zoning for this property and asked for the most intensive industrial zone they had available. She asked what the City was going to do with those issues because it was a very intense zoning for the attractive gateway that was also in the sector plan. For transportation it said that gateways that were located in transportation portals and the City's desire was to make those locations as attractive and as informative as possible. This was not only Lawrence's gateway, but it was Lecompton's gateway. All the people on I-70 would see their community and that was the only impression they would get. The gateway on I-70 for the impression of Lawrence and Lecompton would not be a golden impression.

She said the other concern was the amount of tax money being discussed. As the City practices in tax abatements, the City had a tendency to give tax abatements away freely. Almost every single business had one.

She said they would see in Boulder, Manhattan, and South Carolina that the industrial zones were all central and located together because it was an easier hub for transportation. She said they should require a cost analysis for the City for the K-10/I-70 industrial site which included fire and police. It was more than evident that this would not be considered by property owners as a future site using Chapter 7 industrial site as indicated.

Jean Milstead, Lawrence, spoke in support of the annexation. She had the privilege of serving on the Lawrence/Douglas County Metropolitan Planning Commission and was able to share the Horizon 2020 Steering Committee. One of the first public meetings they held when dealing with Horizon 2020 in that their consultants asked the people who were in attendance to

provide their vision for Lawrence to the year 2020. Truthfully, she was disappointed in the response because very few people were able to articulate the vision for the community. Even the consultants had trouble getting everyone thorough the first step to the next step because of the failure of the community to answer the consultant's questions. She thought this proposal was visionary and met the core requirements of an industrial site. She said in the next years as this vision came to fruition, it was going to provide benefits to the community in terms of jobs for their children, grandchildren and added tax revenues.

Jerry Samp, Lawrence, spoke in support of the annexation. He said he was a local business owner and taxpayer in Douglas County. He was not related to any of the landowners and did not have any ground around that area. He was concerned about the annexation of 154 acres because more ground was needed in this area in which business could locate to create jobs. They were desperately in need of new jobs in this community. More and more of his friends and neighbors were traveling to Kansas City or St. Louis to work.

He said his local taxes also keep increasing. He understood the need for the taxes to increase, but much of that increase was due to the fact that they were relying more and more on the residential taxpayers to provide those funds. To lessen that, they must add more ground in the community for business development. He served on the Board of Directors for Douglas County Development and they were charged with the mission to market East Hills Business Park. That started about 20 years ago and during that time, sites were developed and attracted 2,700 jobs to Lawrence. He said he learned tonight that it was one of the leap frog annexations. Most of the employers at East Hills preferred to be at that location because of access to K-10. He was guessing the employers or businesses that wanted to be located on this tract of ground would do so because of access to I-70. In order to expand their tax base and moderate the burden on those who were residential taxpayers and to attract more jobs to the community, he urged the City Commission to give a positive consideration to this application.

Cindy Yulich, Lawrence, spoke in support of the annexation. She said she was not directly tied to this project specifically. She was present because she was concerned about the continued viability in the community. They were very much aware of the need to expand the tax base in Lawrence and Douglas County because as residents know they relied far too much on the residential tax base alone to support and maintain the quality of life in the community. Growing the tax base relied a great deal on attracting new and expanding existing local businesses. Currently, they had one 50 acre site for development, one 20 acre site with crucial I-70 access. The effort must begin now to add available sites and buildings to the inventory. The lack of this type of property caused site selectors to completely avoid Lawrence and in short, they were not in the game.

The subject property was approximately 154 acres with highway access in a very desirable location. The last industrial ground brought into the City was East Hills Business Park over 20 years ago. They were behind the curve. It challenged the thoughtful, planned growth they all desired. As a business person and a resident of this community, she asked they follow the lead of the County Commission and recommend the subject site for annexation by the City of Lawrence.

Bonnie Lowe, Lawrence, spoke in support of the annexation. She was very interested in jobs and economic development. Economic development was at the forefront of last year's election and was at the top of everyone's mind. In addition to adding to the tax base and being able to provide for the services in the community that the citizen's deserved, it kept the jobs in town. It kept their children and grandchildren from going out of town and keeping them in their wonderful community. She respected the neighbor's views, but this was an annexation. There were a lot of discussions about what happened from here and she understood the process. She knew they would make wise decisions, ask all the questions when it came to funding, fire, and police protection. She was in full support of the annexation and appreciated the City Commission's full support.

Jim Otten, Lawrence, said he was listening earlier through the wonderful process of budgeting and the difficulties the City Commission had in making those decisions. He said everyone had hopes and dreams and the comments made were reflections of those comments. He said prosperity had a lot to do with this because prosperity was about transportation, affordable housing, preserving environments, mental health and all the issues that were raised. All of those had to be funded and taxing was the funding mechanism that was most available and the best way. The best way to impact tax revenue was new business. Most impact was from industrial growth. Not that industrial growth was the predominant or only component for economic development, but one that had some potential for significant impact and that was what they had to consider. It was also more complex because no one wanted it in their backyard. It also required large tracts of land, some preplanning and some vision to make it happen. There were a few tracts of land that were available of adequate size of 50 acres, and Farmland if it ever came about with all the legal wrangling and environmental dealings they had to face, it would have one tract of that size possibly. They were the same issues they could reflect back on some 52 years ago with Hallmark or Packer Plastics or Lawrence Paper Company. They were all the same issues they were facing with annexation and rezoning. He was confident the City Commission would work through those things in a responsible manner. It was not a question of either they do this or either they do that, they had to have more inventory and choices. While some speakers have cited statistics, he would represent that they knew that they were being excluded from the game and people were asking for sites in this nature. They were not even in the discussion when they had those. They had to think outside the box and in this case thinking outside the box meant thinking outside the City limits. It seemed to represent a low risk proposition. Urban growth required a leap of faith and hoped the Commission would take that leap and look into the future.

Chuck Warner, spoke in support of the annexation. He was the Interim CEO and President of the Chamber of Commerce. He said he wanted to read a letter from Mike McGrew,

who was the Vice Chair of Economic Development for the Chamber of Commerce. The letter stated:

“To the Lawrence City Commission, please accept these written comments regarding the proposed annexation of the K-10 and I-70 property. As you know, Douglas County is in dire need of ready and available industrial sites. We have precious few real choices to offer prospective companies. The proposed site would provide an important new option for the community access to I-70 and was highly desirable for many site selectors and their clients. We have not added substantial industrial land since the East Hills Business Park was first made available 20 years ago. The park is now nearly full with only a few sites still available. The citizens of Lawrence and Douglas County deserve a chance to recruit employers. We need varied and industrial ready sites to do that effectively. Please give our community the tools to compete for new jobs we so desperately need. Thank you for your consideration of this annexation request.”

He said he thought the plusses were they were short of over 50 acre lots and one of the others was the access to I-70. The island annexation question and the fact that this property was so unique and so close to I-70 and K-10, it was very compelling. He said East Hills was still an island annexation after 20 years because the Farmland was not part of the City at this point. He said the issue was the cost of island annexation, but the costs were not being asked for and would be deferred. They would be part of the future deliberations with zoning and with site plans and those things. He said he appreciated the opportunity to make a few comments and hoped the City Commission would act favorably on the annexation.

Donald Fuston, Chairman of Water District No. 6, said at a recent meeting with the City Manager, the statement was made that Lawrence would not provide water for the industrial district. He said if a person was a business executive, he asked if that person would build on the property if there was no water available. He did not think so. He said if a person was the Chairman of the water district, he asked if that Chairman should provide water for an industrial

district when that system was not designed for industrial purposes and would have to ration water to over 300 plus families. He said he did not think so. A water district was not designed for fire protection nor was it designed for industry.

Louis Copt, Douglas County resident, spoke in opposition to the annexation. He lived in the neighborhood and the northern border of this property was about 1 mile from his house. He asked the City Commission to listen to the 300 some people who lived in that area and vote no.

Steve Brown, Berry Plastics, said he wanted to make it clear that they were not pushing for this particular piece of land, but definitely needed land like this in Lawrence. Berry Plastics was a huge corporation and Berry had a choice of where to do their expansions. There was an expansion going on at Berry Plastics called Project Gateway and was adding about 120 jobs. As they grow their site, which was by the K-Mart Distribution Center, they were pushing more and more warehouse off site and there was a need for a warehouse. He said it was not geared for this piece of land, but there was no choice. He lived in Lawrence by choice and liked to live and continue to work and live here. Berry had approximately 500 employees and the growth spurt and expansion was in place. It was growing successfully and led into the needs for additional space. They have absorbed space in Lawrence and were doing the right thing in the community, but would reach a point where they would outgrow what was available to them and were fast at that point. They understood that those processes did take time, and if something was not done, that it would stifle Berry's growth. He was confident that Berry would keep growing and they would put the expansion elsewhere or the next phase of the expansion elsewhere. He said there was a great opportunity to grow where they were at. He said he wanted to give a perspective from an existing business that had been in Lawrence 35 plus years as Packer and Berry since 1997. He said they employed from the local community and had people commute from Kansas City and Topeka to Lawrence, which was a reverse from the typical commuting out of Lawrence. They wanted to continue to have people to commute to Lawrence and provide a fair income for themselves and income for the City.

Beth Johnson, Lawrence Chamber of Commerce, spoke in support of the annexation. She said people self selected their job and self selected where they lived. Some people do it because they have family in the area, some people because they like a community or have grown up in a place. Some do it because of school systems, some people on cost alone. She asked who were they to say that the people who commute in were not worthy of having a job in Lawrence. She said they needed to grow the tax base to provide jobs for the citizens in Douglas County, Lawrence, Lecompton, Eudora, Topeka, and Johnson County because the businesses that were in Lawrence pay taxes.

One of the main goals of economic development was improving the economic well being of a community through efforts that included job creation, job retention, tax base enhancements and quality of life. They spoke a little bit about job retention and heard about the jobs that were important to Berry. They heard about the expansion of local companies and if they did not have the areas for them to expand, they would go elsewhere. If they went elsewhere, it did not only make them lose the expansion prospect, they may lose the business all together. Having to have a company spread out even more was not very economically feasible.

She said regarding job creation, they would not get those jobs if they could not keep the businesses they already had happy. She said one of the key things towards business recruitment was making sure the companies were happy because when a company was looking at your community, they typically knew someone located there. They were calling other companies and asked about what they thought of Lawrence and how the business felt about the community. They read the local newspaper; they make contacts in the community, and might even come in the community and drive through. Everything they did had an impact in terms of business retention and business recruitment.

She said tonight during they budget talk they talked about what tax base enhancements and what tax dollars meant and how those dollars funded community services. She said there were seven companies currently out at East Hills Business Park with 9 buildings. Two of the



buildings were empty which they had marketed. Of those 7 companies, there were two that have never had tax abatement. There were companies that had tax abatements currently, but those companies were still at that location. A couple companies were actually on their second round of tax abatements which meant not only they picked to come to Lawrence a first time, but chose to stay in Lawrence. Lawrence was a community good enough for those businesses and she asked the City Commission to make the community good enough for others businesses.

She said Lawrence had one distribution center, which was K-Mart and in 2007 K-Mart paid \$339,000 in taxes and had currently 326 employees. A residence, which was \$1.8 million in Fall Creek Farms paid \$24,000 in taxes and they did not provide any jobs. She said the last part of the main goals of economic development was quality of life. They heard during the budget discussions about the need for the transit system, arts, streets, parks, and the great quality of schools and hospital system in Lawrence and those things were paid with tax dollars. She said it made a difference when adding distribution, retail and service jobs to their community. She asked the City Commission to help them have the foresight like they did over 20 years ago when East Hills was brought on site to start making those changes to the tax base that could help them in the future, build services and outside agencies so they could continue to have a great and better community.

Stan Unruh, Douglas County resident, spoke against the annexation. He said everyone realized with the existing services at that location, it was not going to be a huge benefit with the community with the water and sewer that was able to be provided. The only way it would be much of a tax benefit to the community was if they would extend the services underneath I-70, which everyone knew the expense. He said the development was going to sprawl down Farmer's Turnpike, which he could not say for sure, especially looking at the sector plan. It would be like building another City on the other side of I-70 and providing jobs for people outside this community and being in businesses with people outside the community to give up

valuable resources. He said for those reasons, he hoped the City Commission would vote against the annexation.

Marguerite Ermeling, Douglas County resident, spoke against the annexation. She said she was very glad the plastics company was in town for a number of reasons and some reasons were personal. She said Berry Plastics had 500 employees they would need water and City infrastructure to have that kind of business and growth pattern they were hoping to seek in the future. This site did not provide that and as far as she could see the city was not looking to provide that for any time soon because the nuts and bolts for the budget did not provide for that in the foreseeable future.

She said earlier Commissioners Hack and Amyx asked if she would be satisfied with due process. There was a part of her that felt emphatically, yes, the process was fundamentally important. She said she hoped that the public process was not just an accommodation to do a process but actually entailed consideration of differing ideas and trying to hone together the best compromise. Each one of the phases she participated in, she felt there was not due process and carried that sense behind her in the packed rooms of the Planning Commission, the County Commission, or City Commission. She said she was saddened because she was not sure she was being heard. She said did not think anyone was against new jobs and a successful and growing community. The recognition of pre-maturity was brought up by the Planning Department and recommended that maybe it was a little premature; maybe not a bad idea, but premature. She thought about that and all the things people had brought forward and the hard core nuts and bolts to try to make the City Commission understand. Not just from the not in my backyard perspective, but were trying to bring forward facts, figures and information they hoped would be utilized and somehow compromised into the setting. She felt that the process itself had been compromised. In the technical sense she was appreciative, but did not feel there had been a working compromise and seemed that it would just push on forward without recognition or discussion of the things that were brought forward. She said she wished they could get back

to compromise and did not think people were on part of the economic development group or the chamber in making businesses grow and making life great in Lawrence. No one was opposed to that but finding the compromise to make that happen correctly, timely and efficiently and the most reasonable economically viable way with good thought, good planning, and known expectations. Not just that it sounded like a good idea and they should do it. She felt like the process and her efforts for it had been compromised.

Mayor Dever said the process was very important to all of the City Commission and to infer that the Commission was trying to compromise such was a little bit surprising and more importantly disheartening. He said if Ermeling had stuck around to listen, it would have been important to ask what parts of the method were compromised and why she felt that way, but he was not given that opportunity and for that he was disappointed.

Commissioner Highberger said a speaker asked the question about conditional annexation. He also asked the question of deferring this item because of the pending lawsuit was also raised during public comment.

Corliss said Kansas law provided for agreements on annexation. Annexation had been conditioned in the past but did not happen very often. It was a frequent occurrence in the development process in Lawrence that annexation was held, at the property owner's request, until the land use entitlements were in place. In most petitions for annexation received, the annexation was contingent upon the rezoning request. It was not too uncommon. Generally, land use restrictions were not placed in the annexation ordinance that was usually done in the rezoning process or development plan.

Regarding the issue of litigation, it was an interesting process where they filed something with the County Clerk, waited a day, and went to the District Court. It appeared there was going to be a legal challenge to the County Commission's findings in the resolution before the City Commission. He and legal staff had discussed the issue and it was their opinion that it was not an impediment or prohibition on the City Commission's actions. If the City Commission

proceeded with annexation that was not going to be effective until the rezoning which would not be received until July, pursuant to the applicant's request, he did not see that as a substantial issue until such time the litigation was resolved. If litigation was resolved in upholding the County's findings, the annexation ordinance was effective. If the County made an error in their findings, staff would then need to look at the court's decision to see if that error could be cured or did they need to start over. If they were unable to make the finding that K.S.A. 12-520(c) required then the City was not able to make this island annexation and the annexation ordinance would be invalid.

Commissioner Amyx said there was a question about the fire district and there were comments about bringing litigation because someone had to pay something.

Corliss said this property was currently in a fire district, which was a little bit of a different entity than elsewhere. He understood it was the only fire district in Douglas County. Most of the other unincorporated portions of Douglas County were either served by townships, or in the case of Grant Township the City provided fire service. There was a statute that spoke toward where the City annexed fire district territory and it was staff's interpretation of that statute that if proceeding with the annexation, then there was no compensation that was due to the fire district. If the property owner wished to have their property removed from that fire district, they could petition the Douglas County Board of Commissioners to have their property removed from that fire district and the fire district mill levy would no longer be in place on that property. He said that was staff's understanding of the law.

Vice Mayor Chestnut said he believed that it was \$26.00 a year of the \$498.00.

Commissioner Amyx said the comment about the City not providing water was something he heard differently.

Corliss said the letter said the City had no plans, at this time, to provide water service to the site given what staff had been told by the property owner. One of the things that needed to be done when annexing property in a rural water district was the City had statutory obligations

to compensate that rural water district when annexing that property and extend water service to that site. He said when talking to the Board Chair and the rest of the members, the City always had a good relationship with Rural Water District 6 and Lawrence treated their water right now out of Clinton Lake and provided their water service at Farmer's Turnpike Road. He said he indicated there were no plans to extend water service to this site at this time, based on what was known about the property. The property owner in Rural Water District 6 would have to have an understanding on how they were going to get water to that site. It was his understanding the property owner had water service now.

Commissioner Amyx said regarding the extension of services to the property wanting to be annexed, he said there was a cost to the City unless waiting until the services were available to that property across the road. He asked about the comments that were brought up about being in the 2009 – 2010 Capital Improvement Plan.

Corliss said they were asked to look at that by the applicant. They were not planning on putting in any water or sewer projects to this location in the 2009 budget. He said that was because they had other needs elsewhere in the community. Sometime if the property owner asked for water or sewer, they could do that. There was a development policy staff followed for the extension of City services. He said historically it was 100% cost to the property owner's request. When the property that was currently north of 6<sup>th</sup> Street and west of Queens was being developed right now, the water and sewer at that location was being paid for by the property owners, but exceptions had been granted and was at the Commission's discretion. The City provided special assessment district financing as a mean of financing. At this time, the City was not planning on any extension of City water or sanitary sewer service to that location. They talked with the property owner about how certain services would be provided and discussions about fire service. They understood the fire code requirements of that location if the property was annexed into the City it had to meet the fire code requirements. Staff had a discussion with the Chief of Fire District No. 1 and how that could be accomplished at that location.

Vice Mayor Chestnut said there was a lot of information and was proceeding with consideration based on what he perceived as to be credible sources on both sides, which was if they were not being asked for public money and none was being granted, that was the process by which he was moving forward with this issue. He agreed there were a lot of questions that needed to be answered regarding the water situation and fire suppression. They had talked about a lot of issues that still needed to be resolved, but they had to have this consideration before a lot of those things could be put forward.

One thing that was interesting about island annexation was in consideration of industrial sites, it would seem as though island annexation was the time that it was probably the most practical because typically would not annex industrial if bordered within the City. Island annexation normally meant a fairly large piece of ground and for industrial purposes those were typically somewhat separated from a lot of other applications. He did not think it was atypical to have island annexation for industrial uses. He agreed that extending the services right now was not practical and it was not what they asked for.

He said there was a lot of conversation about objectivity and predisposition and the comments about process. People enjoyed the process based on the eyes of the beholder and the decisions that were made. He could guarantee that there was no one in the room that liked the process or felt it was always adjudicated fairly, but the Commission tried to do the best job they could.

He said he did not have an issue with the land use and thought it was appropriate. He agreed the sector plan was not adopted but was fairly close and Chapter 7 had about 3 paragraphs that were left that had to do with prime farmland. One piece of information provided was this clearly was not class one or two farmland. From that standpoint in what they were looking at and Chapter 7, this would clearly be not considered prime farmland, which was important to note.

The uses, the mixture of zoning and annexation was something he could not get past and it had a lot to do with not making an indirect commitment to services that could not be provided for some of the uses. He appreciated some of the uses that were eliminated from IG, but would still be more comfortable with this issue, in the ordinance itself, if it had a definitive statement that it was something about that potential uses for the site within IG zoning that could not be supported by rural water and either septic or pond should not be a consideration. He understood it tied up some issues, but was one thing he was tripping up on and did not know how to get to that point. He said he spoke with Corliss about some history on other annexation agreements on a residential set. He said building permits could not be pulled until certain services were at that location. In this case it was reverse because it did not make sense to do things in IG zoning that had to be supported by City water and City sewer at this point in time.

He said the annexation area was outside the UGA by about 12 feet and thought that was a major arterial. He believed they had to stop looking at jobs as what was desirable and what was undesirable. He said 150 warehousing jobs would be a great contribution to this community and there had also been discussion about the lack of demand for jobs. He had pulled information a couple of months ago about American Eagle and they were on their second tax abatement and employed about 300 – 400 residents of the City of Lawrence. People were driving to other communities for industrial jobs, which was pretty clear.

He said he supported this annexation, but still had concerns about how to manage the zoning part of the annexation. He thought it was reasonable to try and create expectations about what was going to happen at that location and how they would get around that, he could not put his arms around.

Mayor Dever said he thought it was important that most people understand that when they come to a meeting the most prepared people were the people who made up their mind already. The people who had eloquent speeches prepared and could dictate exactly what they wanted to say had their mind made up. Unfortunately, he was not that person and historically

he was bad about being prepared in having all sorts of good answers because he usually made up his mind sitting in his chair. To indicate anything else was a dishonor to what they were trying to do and a disservice to the community.

He said the first issue was the fire department issue. The Chief provided him with information to make him comfortable with the concerns raised about possible safety, health and lawsuit issues and not being able to provide adequate protection to this area. He said the 8 minute response time had been clarified and he did not feel the 12 foot variation from the urban growth area prevented approving the annexation. As far as the urban growth area, people needed to think to the future. He said Ermeling indicated she was willing to discuss and plan everything together, but she left which meant the City Commission had to sit down and discuss what needed to be discussed in the future. The future was 20 years from now but unfortunately they had to start planning for that now. If that meant they had to make a hard decision about what might be perceived as a leap, he was willing to make that decision as long as he felt like it was the right one. There needed to be vision and plan forward for the future. He thought the urban growth area had moved. The City of Lawrence had expanded drastically in the last 50 years and no one would recognize it from 50 years ago. The future was really important to him and he was trying to help the future of this community.

As far as bidding against themselves, some people talked about Farmland. He was a Farmland consultant and knew what it was going to take to clean up that site. He wanted to help make it a better place for the community and wanted to get rid of the eyesore. He wanted to try and develop it with the proper application, whether it was a bus barn for the T or a job center for the community or a green gateway for the community. He did not know what it was going to be and they had no idea what it was going to be because it was still tied up in Bankruptcy Court and for them to speculate how that was going to turn out was really difficult. Right now with everything he heard it was something they had to think about in the future.



He thought Farmland was the future and thought it would be just as premature for them to talk about to do away with Farmland and use some of the logic some people were talking about here to discuss the northwest area. It was truly speculative, was not ready for development and had a lot of work to do. They were going to talk 5 – 10 years down the road before anyone was employed in that area in his estimation.

He said the gateway consideration, was a gateway to Lecompton from this route. They were presuming what was going to be at that location was a bad thing. When he drove by a community when he traveled and when he saw employment or people that meant stimulation, growth and a good place to be. For him, just because there was activity and it might not be farmland it did not mean it was a bad thing. It was hope or somewhere he wanted to be as a potential employer. He did not look at development in a gateway as a bad thing. The City of Lawrence had better codes, rules and control on what could go at that location and what it was going to look like than the County or even the City of Lecompton. He was eager to take on that responsibility if chosen to do so because they had some pretty good rules the Planning Commission put forth and a lot of people put a lot of hard work into this and made a consensus to do this as a team and do the best kind of planning.

He said Farmland was a vision and a dream because now if they drove up to it and asked someone to put a factory there, he did not think too many people would get in line to do so. He said if they could clean it up, maybe they could do that. Right now, they did not have a whole lot of places to bring people and ask them to move to Lawrence and provide a place to do it. He felt like they needed a lot of opportunities whether it be on I-70 or K-10. There were different products they were trying to sell and thought it was a different customer they were after. If they did not think about all those potential customers, they were selling Lawrence short, Douglas County short, and our families and future short. He did not think consideration of this was premature, nor did he think it was predetermined, but thought it was something they all needed to talk about in public.

He said some people talked about insurance and was a concern to him if there would be adequate fire protection. He guaranteed that no company was going to insure any building unless it was properly sprinkled and members of the fire department and other people have helped him get past the point assuming the Rural Water District, which might or might not have the water, was willing to provide the water to fill the tank the fire protection would be adequate to protect the product, the property and the people that work in that area.

He said regarding Chapter 7 he held the site up to Chapter 7 requirements even though it was not completed because he thought there were some good ideas. It was land that struggled with Farmland development. They had documentation of what was farmed and what was not. There was also documentation on how good of soil it was. He struggled with the development of property that could be used for farmland. If it was important and protected and needed to be farmland, but if it sat for a while and was undeveloped, it might be a good site for industrial land.

Lastly, he wanted to talk about jobs. He took this job to try to help serve this community. The only reason he was doing it was because he was trying to do a good job and foster the growth and integrity of this community. He thought it was important that in light of trying to protect what was beautiful about Douglas County. He knew the area pretty well and cared about the land and wanted the best from it. They had to sometimes give up something to gain something and felt like in order to gain a reputation for a place where they could have growth, jobs and development they had to have a place to develop it. Whether this was the right place or not, he did not know but they had to have spots and wanted to make sure everyone understood that he was familiar with the area and stood something to lose by allowing development, but was also putting his personal feelings aside to try to do what was best for the community; not for some developer or adjacent land owner, but what was best for the whole. For him, that meant making hard decisions and making decisions at the City Commission meetings, not before they walked in or behind closed doors. He felt like this was a proper place

and it might not be the best place or make everyone happy, but it was an adequate place to consider for industrial development for the community. He did not think it was too far away, but what they needed to consider as an option to show potential existing companies.

Commissioner Hack said she did not have much to add on the UGA topic. She knew that came up last time of whether they were in or out of the UGA. She sat in on meetings and the UGA line was not just drawn with a magic marker; there was thought behind it, but it was drawn and was not an act of God that the UGA was a permanent wall beyond which they would not develop and had to fill up within it before they could go out of it. It was not what the UGA was for. She appreciated the Mayor's comments about looking into the future. If they waited to fill something up before they look at the next opportunity, they were always going to be behind the curve.

She said she wanted to address the decision making process because each one of the decisions the Commission made, they made with the very best intentions and with the best information they had at the time. They received tons of e-mails, every one of which she read, received a lot of written information from staff, minutes of meetings, every one of which she read, they had sat through public comment from the public in City Commission meetings, which was vitally important in their decision making. They have also had meetings with staff, phone conversations with staff, clarification from a lot of people. Every question had been answered and to assume coming in there meant her decision was made before she walked in the door was inaccurate and to assume that because what decision she might make, or might disagree with yours and meant that it was wrong, was also inaccurate.

She said she had a quote from Beth Johnson from the County Commission minutes where she said the Chamber received 62 recruitment prospects last year, but 50% of those recruits turned Douglas County down due to the lack of locations, rail, and access to I-70. If that did not mean that they were on the short end of the stick, she did not know what did.

She said she also wanted to mention the comment about tax abatements. They did not give tax abatements freely. They were studied again very, very carefully before tax abatements were given and to use the one company that left at the end of the tax abatement and the one facility used for storage was an example of why tax abatements did not work was simply not correct.

She said when they talked about “those” kinds of jobs that this community did not need “those” kinds of jobs, was offensive. This community needed jobs. Every member of the community who chose to live and work in Lawrence, Kansas should have that opportunity to do so. They have more trouble with individuals who could not afford to live in Douglas County because of their tax base, not who do not want to work in Douglas County or Lawrence, Kansas. That was the truth and came out of hours of business retention meetings that she, the mayor and staff have participated in. Those were the work horses of the community and they needed respect, support and jobs.

She said deciding whether or not to annex this particular piece of land did not make her the bad guy; it was exactly what the Mayor said which was the Commission’s charge was to look at what was important to the entire community. It was not for one group, or another group, or this group of neighbors or developers. It was for the entire community and they took that responsibility very seriously.

She said there had been a lot of conversation about their financial situation and it was awful right now. They had some choices; they could sit and wait for something to happen and by magic more dollars appeared on the revenue side or they could go out and invest in themselves. They needed to invest in themselves and that was how they would turn a dismal financial situation around. The City’s workforce wanted salary increases just like everyone else wants them. They have department requests that have not been met. They were going to send firefighters out without adequate equipment because they did not have the money to do it. They got that money by increasing their tax base or increased taxes thereby making Lawrence less

affordable for people to live here. They wanted to support transit, got hammered on outside agencies and every one of those agencies deserved every dime they wanted from the City and she wished they could give it to them. Her choice was to be proactive and she supported this annexation.

Commissioner Highberger said he could not support any industrial space and understood this proposal was in the best interest of the community. He would also like to make it clear that he had supported economic development in the past and was supportive of the bioscience efforts. He said in this case it did not seem easy to facilitate an area outside the urban growth area as industrial space. He said state law allowed for a process for a property owner to challenge governing body land use decisions through a valid protest petition and that was what was being done here. He said the County Commission was being challenged regarding its decision and this Commission was circling around that process. He said he would not vote to support this annexation and, for those considering to vote for this annexation, he would like to defer the decision tonight.

Eldredge said Commissioner Chestnut raised the question about putting something in the ordinance that would limit uses to the available water and sewer. She said she told Corliss they did not have any problem with that idea.

Mayor Dever said tying uses to development could be sustained and served by applicant supplied utility service.

Eldredge said it was not applicant supplied. It was available. They could not generate the water, but all they could use was what was available.

Mayor Dever said if the Commission voted on something, he wanted to make sure he understood what was implied.

Corliss said Eldredge came over and told him there was no objection to putting something in the ordinance that would limit uses to the available water and sewer. He said he

wanted that conversation to be noted in case anyone had a question what was discussed between the two of them.

Commissioner Amyx said he was probably the one person in the room that had the opportunity to serve as an elected official the last time an island annexation at East Hills Business Park was discussed. When looking at an annexation, especially an island annexation, it was a very hard process and adequate services needed to be provided to that piece of property.

He said the information that was discussed about due process helped him the most. He listened to those words and talked about all of the annexations the City had dealt with. He said the water reclamation facility and pump stations were other examples of island annexation requests and had to extend utilities to both of those sites. One of the things important to understand was as they looked at those projects and island annexations they happened through due process and made decisions based on services that needed to be provided to those areas. He said he would not get into the question of the uses of the property because he thought it was inappropriate at this time.

Staff would add new language which he wanted to see before voting on it. He was ready to support the annexation with the information provided.

He said he agreed if the Commission proceeded with the approval that the publication of the ordinance be delayed until rezoning was completed on the property. The second part was under County Resolution 818, Section 1(l) when it talked about the development code by which the City would govern, if property annexed it would provide greater protection to the landowners adjacent to the property than the county zoning regulations.

He said another issue that needed to be discussed with the City's inability, at this time, to provide the extension of services to that property.

Commissioner Hack asked Commissioner Amyx if they were adding to the ordinance that zoning would be tied to current services currently available.

Corliss said he did not think it should be tied to zoning and staff needed to work on the wording. He said no building permit shall be issued on the property for uses that required City water and/or City sanitary service until such services were available on the property, or something along those lines. He said it was tying to City infrastructure, which was an appropriate consideration when looking at the annexation. Infrastructure was somewhat related to uses.

**Moved by Hack, seconded by Chestnut,** to direct staff to amend draft Ordinance 8285, approving the annexation (A-02-02-08) of approximately 155 acres, located at the northwest corner of 1800 Road and east 900 Road, to add language that no building permit shall be allowed until there was city water or sanitary sewer service as discussed during the meeting and place the ordinance on first reading at the June 24, 2008 meeting. Aye: Amyx, Chestnut, Dever, and Hack. Nay: Highberger. (8)

**Conduct public hearing to consider the vacation of the east 3' of right-of-way of Indiana Street between 11<sup>th</sup> Street and 12<sup>th</sup> Street adjacent to Lot 1 of the Triple T Addition, a replat of Lots 7, 8, and part of Lot 9 in Block 2 of the Oread Addition as requested by NSPJ Architects.**

Chuck Soules, Public Works Director, presented the staff report. He said on the 20<sup>th</sup>, the City Commission received a request for the vacation of approximately 3 feet of right-of-way on Indiana Street, just north of 12<sup>th</sup> Street and adjacent to the Oread Inn development. Since that time, there had been some developments and the applicant sent a request to defer this for two weeks, but because the public hearing was published for tonight, staff recommended taking public comment and continue that public hearing for two weeks into the future and would receive a status report from the development to see if they still desired to pursue this. Staff contacted everyone within the 200 foot radius and contacted all the utility companies. They received feedback from the utility companies and no one had any problems.

Mayor Dever called for public comment for the vacation of the east 3' of right-of-way of Indiana Street between 11<sup>th</sup> Street and 12<sup>th</sup> Street adjacent to Lot 1 of the Triple T Addition.

Dennis Brown, Lawrence, said he was pleased that three feet might not be needed. He said he appreciated all the hours that every Commissioner put in to performing their job and knew it was an incredible amount of work and knew it was appreciated. He realized that this item, if it came back to where they had to vacate the three feet, he realized they had to approve it but understood as this item was addressed several weeks ago, that some of them may feel like they were pinned into a corner on this item. He said if his understanding of this situation was correct, the reason it was coming before them now was when they approved this project a few months ago, they approved seven waivers of the code that the applicant sought and two of those waivers specified yard reductions on both the east and west sides to two foot side peripheral setback. To him, that was like bidding a job without contingency. There was no room to spare. Sure enough, within the few short weeks with the start of construction, a need for contingency occurred. Even an approved waiver of five feet instead of two would have rendered this whole process unnecessary. He would not be down bringing this up, but for the fact that this was the second time in a one year period that the City had considered surrendering public right-of-way to this developer for an infill project, the first being the Standard Mutual Life building where the developer would construct a rear addition over 8 spaces of public downtown parking area. He still thought the public would be surprised when construction started at the Standard Mutual Life building and would question why that decision was made. They all agreed that infill development was desirable but difficult. It seemed to him that if a developer proposed projects that were too big for their sites, that was a problem created by the developer, not the site. The City should not be put in the position of habitually surrendering public right-of-way to bail the developer out. At this late juncture, he thought they would have to approve this item if it did come before them as proposed, but would also encourage them to state for the record that this commission was not interested in surrendering public right-of-way to public development as a status quo way of doing business. He thought they should direct staff to communicate this point to developers of future projects.



**Moved by Amyx, seconded by Hack,** to continue the public hearing for two weeks.

Motion carried unanimously.

**Consider approving a request for a Special Event Permit SE-06-21-08 on private property located at the southeast corner of the intersection of 9th and Iowa Streets, (2005 West 9th Street - Zarco 66 with an associated request that the City Commission grant a Use of Right-of-Way Permit for 9th Street along the south side of the subject property (9th Street Terrace spur) for an event demonstrating earth friendly energy sources on June 30, 2008 from 8:30 a.m. to 2:00 p.m.**

Sandra Day, Planner, presented the staff report. She said the applicant's concept was brought before the City Commission a couple of weeks ago and the applicant was preparing for a one day event to showcase environmentally friendly development ideas for the subject property located at 9<sup>th</sup> and Iowa. The original concept that started the discussion dealt primarily with use of public right-of-way. This special event request included a right-of-way request and included this section of the 9<sup>th</sup> Street area so that area would be closed off from vehicular traffic during the event. Again, the City Commission had seen some of the different concepts of future right-of-way changes that might be involved with this subject property as well as the related property to the south. This property included improvements to existing structures which would be the solar panels and wind turbine located on the new structure of the current canopy. Staff had currently approved the applicant to pursue and begin the construction of the green roof for this building that staff would be seeing a future site plan for the coffee kiosk. The site plan that was submitted to the Planning Department did not include use of that right-of-way, but then the site plan outlined where the existing activity area would be as well as those specific building improvements.

The action of the City Commission was to address the Special Use Permit and the Use of Right-of-Way.

Scott McCullough, Planning and Development Services Director, said about 8:30 p.m. that evening, he received an email from the group of KU students that were designing the right-of-way features. It was true when Scott Zaremba, applicant, submitted the application for a

Special Event Permit, the right-of-way improvements were not in the application. The applicant just informed City staff they might pursue that improvement which would take a Right-of-Way License Agreement and Site Plan and wanted to inform the City Commission that the applicant's request was not part of their current application for June 30<sup>th</sup>.

Commissioner Highberger asked staff's position on the restroom facility.

McCullough said when Zaremba submitted plans to convert the storage/restroom building to the coffee kiosk and the green roof structure, the only portion staff granted was the green roof and there was a building code issue that Zaremba could not remove the restroom from the site because it did not comply with building codes. He said Zaremba could speak to some plans to maintain the restroom, but those plans had not been reviewed for the building code compliance standards yet.

Commissioner Amyx said in staff's recommendation, the first condition was to return the site to its original condition upon conclusion of the event and asked if that included the green roof that was currently being constructed.

McCullough said no. He said as he understood the direction at the last City Commission meeting, it was to go through the public notice process, bring the issue back for consideration and through a special event permit process, the City Commission would consider granting the ability to gain permits for the wind turbine, solar panel, coffee kiosk conversion, and the green roof. He said condition number 8 indicated that within 60 days of the event, that the site plan application be submitted and approved, variances might need to be sought and any improvement that could not get approved through the variance process, needed to be removed.

Zaremba said staff had been more than helpful trying to get everything handled. He said unless there were other questions from the City Commission, they would move ahead. He said the green roof should be completed by the end of next week. The restroom was the only issue, but that was already solved with the design. He said through discussion two weeks ago the mechanical rain garden turned out to be more of an issue than anticipated which would be split

off into a separate entity and KU could handle on their own and other entities had come forward to help put that rain garden together.

Mayor Dever said the Commission was happy this project was moving forward and the success of Zaremba's bio fuel project and was a great opportunity for people to learn.

Mayor Dever called for public comment.

After receiving no public comment, **it was moved by Hack, seconded by Amyx**, to approve, subject to conditions, the Special Event Permit (SE-06-21-08) for an event demonstrating earth friendly energy on June 30, 2008 at the southeast corner of the intersection of 9<sup>th</sup> and Iowa Street. Motion carried unanimously. (11)

**Consider adopting Resolution No. 6775, providing for the acquisition of fire-fighting equipment and the issuance of general obligation bonds to pay for the cost of such equipment.**

David Corliss, City Manager, introduced the item and said there were a number of action items which one item was to adopt the resolution. There was a 60 day period to see if there were enough citizens that wanted to vote on this issue, but staff did not think that would be an issue. Staff was recommending the City issue debt. There was information about the City's current debt capacity.

Also, the City was seeking a sole source selection for this proposal with Pierce Manufacturing which was a preferred vendor through the Houston-Galveston Area Council contract for one technical rescue vehicles and two Quints.

Mark Bradford, Fire Chief, said as part of the coordination process with his promotion to Chief, they reviewed all of the department operations from top to bottom and one of the issues he reviewed was fire apparatus. He said they believed this was the beginning of a large investment the City was making in Capital Improvements within the department that would take the department from this point into many years down the road by adopting a replacement program. He said his fire chief helmet was off to each one of the Commissioners for their

commitment to provide safety to the community and safety to the firefighters that were providing that service to the community. He said this was an extremely difficult time regarding finances and the Commission had worked with staff to come up with a solution in which to start this process.

Commissioner Amyx said he and Chief Bradford met last week about a program where the City traded out vehicles every 20 years. He said in maintaining those vehicles the last 8 to 10 years of a vehicles life, it ended up costing more. He said he wanted to make sure when a firefighter went to a fire, that firefighter had the right equipment in order to protect property and lives. He said there was no amount of money that was worth having someone hurt or a loss of life.

He said when talking about sales tax again, he thought some percentage of money the Commission would be asking the public to invest there should include a serious discussion about using part of that money for a replacement program for the City's equipment in the future.

Commissioner Highberger asked about the ISO (International Organization for Standardization) ratings.

Chief Bradford said there were ISO ratings done around 1994 or 1996. He said they were way past due. He said there had been written communications in 2002 when staff was implementing the facility replacement plan and staff asked the ISO to delay their visit because they were working on enhancement of their fixed facilities in which the ISO agreed to delay their visit. Staff had not heard from the ISO since that time.

Corliss said one being the best and asked about the rating for the unincorporated county.

Chief Bradford said the rating was a nine on a one to ten scale.

Commissioner Highberger asked about the ISO ratings effect on property insurance premiums.

Chief Bradford said it predominately was used for commercial and industrial. There were some residential companies that factored in the rating, but it was becoming less and less.

Mayor Dever called for public comment.

After receiving no public comment, **it was moved by Hack, seconded by Amyx** , to adopt Resolution No. 6775, providing for the acquisition of fire-fighting equipment and the issuance of general obligation bonds to pay for the cost of such equipment. Motion carried unanimously. (11)

**Consider authorizing staff to begin contract negotiations with Burns & McDonnell/BG for an update on the Wastewater Facilities Master Plan.**

**Consider authorizing staff to begin contract negotiations with Black & Veatch for Pump Station 9 (Four Seasons) Wet Weather Storage Expansion Project.**

David Corliss, City Manager, said the Wastewater Facilities Master Plan had a five year capital improvement plan in 2003. He said in the memorandum there was information about the process staff went through for their recommendation. He said staff looked at several firms and recommended the City Commission authorize staff to negotiate with the team of Burns & McDonnell. He said if the Commission authorized staff, staff would further refine the possible scope, timetable, and costs for that project, not making any commitments until such time the City Commission approved a contract. He said staff thought it was important and somewhat timely in decisions about where the City would grow and where infrastructure was needed.

He said one of the key out of the door items was Burns & McDonnell's recommendation on the timing and to some extent the size of the Wakarusa Wastewater Facility to ensure that was built to the best needs of the community. Staff's recommendation was to proceed with negotiations with Burns & McDonnell/ BG Consultants.

Mayor Dever called for public comment.

After receiving no public comment, Mayor Dever said he had trouble with the concept of spending that amount of money to plan on what the City was going to do, but staff did a great job at explaining the importance of what the information could do for the City and the information

could forego expenditures and additional costs. He said staff could also take advantage of all the data and information provided by the monitoring equipment.

Commissioner Amyx said he would not support the item. He said he and the Mayor went through the process of selecting the team that would build the Wastewater Reclamation Facility and at that time, Black and Veatch was chosen to do the project and Burns & McDonnell along with Black and Veatch for the Four Season's Project. He said this issue was about principal at this point.

Vice Mayor Chestnut said he was struggling with this item since the Commission just received the information at post time. He said he had asked for some follow-up on the RFP request and costs. He said regarding Burns & McDonnell/BG Consultants highest numbers, staff was going to try and negotiate those numbers down but the fact was that Black and Veatch had the lowest numbers. He said he was confused on the process. He said he would not support the project right now, based on the questions that needed to be answered.

He said conceptually, he thought it was a good idea to review and spoke to staff about what it took to redo the model, but he would like to be closer why they considered, what they considered because the variance in the numbers were dramatic with the number of hours and the costs. He said they were ranging from \$259,000 to \$400,000 plus and there might be some qualification issues.

Mayor Dever said he thought it was a much smaller underrating, but the fact the pricing varied so significantly was a concern. He said the number of hours was also a concern.

Vice Mayor Chestnut said he acknowledged the rating system, but he wanted more detail.

Corliss said there was a unique bidding process where there were eleven bidders.

Commissioner Hack said having the update was critical to know. She said she was fine in waiting to receive the data that would satisfy everyone.

**Moved by Hack, seconded by Dever,** to indefinitely defer authorizing staff to begin contract negotiations with Burns & McDonnell/BG for an update on the Wastewater Facilities Master Plan; and indefinitely defer authorizing staff to begin contact negotiations with Black & Veatch for Pump Station 9 (Four Seasons) Weather Storage Expansion Project. Motion carried unanimously. (13)

**PUBLIC COMMENT: None**

**FUTURE AGENDA ITEMS:**

06/24/08      1. Consider the following items related to the University Park development, generally located at 1301 Iowa Street:

- a) Consider approving, subject to conditions and use restrictions, PDP-02-02-08, a Preliminary Development Plan for University Park, located at 1301 Iowa Street. The plan proposes an infill development containing 42 single family homes on approximately 9.27 acres. Submitted by Allen Belot, on behalf of Mt. Oread Development LLC, for Calvin & Annaliese Engelman, Robert Green Trustee, Joan Huber and 7G's LLC, property owners of record. (PC Item 2; approved 8-0-2 on 5/19/08)

**ACTION:** Approve, subject to conditions and use restrictions, PDP-02-02-08, if appropriate.

- b) Consider approval of Z-02-05-08, a request to rezone approximately 9.27 acres from RS7 (Single-Dwelling Residential) to RS7-PD (Single-Dwelling Residential Planned Development Overlay). The property is located along the west side of Iowa Street between Stratford Road and approximately 200 feet south of University Drive. Submitted by Allen Belot Architect for the applicant Mt. Oread Development LLC, contact David Butler. (PC Item 4A; approved 7-0-1 on 3/24/08) *Because valid protest petitions have been received, a super-majority vote (4 votes) would be needed regarding the rezoning items.*

**ACTION:** Approve Z-02-05-08, a request to rezone approximately 9.27 acres from RS7 (Single-Dwelling Residential) to RS7-PD (Single-Dwelling Residential Planned Development Overlay), and authorize staff to draft ordinance for placement on a future agenda, if appropriate.

2. Receive staff report on BNSF/Amtrak Depot.

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. Request
- 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 17<sup>th</sup> 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 9<sup>th</sup> Street and 10<sup>th</sup> 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 9<sup>th</sup> Street and 10<sup>th</sup> Street, if appropriate.

- Consider Traffic Safety Commission (TSC) item requesting a mid\_block crossing on New Hampshire Street between 7<sup>th</sup> Street and 8<sup>th</sup> 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)
- ***This item was deferred from June 3, 2008.*** Consider approval of Z-02-07D-08, a request to rezone a tract of land approximately 5.669 acres from UR (Urban Reserve) to CO (Office Commercial). The property is located north of 6<sup>th</sup> Street between Stoneridge Drive and Queens Road. (PC Item 6D; approved 7-0 on 4/21/08)

**ACTION:** Approve Z-02-07D-08, a request to rezone approximately 5.669 acres from UR (Urban Reserve) to CO (Office Commercial), and authorize staff to draft ordinance for placement on a future agenda, if appropriate.

- ***This item deferred from June 10, 2008.*** 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. (PC Item 11; approved 7-2 on 5/21/08)

**ACTION:** Approve CPA-2004-02, amending Horizon 2020, Chapter 7, and adopt on first reading ordinance 8283, if appropriate.

- Consider adopting revised sidewalk dining ordinance and compliance procedures. Staff will meet with interested stakeholders prior to placement of this item on a City Commission agenda.
- Consider the following items related to Lawrence SmartCode:

Consider approval of **CPA-2007-6**, a Comprehensive Plan Amendment to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence. (PC Item 13; approved 8-0 on 5/21/08)

**ACTION:** Approve CPA-2007-6, an amendment to Horizon 2020 by creating Chapter 15 - Place Making, if appropriate.

Consider approval of **CPA-2007-7**, a Comprehensive Plan Amendment to Horizon 2020, Chapter 14 Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan. (PC Item 14; approved 8-0 on 5/21/08)

**ACTION:** Approve CPA-2007-7, an amendment to Horizon 2020, Chapter 14 Specific Plans, if appropriate.

Consider adopting Text Amendment **TA-11-24-07** regarding the Lawrence SmartCode and, Pursuant to the provisions of K.S.A. Chapter 12, Article 7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The "Lawrence SmartCode" is an optional development code that is parallel to the City's existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas. Copies of the "Lawrence SmartCode" are available for review at the Office of the Lawrence-Douglas County Planning Department, City Hall, 6 E. 6th Street, Lawrence, Kansas. The "Lawrence SmartCode" is also available at [www.lawrenceplanning.org](http://www.lawrenceplanning.org). Adopt **Ordinance No. 8286** on first reading regarding TA-11-24-07 for the Lawrence SmartCode. (PC Item 15; approved 8-0 on 5/21/08)

**ACTION:** Approve TA-11-24-07 regarding the Lawrence SmartCode and adopt Ordinance No. 8286, if appropriate.

#### **COMMISSION ITEMS:**

**Moved by Amyx , seconded by Hack,** to adjourn at 11:45 p.m. Motion carried unanimously.

#### **APPROVED:**

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

#### **ATTEST:**

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

### **CITY COMMISSION MEETING OF JUNE 17, 2008**

1. Bid – Roll-off trash containers to Roy Conley for \$25,232.
2. Bid – W Baldwin Creek Interceptor Sewer to McAninch Corp for \$2,104,550.80.
3. Ordinance No. 8282 – 1<sup>st</sup> Read, Comprehensive Plan Amendment (CPA-2008-1) SE Area Plan
4. Write-off – 890 Utility Bills for \$140,042 & Misc receivables for \$97,410.77
5. Mortgage Release – Grafel, 765 Ash.
6. City Manager's Report
7. Update from KDOT & HNTB – 23<sup>rd</sup> St. Bridge.
8. Ordinance No. 8285 – 1<sup>st</sup> Read, annex (A-02-02-08) 155 acres, NW corner of 1800 Rd & E 900 Rd.
9. Vacation - Public Hearing – 3' of Indiana between 11<sup>th</sup> & 12<sup>th</sup> St.
10. Special event Permit – (SE-06-21-08) Demo Earth Friendly Energy at SE corner of 9<sup>th</sup> & Iowa
11. Resolution No. 6775 – GOB for fire-fighting equipment.
12. Wastewater Facilities Master Plan – Burns & McDonnell/BG
13. Pump Station No. 9 (4 Seasons) Weather Storage Expansion Project, Black & Veatch.