



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

June 24, 2008

The Board of Commissioners of the City of Lawrence met in regular session at 5:30 p.m., in the City Commission Chambers in City Hall with Vice Mayor Chestnut presiding and members Amyx, Hack, and Highberger present. Mayor Dever was returning from a business travel commitment and arrived later in the meeting.

EXECUTIVE SESSION:

It was then **moved by Hack, seconded by Highberger** to recess into executive session for 40 minutes for the purpose of discussion of matters relating to employer-employee negotiations. The justification for the executive session is to keep negotiation matters confidential at this time. Motion carried unanimously.

The Commission returned to regular session at 6:10 and recessed until 6:35.

The Commission resumed the regular session at 6:35 p.m.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to approve the City Commission meeting minutes of June 10, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to approve the Mechanical Board of Appeals meeting minutes of May 12, 2008 and May 29, 2008; the Traffic Safety Commission meeting minutes of May 5, 2008; and the Sustainability Advisory Board meeting minutes of May 12, 2008. Motion carried unanimously.



As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to approve claims to 428 vendors in the amount of \$1,562,189.96 and payroll from June 8, 2008 to June 21, 2008, in the amount of \$1,879,693.47. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to approve the Retail Liquor License for Texas Jacks Liquors, 3020 Iowa, Ste: B. Motion carried unanimously.

The City Commission reviewed the bids for electric service at the storage building at the Wastewater Treatment Plant for the Utilities Department. The bids were:

BIDDER	BID AMOUNT
Superior Electric	\$39,000.00
Mohl Electric	\$48,442.80
Quality Electric	\$51,115.00

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to award the bid to Superior Electric, in the amount of \$39,000. Motion carried unanimously. **(1)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to authorize the Administrative Services Department to renew coverage provided by Affiliated FM for the City's building/property coverage for the period of July 1, 2008 to July 1, 2009 for an estimated annual premium of \$114,018; and bind coverage provided by VFIS for emergency vehicles, general liability, management liability, and portable equipment for the Fire/Medical Department for the period July 1, 2008 to July 1, 2009 for an estimated premium of \$74,075. Motion carried unanimously. **(2)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to authorize the publication of the proposed amendment to the 2008 Budget and set July 8, 2008 as the public hearing date. This amendment provides budget authority to spend reserve money for Transit expenditures. Motion carried unanimously. **(3)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to place on first reading, Ordinance No. 8277, incorporating reference TA-04-05-07, establishing a Mixed Use Zoning District in the Development Code. Motion carried unanimously. **(4)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to place on first reading, Ordinance No. 8290, concerning municipal court fees for the mailing of notices pursuant to K.S.A. 8-2110 and amendments thereto. Motion carried unanimously. **(5)**

Ordinance No. 8282, providing for a Comprehensive Plan Amendment for the Southeast Area Plan, recommendations section; Land Use, Land Use Descriptions, Commercial Zoning Districts to change CC400 District to CC200 District, and for Comprehensive Plan Amendment (CPA-2008-1) for the Southeast Area Plan. As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. **(6)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to adopt Resolution No. 6772, repealing resolutions establishing benefit districts for intersection improvements at 6th Street and George Williams Way and improvements along George Williams Way from 6th Street south to Ken Ridge Drive. Motion carried unanimously. **(7)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to concur with the Traffic Safety Commission's recommendation to deny a request to establish "no parking" along the south side of 17th Terrace between Barker Avenue and New Hampshire Street. Motion carried unanimously. **(8)**

As part of the consent agenda, **it was moved by Hack, seconded by Chestnut**, to concur with the Traffic Safety Commission's recommendation to deny a request to establish a "stop sign" at the intersection of Cambridge Road and Sunset Drive. Motion carried unanimously. **(9)**

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said in one of the City Commission's earlier discussions regarding Chapter 7, staff had drafted the minutes from the Planning Commission meeting discussion of that part of the comprehensive plan and he would schedule that topic of discussion on a future agenda.

He said staff was working with North Mass Redevelopment LLC (North Mass) regarding the acquisition of City property between North Second Street and the Kansas River Levee. Staff identified surplus City property and property owned by the Kaw Valley Drainage District that was associated with the levy acquisition. Appraisals were being conducted at North Mass' expense. Staff was not making any commitments in transferring any City property interests at this point, but would not know until there was a dollar figure associated with that property.

(9)

REGULAR AGENDA ITEMS:

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.

David Corliss, City Manager, introduced the item. He said in last week's discussion of this annexation, a majority of the City Commission wanted to proceed, but wanted staff to work on wording regarding availability of City services, particularly water and sanitary sewer services to this location.

In Section 3 of Ordinance 8285, the property owner suggested language that was now in Section 3. Correspondence from Ron Schneider was also received and he did not think the recital was appropriate in the ordinance and did not know if the terms added anything, but Schneider could advocate as appropriate.

He said building permits could be issued on the property, described in Section 2, if the City of Lawrence reasonably determined if City water or sanitary sewer service was not required to serve the use or uses on the property and the uses that could be served by rural water or on

site sanitary sewer management systems, including, without limitation, sewage storage tanks. He said it was clear that if the use did not require City water or City sanitary sewer service, the City would not require the extension of that service. That was going to be for the City to determine, not for the applicant to solely determine, but the applicant could advocate its position. He said it was contemplated the uses could be either served by rural water or on site sanitary sewer systems.

The applicant had discussed a water storage tank that would comply with the City's fire code to provide fire suppression services at that location. Also discussed was an on-site sanitary sewer management system, the storage tank for sewage. It was not the only location within the City where development was not served by the City sanitary sewer system and the most prominent example was the airport. There was not a lot of development, but the City did not provide sewer services at that location.

Staff determined the language complied with the direction of the majority of the City Commission. A hearing took place, last week, to hear the full merits of the annexation, but this discussion was focusing on the language in the ordinance.

Mayor Dever called for public comment.

Matt Gough, Berber Emerson, speaking on behalf of the applicant, said he did not have anything to add to the City Manager's report, but wanted to extend thanks to staff for accommodating their updated language and getting this issue turned around so quickly.

Ron Schneider, representing the Riverview Neighborhood Association, said he respected Corliss for dealing with correspondence from members of the public on a regular daily, if not weekly, basis. Corliss had an opinion and expertise in what was correct. He said the revision regarding the "whereas" was appropriate and if Corliss disagreed, he was not going to argue about that issue.

The second component of the Section 3 change was important. He said he was asking that ordinance include the word “adequately” to the sentence “adequately” served by rural water or on-site sanitary sewer management systems.

Also, the reason he provided the addition of the sentence, “which shall comply with the requirements of applicable City codes” was because the draft he received from Corliss had the phrase, “including without limitations sewer storage tanks.” When he saw the term “without limitations”, he thought that meant without limitations and as a lawyer that meant he did not know or it meant without limitations. He said Corliss was correct from his experience, those usually were not included, but this particular phrase was not common.

Commissioner Amyx asked the applicant’s counsel if he had any comments on Schneider’s proposed language changes.

Gough said he did not and would second the comments made by Corliss.

Commissioner Amyx said he understood the difference between “adequately” and “reasonably”, but had questions. He asked Schneider about the last phrase which was, “shall comply with the requirements of the applicable City Codes.” The City Commission would be the body that approved the sewage storage tank that might go in at that location and asked if it made sense the City Commission would follow City code.

Schneider said it made sense, but there would be other City Commission’s in the future. The wording, “including without limitations storage tanks”, if they just said “including sewage storage tanks,” that was fine. The wording, “without limitations” was a concern because it was giving directives that he did not understand. If someone could tell him what that meant, he might be satisfied.

Mayor Dever asked about what the wording “without limitations” meant and why that language was suggested.

Corliss said the property owner contemplated that it was a possible way to have an on-site sanitary sewer management system, but it was not the only way. He said the term

“adequately and reasonably” could be some suggested wording, but it was the City Commission’s determination on the wording. He said the property owner needed to comply with the requirements of the applicable City Code and also with KDHE regulations. He said he thought it would accomplish the same goal and understood Schneider’s concerns in representing his clients. He did not think the language made a substantial change, but it was one of those issues where he did not know how much time they wanted to spend on the issue either. If the wording was added, he did not think it would detract anything from the property owner. He said if it helped the neighbors have an enhanced level of assurance of what was going on, it might be something the City Commission might want to consider, but he did not think it mattered much.

Vice Mayor Chestnut said the Mayor’s comments from last week were on point in which this was one step in a long process. Staff pointed out a lot of gates needed to be walked through as far as City Code. Everyone would assume that most Commissioners would abide by the City Code. Secondly, there were comments about what could get insured. There were so many things that were going to vet this thing out to where he did not have concerns about putting in more definitive language. He said he understood including “without limitation” could be interpreted different ways, but some language needed to be worked out that satisfied the idea to be definitive about building permits would only be issued where they were not going to provide City water and sewer, which was the intent. He said he was comfortable with the ordinance.

Commissioner Highberger said he would go along with some minor suggestions. He said also as a lawyer, he did not know what it meant, either, and could potentially open the door pretty wide. The City was the final approver, but would be more comfortable if the “without limitation” was struck or the phrase Schneider suggested, “Shall comply with the applicable City codes”, be added.

Commissioner Hack said her feeling was the same as the Vice Mayor's. It seemed there were adequate protections in place and KDHE would put the hammer down if this was not in compliance with what KDHE felt was appropriate. She did not feel the need to change what staff had drafted.

Commissioner Amyx said he did not know why they had to spell out "without limitation" to sewage storage tanks. He was supportive of the change of zoning, but would be the only thing he might strike because the City Code took care of everything else.

Mayor Dever said he wondered about the term "without limitations" and asked if that term was a common phrase or common legal term in this type of situation.

Corliss said he thought the reason why sewage storage tanks were listed and why they had the phrase "including", was something that was contemplated by the applicant. He said including the term "without limitation" was good drafting to make it clear that it was not limiting that to just that phrase. He thought the ordinance drafted accomplished the City Commission's goals. He was not saying that Schneider was adding additional language, but that was where staff stood.

Schneider said consistent with what he thought were the applicant's intentions on what Corliss said in his comments, if they could change "without limitations" to "including, but not limited to", was a common phrase that would satisfy everyone.

Mayor Dever said that he was in favor of changing the wording.

Commissioner Highberger said the wording "without limitation" would be changed to "but not limited to."

Commissioner Highberger said an issue was brought to his attention, but not raised during debate of this issue last time, but there was discussion about potential tax generation to this property and it was not discussed this property was outside the Lawrence School District. Although it had potential for generating property tax for the City, if an economic development was at this site, it was likely to be negative for the Lawrence School District.

Moved by Hack, seconded by Amyx, to approve the annexation (A-02-02-08) request and place on first reading Ordinance No. 8285, annexing approximately 155 acres, located at the northwest corner of north 1800 Road and east 900 Road, with amendment to the wording in the ordinance changed from “without limitation” to “but not limited to.” Aye: Amyx, Dever, Chestnut and Hack. Nay: Highberger. Motion carried. (10)

Consider the following items related to the University Park development, generally located at 1301 Iowa Street

Paul Patterson, Planner, presented the staff report. He said the property was located on the west side of Iowa Street, approximately 800 feet from east to west and 535 feet from north to south and was composed of seven different parcels of ground. He said included in that area was Quarry Park which was dedicated to the City when the area was subdivided back in 1953. The area was vacant park that was overgrown and not used currently by the City. He said access into the property was proposed from Iowa Street from the east and the other access would be from University Drive from the west. There was a right-of-way described as Terrace Lane which was off of Oxford Road to the north. Currently, there were 14 properties and houses to the south of the project that had access off of Terrace Road from Iowa, close to Quarry Park and dead ends. There was recorded right-of-way toward the southeast and southwest which was not used.

The property was currently zoned as RS-7, (Single-Family Residential District). RS-7 was also to the north, south, and to the southeast of the property. Across Iowa Street to the east was RM-12, (Multi-Family Dwelling District), to the northeast was RSO, (Single-Family Dwelling Office District), and to the west was a large apartment complex in a planned unit development.

He said the planning development was composed of 42 single family detached houses. The proposal was for 2 story houses on each of the lots which were individual lots. A new street Quarry Lane would have access from Iowa Street. The idea was when the access point

came in, the current access point for Terrace Road to the south, which was about 300 feet further south from the development, would be closed. That meant the 14 properties would have access back to Iowa Street, but also be available to have access up through the project down University Drive which would lead to Crestline, which would give another access point. Currently, Iowa Street at times could be very challenging to enter, especially to the left going out of the project. This would help and benefit the residents in that vicinity.

The applicant was proposing to use the Quarry Park as a detention basin. It was a natural formation of a detention basin. It was used to remove stones and remained flat on the hillside. On three sides of Quarry Park, to the north, east and west was limestone that was 6 – 10 feet and provided a natural detention area.

The project would also be dedicating part of their common open space to the north of the park and to the rest of the park. Currently, Quarry Park was 2/3 of an acre in size and would be dedicating an additional 1.23 acres where it would be a total of 2 and 1/3 acres that the City would then have as part of Quarry Park to use. There would be walkways which would lead around to the park and up into the project. People could use the park and the developer would be putting in a 6 foot wide concrete path that would be putting into the trees and would be available for anyone to use at that time. He said there were other pedestrian tracts and a pedestrian sidewalk that would lead down to the park at that location.

Regarding the structures that were being proposed, four renderings were provided by the applicant with a plan for the structures. Each plan proposed a porch in the front and 15 feet from the porch to the property line on the front side. There were also some that would have attached or detached garages behind the facility or some garages that were be on the lower level. Currently, the property had an old quarry stone building which was believed to be used as a weigh station. What the applicant was proposing to do as part of this project was relocate the stone building, go through engineering to make sure that structure could be moved, and move the structure 70 to 80 feet north which would be part of the park system for future use.

He said those two items were heard by the Planning Commission. The rezoning was heard along with the preliminary development plan and on March 24th the Planning Commission recommended approval from single-family residential, which was RS7, to RS7 with a PD overlay, which was a Planned Development District which was required for a planned development to go forward. At that meeting, action was also deferred on the preliminary development plan so the applicant could negotiate with the neighbors and bring the matter forward again to the Planning Commission.

On May 19th the Planning Commission recommended approval of the preliminary development plan by an 8-0 vote with two abstentions, recommended approval of the six waivers and five conditions as listed in the staff report.

Matt Bond, City Stormwater Engineer, said currently, the drainage ended up in the Quarry and the eastern drainage ended up going south into the neighborhood immediately to the south. With the new plan, all the drainage would be captured either by Quarry Lane and two curb inlets at the end of the street and that drainage would no longer flow to the south, but would be captured by curb inlets and the rest the development to the north would be captured and taken into the detention basin which would be metered out by four or five pipes in the bottom half of the dam by a slow release rate.

Another concern brought up during the development of this project was a resident located at 2133 Terrace Road currently had natural springs in their backyard. To mitigate that problem, a cut off wall would be taken along the south side of the detention basin and to some extent to the east on Quarry Lane, it would be drain tile and any of the water coming across the limestone strata from the quarry when full of water would either be pumped out through the static pressure head to that point and then drop into a drain tile and released downstream by outlets for the pond.

Commissioner Amyx asked about the depth of the basin in a 100 year rainfall event.

Bond said it would be about 3 or 4 feet deep.

Commissioner Amyx asked how fast 3 or 4 feet would meter out of that area.

Bond said with detention it would take 2.7 hours to approximately 6 hours. The whole idea behind the detention basin was to knock the peak off.

Commissioner Amyx said the Commission received communication about conditioning of the zoning and how it compared to conditioning in the Preliminary Development Plan. He said if this was truly a single-family development, he asked about the differences and the safeguards put into place, and would it be guaranteed to end up as single-family development.

Patterson said there were the preliminary plan and the rezoning to Planned Development Overlay District. The preliminary development plan was for detached single-family homes and as part of that plan, it showed the houses besides being single-family, would adhere to the definition which meant a maximum of three could live together in one of those homes. As far as the development plan itself, if this project was to go away and sold to someone else, then another development plan would come forward to be viewed by the Planning Commission, public hearing, and by the City Commission and be approved. The City itself would have regulatory control over the development plan itself.

As far as rezoning, the letter references that they would like to have a condition placed on the zoning itself, zoning it from single family residential to single family residential with a planned development overlay that would limit it to detached single family homes which would meet the definition of family. It gave more assurance to the surrounding neighborhoods that it could not go forward in the future and be changed or modified from that without getting the rezoning changed or modified. The rezoning could have a protest petition and in this particular case, there had been a protest petition filed, which meant instead of having three votes to go forward, four votes to go forward was needed on the rezoning portion. On the preliminary development plan, it was his understanding that there was not a protest petition ability to protest.

Commissioner Amyx asked if the preliminary development plan ran with the ownership of the property.

Patterson said the preliminary development plan could run with the ground. If it did not go forward, such as if this particular project expired at the end of a time period, the property owner could resell to someone else and then a different project come forward, or the same owners could come forward with a different project in the future on the property. The PD zoning would still be in place on the property which allowed for other things besides single family homes. He said that zoning could allow for some small commercial, different formats of attached houses, duplexes and apartments. The City would be reviewing, regulating and controlling those plans. They would have the public hearing in the Planning Commission and City Commission, also.

Scott McCullough, Planning and Development Services Director, said in reading the correspondence, Commissioner Amyx was referring to a code section of the PD overlay category of the code allowed the governing body to modify uses that was within the base zoning district. That did not get discussed very much at the Planning Commission. The R-7 district allowed for single family detached dwellings, group home, limited care facility and those types of uses that were compatible with the single family district. It was a consideration of the governing body if desired to restrict uses, it was probably a good idea to condition the ordinance to state that it conditioned either with all the base district uses allowed per the code, which some were special uses and some were permitted by right, or restricted uses to something like single family detached dwellings alone. It did not receive a lot of consideration at the Planning Commission level, but had been represented that it was a single family detached structure project. The development plan in the code, there was a guarantee that major modifications to the development plan and major modifications defined in the code could not be revised administratively and would go back to the public hearing process. There was, if approved, the guarantee that administratively the project could not be revised past what the definition of major

modification. It would probably be prudent to have the discussion on the base zoning district uses and whether or not this project could benefit from the full breadth of the uses in the RS7 district or whether it should be restricted.

Commissioner Amyx said ever since he started seeing this project over the last several months, what was proposed was what the Commission was asked to approve. He said his concern was this was the only plan the Commission had seen with exceptions to what might have been proposed over the last several months, he assumed that was what the neighbors had seen, but now he found out that it could be built with other things.

McCullough said it could be other uses within the RS-7 base district. It could not be anything more than what they were seeing in terms of the lot layout, single family detached structures, street network, and those types of things. If a group home entered into one of the residential structures, then that would be a use allowed on the RS7 base district.

Vice Mayor Chestnut said this was no different than any other situation with an overlay and would still have the other RS-7 uses. They did not see that very often, but it was a possibility.

McCullough said the planned development overlay required governing body approval and the code did allow certain minor modifications to that at an administrative level. Anything outside of a very explicit list of things that could be modified at certain percentages that the code allowed anything above those modifications had to go back to the hearing process with public notice, Planning Commission recommendation and governing body adoption.

Commissioner Chestnut asked if some of that was limited by the scope of what could be changed administratively.

McCullough said not if there were restrictions on the place at the time of the rezoning.

Commissioner Amyx asked what items could be administratively approved outside of this plan in the RS7 District.

McCullough read from page 13-26 of the Development Code,

“A major change is one that increases the proposed gross residential density or intensity of a use by more than 5%, involves a reduction in the area set aside for common open space in general or recreational open space or natural open space in particular or the substantial relocation of such areas, increases by more than 10% the total floor area proposed by non residential uses, increases by more than 5% the total round area covered by buildings, changes a residential use or building type, increases the height of buildings by more than 5 feet or represents a new change to the preliminary development plan that creates a substantial adverse impact on surrounding land owners, changes a residential building type or non residential structure by more than 10% in size.”

Mayor Dever said according to the letter the changing in the zoning would allow potential for commercial land uses and implied that commercial uses were permitted in RS-7 and PD overlay district and the net density could be increased up to 25%, which were what they were implying.

McCullough said PD offered certain waivers and uses that if requested, explicitly in their project, could be granted by the governing body. Staff was looking at what the applicant requested and staff was not going to guess about what a future owner might bring the City Commission through the public hearing process, which needed to occur if a change was made. If the PD overlay district had gone through the public hearing process and adopted through that process, would have to be revised only through that public hearing process once again.

Mayor Dever said there was a potential that if this property was not developed in the near future and the structure of the City Commission changed, once rezoned to RS7 PD Overlay District, that if nothing was done another owner or the same owner could come back and propose those changes because they granted that through this zoning district.

McCullough said staff interpreted the code that under the modification section with explicit request and explicit approval from the governing body, that it did read planned developments and single family districts might include land area for commercial uses at a ratio of up to 50 square feet of land area per dwelling unit. It had not been requested here and would be a major modification to the development plan and would have to go through that public hearing process.

Commissioner Amyx asked what would be necessary when looking at this plan to assure the Commission that what was proposed was what actually what it would look like in the end.

McCullough said the code made those assurances. He said what he read from was the section that talked about process and amendments to the plan once approved. Once approved, the only way to modify a past major modification would be to go through application, to staff, to the Planning Commission, through the governing body for approval of a revised preliminary development plan.

Commissioner Highberger said the way he understood was the only real difference was if it was conditioned in the zoning, it would have to go through the planning process and be subject to protest petition. If it was just a preliminary development plan, it would not be subject to protest petition.

McCullough said it went through public hearing process, but the protest petition issue was not there for the development plan process.

Vice Mayor Chestnut said the key was without the conditions, there was a possibility, however remote, that with the overlay, ownership could change hands, and come back with commercial uses. They would have to come back to the governing body, but the zoning with the overlay would be there, which meant there would not be a protest petition ability, which meant it could be a simple majority versus a supermajority.

McCullough said that was a key factor and one of the issues raised and they did not necessarily oppose the conditional zoning.

Mayor Dever called for public comment.

Ron Schneider, on behalf of Betty and Robert Lichtwardt, said he thought the Lichtwardt's letters were the letters the City Commission were referencing regarding this issue. He said he was pleased the Commission's previous discussion made his presentation much shorter. Staff had identified it and accurately stated their concerns. He said he wanted to remind the City Commission that a protest petition was filed indicating the seriousness and

depth of the concerns of the neighbors. However, his clients had no objection if conditioned as stated in the previous letters directed to the City Commission.

He said the conditions were the use should be only single family detached dwellings, each dwelling on its own individually platted lot fronting on a dedicated public street with the definition of family as cited in RS7 districts and the Lawrence Land Development Code Section 20-1701 page 17-8 on June 24, 2008 as defined family under the code. He said he believed that in reading 21-701PD F1 it was actually required the City Commission should approve a list of uses allowed in a PD at the time of PD preliminary approval. Above that in 20-701f, it stated that it might designate by ordinance or as a note on the face of the development plan. He did not think they had either one of those right now and his clients requested were as the City Commission identified and clarified. He said his clients wanted to make sure if they were coming forward to the Commission in good faith that they had no objection to this plan as Commissioner Amyx had identified and was expected by everyone, they wanted to make sure that was the plan that was going forward with either with the developers or subsequent owners.

If this project did not proceed as he read the ordinance within 12 months, then the final development plan had to either get an extension for 6 more months or was terminated and the applicant would have to come back and start over. If they did not have those conditions on the zoning and it was identified there were far many more possibilities, then the benefits of the zoning process have been waived. Based upon what was said, he thought the Commission understood their position and asked them to accept it and impose that as a condition. He said if the Commission chose not to do that, then his clients strongly objected to this plan. They were in agreement with those limitations as precisely presented.

Commissioner Highberger asked Schneider if his clients would be satisfied with the restriction on the zoning to limit it to the uses allowed in RS7.

Schneider said much of it had to do with density issues and lot size. He said his client would strongly prefer what was presented and they thought it accommodated the intentions of the current developer.

Alan Belot, architect for the developers, said his client did not object to the Lichtwardt's request as written.

Dean Grob said he was in part the applicant and part of the design team. He was a partial owner in the property and also a neighbor to this property. He said with the restrictions that were being asking, he was sitting on the two sides. He did not want it to come back with commercial and other things that would draw the value from their neighborhood and his home. The only thing was there was a piece of property they were trying to sell through this whole process and was concerned about the reason for the PD overlay. All those restrictions might negate the process they would be forced into with the PD Overlay. He could understand the concerns about the lots within Rockledge Addition, but over half the property was outside the Rockledge Addition and a third of the property was owned by his family when his grandparents bought it in the 1940's. He did not want to see commercial and other things, but also restrictions were being placed on that property and if the development did not go, he could come back and change one thing that did not fit into their restrictions and would need to fight again to get something back. He was not completely opposed to it, but it was one of those things of where were his rights as a land owner to the restrictions put on his property. If the development plan was revised, they would be before the City Commission again. There was a very small window in his mind of little things that could be changed without everyone coming back to the City Commission. He said the vote would need to be 4-1 instead of a 3-2 vote, and did not think that was necessary.

Mayor Dever asked McCullough to address the question about switching to the PD overlay.

McCullough said the sensitive land areas required the PD Overlay when there were a certain percentage of sensitive lands and in this case it was the Woodlands.

Mayor Dever asked if it had to happen that way.

McCullough said yes, because of the sensitive lands.

Carolyn Crawford, Vice President, Sunset Hills Neighborhood Association, said the association decided it would like to have the plan conditioned. The use shall be only single family detached dwellings, each dwelling on its own individually platted lot fronting on a dedicated public street with the definition of family as cited for RS districts in the Lawrence Land Development Code Section 20-1701. The reason why the association wanted that condition was for the future stability and protection of the existing neighborhoods. This was something the association felt very strongly about.

Belot said originally he did not want the area to be a planned development, but an RS-7 zoning, so it would freeze and secure the neighborhood. It was the Land Development Code and the sensitive land development standards in the code that required the area to be a PD, but he did not want the area to be a PD. He said because of the requirements of PD, things needed to be done differently with open space and there would be variances. He said in the overall scheme of things, a person could take the public open space that was dedicated in this plan and amortize that over the square footage of the lots, it was an RS-7 zoning district, it was just that they were making smaller lots in one area to have more park land in the community space. He said personally he thought it should not be anything other than single-family ever.

Commissioner Amyx said this was the exact plan and it was the plan Belot's client was going to build.

Belot said he had been working on this plan for three years and was basically the same plan with minor modifications over the three year period.

Commissioner Amyx said he thought this was an overall good looking plan. One concern since day one was anytime there was infill development, there was an opportunity to

make a difference in a neighborhood, but needed to consider the existing land owners in the area. He said the applicant did a good job with help from City staff in making sure that concern was taken care of. The additional open space could be a nice amenity to the neighborhood. He said he wanted to make sure this was the plan the City Commission was approving and that there would not be another plan come forward 8 months down the road.

Commissioner Hack said infill development was always difficult and the existing property owners had their right to have their interests protected as well. She said conditioning the zoning to reflect the changes that were brought forward made sense, because it was that extra layer of security. She said the plan would be a great development with the park and hiking trail.

Commissioner Highberger said this was a great plan. He said the Commission received emails indicating the proposed plan might lower some surrounding property values, but this would be a very desirable neighborhood and would likely increase the surrounding property. He said he supported the request to condition the zoning because there was a valid protest petition and the Commission had seen an example of someone trying to evade the effect of a protest petition recently. He said he was not entirely comfortable the way the restrictions were written and was afraid the group home exception was a reasonable use in a neighborhood which would be restricted. The requirement the houses front a public street were elsewhere in the code and had seen that in other developments where the houses took garage access from the share of the alley and shared open space. He was confident the explanation of the storm water engineer would not be harmful and help people to the south. He supported both items.

Vice Mayor Chestnut said he wanted to thank the applicant because they went through several talks on how to use the parks and thought everyone got to where they needed to get to. He thought the use of re-energizing publicly dedicated land that was not at that location and was not used much was cool. He wanted to support it. He also believed in the restrictions. The difference between a super majority and majority was a pretty big one. They would be very surprised that 3-2 was much easier than 4-1, so it did make a difference in this case and given

the fact they had a valid protest petition, he thought it made the restrictions more important in the spirit of honoring that and maybe not having that as an unintended consequence later on down the line, even though he thought it was remote and was not anything that the applicant had in mind. He thought it was important in this particular case.

Mayor Dever said he agreed and did not have much more to add. He thought the plan looked like a nice development and looked forward to having park space available to the public and it was a unique land feature that everyone would get to see if this occurred. He was in favor of adding the restriction to the plan.

Commissioner Hack said the restriction written in the letter that was dated June 20th talked about the single family and that each dwelling on its own platted lot fronting on a dedicated street with a definition of family, and she asked if Commissioner Highberger felt those restrictions should be eliminated from the condition.

Commissioner Highberger said he was not entirely comfortable with the restrictions, but since the applicant was willing to accept the restrictions, he was willing to accept the restrictions.

Mayor Dever said the rear facing had great design and there might be some opportunity for more “family” use, but in the spirit of trying to move this plan forward and the hard work put in by staff and neighbors rather than confusing the issue any further, he would be willing to go forward with the suggested language since the developer was willing to accept that language as well.

Moved by Amyx, seconded by Hack, to concur with the Planning Commission’s recommendation to approve a Preliminary Development Plan (PDP-02-02-08) for University Park, located at 1301 Iowa Street. The plan proposes an infill development containing 42 single family homes on approximately 9.27 acres, subject to the following conditions:

1. The approved uses for the University Park PD are detached single-family dwellings, common open space, and additional land dedicated to the City’s Quarry Park.

2. As required by subdivision regulations, street and sidewalks connection of University Drive to Oxford Road shall be provided at the previously stubbed out right-of-way from Oxford Road (Terrace Lane), with the improvements connecting to Oxford Road to be provided by the University Park development.
3. Agreement Not to Protest the Formation of a Future Benefit District for geometric and infrastructure improvements to Iowa Street (street widening, sidewalks, and turning lanes) must be executed by the applicant and provided to the Planning Office prior to recording of the Final Development Plan.
4. Provision of a revised Preliminary Development Plan with the following changes:
 - a. The dead-end north-south alley shall be connected to the east-west alley with turning radii to the approval of the City Engineer, unless waived by City Engineer due to slop changes.
 - b. Modify General Note No. 10, update the referenced tract/block numbers, and include the dedication of Tract B4 to the City for additional park land to Quarry Park. Tract B4 to be owned and maintained by the City.
 - c. List the waivers, as approved by the City Commission, within the 'Waivers Block' on both the Preliminary Development Plan and Final Development Plan.
 - d. Provide traffic calming on University Drive to the approval of the City Engineer.
 - e. Update Additional Condition Note No. 1 to reflect current code section.
 - f. Relocation of the residential Lot 12, Block 4 (containing the existing Quarry Weigh Station stone building) to the northwest area of Tract B-4, and dedication of the lot containing the Quarry Weigh Station to the City as park land, and relocation of lots containing waivers.
 - g. Update the referenced tracts on the site summary to correspond with the development plan graphics.
 - h. Modify 'Additional Condition Note No. 5' to agree with the graphic note referencing the signage and fencing for the preservation of the wooded areas.
 - i. Provide curb and gutter on the west side of Quarry Lane connecting to Terrace Road.
 - j. Per Section 20-701(j)(2), at a minimum, screening with a 6' high fence be applied to the northern property boundary of the PDP and the west property boundaries of Block Two, Lot 3 and Block Three, Lot 3 and the property to the south of Quarry Lane.
 - k. Per Section 20-1304(iii)(u) provide at least one north-south and one east-west elevation across the site to show typical site layout and grade.
 - l. Per Section 20-1304(iii)(v) show the required landscape plan in conformance with Section 20-1001(d).
 - m. Provide the standard note that the City will not be responsible for any damage due to trash trucks for the private streets and alleys.
 - n. Per Section 20-1304(d)(3)(s), provide the following note, "We hereby dedicate to the City of Lawrence, the right to regulate any construction over the area designated as common open space, open air recreation area, and non-encroachable area and to prohibit any construction within said areas and spaces inconsistent with the approved use or enjoyment of residents, lessees and owner of the planned development."
 - o. Per Section 20-812(a)(5)(ii), provide the Minimum Elevation for a Building foundation Opening (MEBO's) for lots adjacent to all drainage easements and drainageways.

- p. Per Sections 20-812(a)(3)(i) and 20-1304(d)(3)(g), provide grades of the proposed streets.
5. Submittal and approval of public improvement plans to Public Works Department and Utilities Department prior to the submittal of the Final Development Plan.

Motion carried unanimously.

(11)

Moved by Amyx, seconded by Hack, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning (Z-02-05-08) request of approximately 9.27 acres from RS7 (Single-Dwelling Residential) to RS7-PD (Single-Dwelling Residential Planned Development Overlay) subject to the proposed condition contained in the June 20, 2008 letter from Betty and Robert Lichtwardt (the property is located along the west side of Iowa Street between Stratford Road and approximately 200 feet south of University Drive). Motion carried unanimously.

(12)

Receive staff report on BNSF Depot and direct staff as appropriate.

Michael Tubbs, Management Analyst, City Manager's Office, said representatives from KDOT were present as well as City staff that would take technical questions that were beyond the scope of the report. The City Commission adopted Resolution 6758 in February 2008 supporting the Northern Flyer lines and the Heartland Flyer extension rail line from Oklahoma City to Kansas City which would travel through Lawrence. On May 20, 2008 this item was referred back to staff for a staff report.

He said the original depot was built in 1873, in 1951 the original depot was flooded, and in April 1955 the original depot was torn down and replaced with the current depot in January 1956. In 2002 the City Commission contracted to have a condition survey completed and at that time, a grant proposal was submitted to use the depot as a city wide transportation hub, but BNSF was not in support therefore, that transportation hub did not occur.

Currently, Amtrak provided passenger rail service in each direction on the southwest which was train number 3 and 4 which traveled from Chicago to Los Angeles and arrived in Lawrence at approximately 12:32 a.m. and train number 4 from Los Angeles to Chicago arriving

in Lawrence at 5:49 a.m. The station was not staffed. There was a caretaker that came over during the times of the train to meet the train and open the depot. Also, Burlington Northern Santa Fe also had crews that utilized a portion of the building. There was directional signage near downtown that helped people find their way to the passenger rail station. City staff recently put those signs up in the community.

Regarding the current conditions of the depot, the condition survey in 2002 indicated only minor structural damage. However, a staff inspection should occur to confirm that no structural damage currently existed. City staff estimated maintenance costs just under \$54,000 to operate and maintain this depot. Amtrak had given some estimates for ADA improvements of just under \$400,000. Additionally they were repairs to bring the building into good repair, which cost about \$100,000 additional dollars.

He said the upside of station ownership with regards to the City being the owner of the depot, there were some potential economic opportunities related to ownership, such as tourism increase with the passenger rail service and the potential passenger rail service that might come to Lawrence that would utilize downtown. The Bleeding Kansas and history of the area related to the National Heritage Designation, Amtrak passengers could leave the site and board any other train at no additional cost. There were also federal grants, both transportation grants, community development grants, and environmental grants that were available the facility would qualify for. There were also historic grants; however, the facility was not currently designated as a historic site on the federal or state registers. The other benefit was BNSF was willing to potentially donate this building to the City with little or no cost, but they wanted to ensure the City interest prior to beginning the lengthy internal process of transferring ownership of the depot.

He said the downside in terms of City ownership that should be considered strongly was that ownership would impact the City's risk management in terms of increase in liability costs. Additionally, under transportation regulation 49CFR Part 38 and Part 39 required an ADA

accessible station by July 26, 2010. However, Amtrak requested an extension of this date given the short time frame they were up against. Additionally, ongoing maintenance costs and repairs were significant as indicated in the City estimate regarding cost. For example for comparison purposes, the City spent approximately \$98,000 annually for operation and maintenance of the Union Pacific Depot and \$45,000 of that funding was from the Convention and Visitors Bureau, however that was also tax supported funds. In 1993, it cost approximately \$444,000 to renovate the Union Pacific Depot. The local share of that cost was \$88,000 and the City's portion was debt financed by the City. If they were to do a similar project like that in today's dollars, it would be approximately \$660,000 when calculated for inflation.

He said the following options and alternatives were offered and staff would like to know how the City Commission would like to proceed in this item. There were a number of things that could be done such as, do nothing at this time, formally request BNSF consider historic designation for the depot which would grant consent to start that process which required the owner's consent, or could proceed with ownership and delay restoration. They could also proceed with ownership and restoration of the depot on City's time frame. He said he knew there was currently a feasibility study pending regarding the Heartland Flyer.

Commissioner Highberger said on the estimate for those costs, he asked how much of that cost was for part time salary.

Tubbs said that dollar figure did not have the part time salary monies so the part time salary or half time staff would be additional costs.

Commissioner Amyx asked if there was any idea on how many people were boarding trains at this location.

Tubbs said he thought that number was just under 4,000 people on the Southwest Chief. He saw figures that have been estimated regarding the Heartland Flyer increasing to about 14,000. The figures for the Southwest Chief were 3,732 people currently in terms of ridership as an annual number.

Commissioner Hack asked about the other figure.

Tubbs said the other figure was from the Northern Alliance and saw a figure where they compared Norman, Oklahoma which had the Heartland Flyer coming through and they had about 14,000 passengers as a result.

Commissioner Amyx said regarding options and alternatives in the report, the second bullet talked about formally requesting BNSF to consider historic designation for the depot and asked why the designation was one of the options at this time.

Tubbs said that would allow the station to be considered for historic preservation purposes to be placed on the register. It would also make it eligible for grants relating to historic preservation, which was currently not available.

Commissioner Amyx asked if it would speed things up.

Tubbs said it would speed things up. As he understood that it was a lengthy process that took some time and this would give the City a head start.

Commissioner Amyx said if the ownership option were to proceed and receiving that designation, rather than waiting for the City to receive it and then making that application, he asked if they would get it in all one package.

Tubbs said that would speed the process up in terms of being able to do things.

Mayor Dever asked if there were federal funds available for refurbishing, renovating or restoring the depot if the City did not seek historical coverage. He said by designating the depot as a historical structure, the City might incur additional costs because of preservation. If they were to make the depot more ADA compliant, habitable and useful, if the City did not seek that designation, there might be more flexibility for the City and the cost might outweigh the benefits of that preservation. He said he wanted to make sure that by seeking that designation, they did not end up with some unintended consequences and having to spend more to renovate the depot.

Tubbs said there were other federal grant funds available for that particular project. Primarily, in the transportation sector, a Capital Assistance to States Inner City Passenger Rail Service in the Federal Transit Administration, Public Transportation and Capital Projects to Meet Special Needs of Individuals and Individuals with Disabilities, New Freedom Program grants, Non Urban Area Grants, etc. There were also tax incentives related to public/private partnerships such as the New Market Tax Credit and Rehabilitation Tax Credits, but the ownership had to be to a private entity or other than the City to qualify since the City did not pay federal taxes.

David Corliss, City Manager, said it was important to note those were competitive grants so the City would be competing with other meritorious projects for a limited pool.

Tubbs said those grants also required a local match, generally an 80/20 match.

Lynne Braddock Zollner, Historic Resources Administrator, said anything that had federal funds involved, no matter how many tiers it went through, this property was 50 years or older and if federal money was involved, it fell under Section 106 of the National Historic Preservation Act and it would need to be reviewed for its impact on the historic structure.

Ray Lang, AMTRAK, said they were a federally owned corporation and were a very unique entity in that regard. They were set up by Congress in 1971 to remove the freight rails of the burden of running inner city passenger service across the country. AMTRAK had a Board of Directors nominated by the President of the United States and subject to senate confirmation. It was a seven member board and the board chose a CEO who managed the company and ran about 353 trains across the United States every day.

He said their board did three different things which were:

1. Ran the network of high speed trains in the northeast corridor between Boston, New York and Washington D.C. and in that corridor their trains went as fast as 150 mph. It was also the dominate transportation provider in the northeast.

2. Ran a network of 13 overnight long distance trains around the country. One of those was the Southwest Chief, which passed through Lawrence each evening and each morning. It was the old Super Chief they inherited from the Santa Fe Railroad that went between Chicago and Los Angeles.
3. Ran around the country a series of short distance corridor services in partnership with state governments. There were 14 states across the United States that contract with them and pay them to run corridor trains from point A to point B to help them meet their transportation needs.

He said KDOT asked their board to study the implementation of corridor services between Kansas City and Wichita, Kansas City, Topeka and Wichita, and connect to a train the State of Oklahoma runs. The study would be underway shortly and was optimistic that they could develop a partnership with the State of Kansas to run that train.

Things were generally very good at AMTRAK right now. They had ridership records for 5 consecutive years and in 2006 they carried 24.8 million passengers and in 2007 they carried 25.8 million passengers. In 2008, if they projected the ridership numbers in the federal fiscal year, they would be at 28.8 million. He said trains were becoming very popular and in many parts of the country they were involved in integral parts of the transit system. Given what was happening in the transportation market and given the fact that the State of Kansas had asked AMTRAK to study the transportation service on a key corridor, he thought they had a real opportunity. He said BNSF indicated a willingness to donate the structure to the City for \$1.00.

He said when the freight rails turned over their passenger business to AMTRAK, they turned over their stations to AMTRAK. They maintained ownership of those stations, but had to provide AMTRAK a space in the waiting room. The cost was \$1.00 a year. There was no incentive for the railroad to maintain the facility because they got \$1.00 from AMTRAK for the passenger facility. In most cases the stations inherited were gone or had fallen down. Given the way they were funded, they did not have a lot of money available for station redevelopment

and did not own the station so there was not a lot of incentive for them to do renovations of historic structures they did not own. What they found worked best was when the facilities were taken over by the communities. When the station was bought by the community and the community treated it as an asset, a historic structure, and as a gateway for the passengers to come into the community for the first time, it worked best. There were other models, but the best model was when the City took ownership of the facility and took pride in it.

He said there were a lot of grant programs and tax credit programs that were out there that the federal government was beginning to create. There were a lot of opportunities for cities to tap into grant money and tax incentive money to restore stations. The problem a lot of cities have was how to do this and how to find information on this. About a year and half ago, he and his boss decided to create a website at AMTRAK called the Great American Stations Project which would be a clearing house of information on where someone could go to get information on restoring a train station. Twice a year, they also did community workshops on the route of a particular train and invite all the communities they served on the train to come to the workshop so they could have all the communities get the answers.

He said Carey Maynard-Moody attended the civic conversation in Albuquerque just a few weeks ago. He hoped she found that civic conversation useful. They have people from AMTRAK, people from Burlington Northern Santa Fe, the Federal Road Administration make presentations. The website continued to evolve and they continued to put information on the site about the block grant programs they discovered and the tax incentive programs that were out there.

He thought passenger rail was on the rebound. He had been there for 14 years and had seen it for 14 years. He said this year what had been happening with gas, they would see a dramatic increase in ridership, which was nationwide. In the month of May, every single train in the Amtrak system saw a ridership increase, which was the first time it happened. With the

State of Kansas now approaching AMTRAK and asking them to study corridor service. He knew those numbers were going to continue.

Mayor Dever said AMTRAK leases this space from BNSF. He asked if they were required to do any maintenance through that lease.

Lang said generally in situations, they did what was required to keep the depot presentable. The depot might get painted once every 10 years and they do maintenance like making sure the toilets work. Because of the way they were funded, they did not have a lot of money for stations which was another reason they created the website. He said it worked best when the communities did it.

Mayor Dever asked if the City needed some assistance from the owner, they would not be coming to AMTRAK as the lessee. He asked if anyone had any success in going to the owners of those buildings.

Lang said one of the reasons why BNSF was willing to donate the depot for \$1.00 was to get it off of their hands, too. It was rare they would put money into the passenger side of the facility unless they were legally forced to. He said BNSF was easily the best rail for them to work with. They generally care about running AMTRAK trains on time and thought it was good business for them. He said they might be willing to do things with the City. He said if the City took ownership of the facility and leased the waiting room back to AMTRAK there was not a lot AMTRAK could do financially, but they would try. There were ways AMTRAK might be able to help the City off-set some of the costs and direct the City to other funding sources.

Carey Maynard-Moody, Lawrence, said Depot Redux had five members. Their mission was to ensure the depot continued to serve passengers and also to curtail demolition by neglect they saw happening to the depot. They would also like to preserve the depot's historic integrity and would also support other uses of the building that would be complementary to its uses, primarily as a passenger rail facility. She said things were changing rapidly in the transportation world and would like the City of Lawrence to participate in that for a variety of reasons.

She said Depot Redux had worked to improve the security of the depot. The original caretaker arrangement was not working well and was having difficulties with vagrants for the midnight train. They won the confidence of AMTRAK and after a lot of work they were able to have a morning train host, Marty Kennedy. The vagrancy had declined quite a bit and had to close the building for the midnight train. They would need a volunteer host for the midnight train but it would take some time to find that person and who would be committed to the project, someone who loved passengers, loved Lawrence and loved trains.

Several members of the public had come to the Depot Redux since they had gotten started and wanted to help. Some could help with their time and others through money. She got more and more confident as Depot Redux moved along that there was a cry in the community to help raise funds. It was going to be a community project for it to be successful.

She said the other partnership they developed was with DLI, Downtown Lawrence, Inc., and the Convention and Visitors Bureau and help them understand how the important the depot was to downtown. People in her generation were not going to be driving forever and would be heading to the rail and downtown.

Depot Redux had a dream and the dream was part of the window of opportunity. The Depot had some historic significance and architectural significance. When they were talking about transportation enhancement funding, those applications were going to be due next year around this time. If they were going to be using that type of transportation, they had to start acting now.

She showed what Norman, Oklahoma had done with their depot. She said Norman was not that different from Lawrence. It was in the Big 12, it was a college community, and had a rail corridor for passengers. She said 14,000 people used the Norman depot and in five years, in the year 2012 perhaps, they could be expecting that.

She was appointed to the Climate Protection Task Force and of course she was chair of the transportation work group. She had to remind the City Commission the other reason she

was pushing for this depot was because they have been identified by the EPA for air compliance and it was going to be an issue. The City had to have other transportation arrangements and had to start thinking about different transportation options tonight.

Marty Kennedy, Depot Redux, said this depot was a connection to his family, his neighborhood, and his friends. It was part of the City's past and challenged the City Commission, as other former Commissions did, to preserve the City's future. This depot was a relic of the past, but would be part of the community as a whole for its connection to the rest of the world and rest of the country. This train station was very important to the community because of its past history and what the City was going to have in the future. He said he knew about the budget and had been there before; it was not a pleasant task. Depot Redux had just started off as an organization and needed the City's help for guidance and work with them in rehabilitating this building to bring it back to what it was.

He said at 5:45 a.m. he usually walked across the street with his dog to the shop. There was a wonderful phone system they could get on to check the status of the train. He was down at the train station about 15 minutes before it arrived. It was a pleasure to see everyone down at the depot from the community, state and country. They come and go on the train visiting family, friends, and were a connection for Lawrence. He hoped the City of Lawrence could be in the brochure of depots that had been restored and challenged the City Commission to help Depot Redux out.

Pat Kehde, Depot Redux, said she wanted to talk briefly about the historic preservation because she was currently researching the depot with the eye to getting it listed on the state and national register. Her understanding was to receive various grants, not matching grants but real money; it must be listed on the state and national register. The people in Topeka at the State Historic Preservation Office were eager to have this depot listed. The depot was important because of its tie to the transportation nexus of Kansas and Lawrence and because there were no other post World War II depots on the national register in Kansas. It would be

unique in that regard. It was not everyone's taste in architecture. The heritage grants that were announced in the latest Kansas Preservation Magazine amounted to several million dollars and most averaged around \$90,000, which would go quite a ways.

She said Mayor Dever's concerns about the constraints placed on it, inside the depot there was almost nothing different than what it was in 1956. The only thing that would be done was fixing things, besides renovation. She believed that the City government was eligible for tax credits. The deal with renovation if the depot was a listed property was the City could get a 30% tax credit on appropriate repairs. There were brokers who bought those tax credits back and became real money to the City of Lawrence. There were some financial gains.

Mayor Dever called for public comment.

John Mills, Topeka, said he was a member of the National Association of Railroad Passengers and served on the Board of Directors for 35 years. He was a retired AMTRAK employee and at one time the Lawrence Station was over his jurisdiction.

He said the station in Garden City, Kansas was owned by the Santa Fe Railroad. They donated the station to the City of Garden City for \$1.00 and Garden City was able to come up with \$800,000 in money to renovate the station. He suggested the City contact the City Manager in Garden City, Kansas, and the City Manager could direct staff in proceeding with this venture. He said he was sure ridership would increase tremendously if the station was in better shape, lighted, and people there to look after the passengers as they came in. Garden City, Kansas, was a good example of what could be done with station restoration. They used the station for all types of events such as weddings and meetings when the station was not in use, the station could be utilized for many things when it was not used as a train station.

Tom Harper, Lawrence, said he was in support of the City taking ownership of the Depot. He said it was owed to the community and to the people who visited the community to help welcome them in a good way. He said he could not get up at 5:45 and greet people, but they should honor the fact that Kennedy did and give him the support he needed to help him

shine. He said that said a lot to him about Kennedy and about how he felt about the Depot. It was putting your beliefs in action.

He said this building was very unique and saw it as one of the most important public mid century buildings in Lawrence. The ECM building was right up there in terms of importance. He thought it was kind of like yogurt. When he first ate yogurt he did not really like it but the more he ate it the more he liked it. If they took to look at the details, it was pure, intact and had not been screwed up. It was really quite beautiful if looking at the lines. The depot looked kind of rusted and tired now, which he thought was due to apathy. They knew where apathy led; it led to demolition, neglect, etc. He thought they had a golden opportunity to seize the moment and be good stewards because it was what buildings needed; they needed stewards who cared.

He thought the structure could be just as special as the building in North Lawrence. He said in the early 1990's there was a group of people who said it was going to cost a lot of money and decided to put energy into it and make it right. He said the City should seize the moment and partnership with the East Lawrence Neighborhood Association, the Lawrence Preservation Alliance, Downtown Lawrence, Lawrence Modern, and be creative and think about ways the City could take ownership of this building with others and take responsibility of the depot.

He said a lot of people think this was a great idea and the City Commission was faced with the bottom line; it was going to cost the City money. He truly believed there were people out there who would donate their money to this endeavor and the City was not going to be left alone, although the City would be the responsible entity. He said he would be the first to donate \$1,000 to this depot. It was not much, but was symbolic to other people who were willing to put their money on the line for something they believed in.

James Dunn, Lawrence, said he and his wife were regular AMTRAK riders. Over the years, they observed that many times there would be people from other places in the state that came to Lawrence as an access point to get on the train. Many had not even been in Lawrence before. One time when they were on the train the boy scouts from Kansas City were getting

ready to board the train. He asked why they were not in downtown Kansas City and they said it was more convenient to come to Lawrence. This became kind of a destination and Lawrence was always looking for unique destination opportunities and this could be one of those.

He asked how much property would be included in this \$1.00 purchase. He said he had traveled to Dodge City on AMTRAK and there was major renovation at the station in Dodge City. He said there was a giant fence between the train station and the tracks, which forced everyone to walk a huge distance to get around the big fence to get access to the station. He was curious of what the logistics and relationship might be between what the City would own in this case and Burlington Northern Santa Fe might require of the City. He would hate to see a giant fence between the rail line and the station.

He said he had only been in the passenger part of the train station and knew there was another section in the train station, similar to what the Union Pacific Train Station had another section that was used for other activities and wondered how much space was inside that station that could be utilized as it was.

Tubbs said the total space for the station was approximately 4,700 square feet. About 25% of the space on the back side was being used by Burlington Northern crews. There was approximately 110,000 square feet of land and about 40,000 square feet of land was sold to Van Go a few years back. Originally, the total side had about 150,000 square feet of land.

Phil Collison, President East Lawrence Neighborhood Association, said they did not have a formal position on this issue based on the timing. He knew the issue fit in well with the neighborhood mission and knew that neighbors have worked with the City to keep them abreast of issues and worked with the City to get some reparations done. He knew there was very strong interest in this project in the neighborhood.

He said public transportation was key to the neighborhood and to the City's future, the state's future and the future of their country. Improving this site would further the goals that public transportation could bring, which was a visionary task in this day in age. Historic

preservation was another aspect and also improved their neighborhood. They were in the midst of their own historic preservation project they would be hearing more about as the summer progressed. Their project fit nicely with the activity that surrounded this project should it come to fruition. He also had to say that he expected public funding to help this project. They already had signs of that. He personally encouraged the City Commission to accept ownership of this depot and move forward with this project.

Dennis Brown, Lawrence Preservation Alliance, said he cut his preservation teeth on the Lawrence Union Pacific Depot and that effort, which began 23 ½ years ago faced major obstacles including public ambivalence and were within days of demolition several days within the first few years. He said he remembered his friend Steve Hamburg and he persisted in raising funds one year and succeeded in developing a formidable dog and pony show. He remembered wondering to himself sometimes after making a presentation to a potential donor, if they were over selling the project just a little bit. Knowing what the visitor's center meant to Lawrence now, even in their zeal they were under selling the center. There were more differences than similarities perhaps in these two projects, but some of the differences were major positives for the Santa Fe Depot. For one, while the UP Depot required major renovation dollars to make it what it was today, the Santa Fe Depot in comparison needed a fraction of that investment and did not require renovation before it could be used for some purposes right now. Second, and most exciting to him, while the UP Depot now sat on a freight only line, the Santa Fe Depot was on a passenger route.

He said in the current economic climate, if the country was smart, commuter and passenger rail traffic in the near future would make a comeback and if the City of Lawrence was smart, they would be able to greet that passenger traffic with an authentic modern depot on the National Register of Historic Places that was a stone throw away from the historic downtown.

The LPA Board met on June 16th in discussion of this agenda item and ended in the passage of three resolutions. First, the LPA Board urged the City Commission to enter into

negotiations with BNSF Railroad and seriously consider procuring this depot for the City. It was important for the City Commission to at least keep the ball in the air and not shut the door.

Second, as they thought it was very important for the depot's future stability, they approved a resolution agreeing to pay up to the \$500.00 they thought was necessary to complete the research and writing of a nomination to the State and National Registers of Historic Places. This would allow the Santa Fe Depot to be eligible to receive certain grants that would help with renovation as well as state tax credits.

Third, the LPA Board approved a resolution agreeing to negotiate that the Depot Redux group to set up a restricted use fund within their own treasury which would allow them to accept grant funds for this project, as well as private, tax deductible donations. They had fundraising experience and took their nonprofit status very seriously, so they have developed board policies and criteria that Depot Redux would need to agree to that in the long run would help ensure that any fund raising effort they undertook should move along smoothly. He hoped that LPA's willingness to do those things would encourage the City Commission to allow the City to be an active partner in this effort. He had a written letter on LPA stationary stating the stipulations LPA was agreeing to help. He submitted the letter to the City Clerk for public record. The letter said:

"The LPA board encourages you to enter to negotiations with the BNSF Railroad with the hope of procuring the Lawrence Santa Fe Depot building for the City.

To support this effort, the LPA board agrees to fund the balance of the research and writing work necessary to nominate the building to the State and National Registers of Historic Places, which will make the structure eligible for state tax credits and grant monies to help with the renovation.

LPA also agrees to negotiate with the Depot Redux to set up a Restricted Use Fund within our own treasury which will allow us to accept grant funds and tax-deductible private donations for this project."

Ron Kaufman, KDOT, said he was impressed by the amount of community support they had for the station. He said they were calling this the AMTRAK Expansion Feasibility Study. It would start at the earliest in August and perhaps later. It would take at least 6 months to complete and information from that report would be used by decision makers to determine if they should give serious consideration to expanding this route both in Kansas and in Oklahoma. It would be a two state corridor, so both states had to be involved. Once they had the report back, KDOT would not be in the position of making decisions about this service. This would be a state supported service, it would go to the legislatures of both states to decide to do this or not. The study itself was no assurance that there would be service in the near future. He said he thought Carey Maynard-Moody had a pretty good idea of what it could be if it was approved, which would be roughly 2012.

The communities involved that would host stations would indeed host the stations. They would ask the communities themselves take on the responsibility of studying and developing their stations and keeping them maintained for future use. Also, one of the segments that would be studied would be daytime service between Kansas City and Oklahoma City and on to Fort Worth. There stood a possibility of both daytime service serving the KC to Oklahoma City corridor as well as the continuation of the southwest chief service, which they already had.

Commissioner Highberger said he wanted to thank Kaufman for his work on the feasibility study.

Marci Francisco, Lawrence, said she received a letter this spring from then Mayor Sue Hack alerting her to their support as a City Commission for the extension of the Heartland Flyer and Northern Flyer Alliance. She was able to attend a meeting in Topeka. Following that she learned more about the alliance and some of the things they just heard from the KDOT representative. There were a number of other state legislators that have expressed support of this extension of the Heartland Flyer through Kansas.

She had been using the depot for the past 40 years and hoped to use it for the next 40. This Saturday would be her first chance to meet Marty Kennedy and his role as host. She had been enjoying the flowers he and his wife have planted at that depot site over the years. She knew this was not his first role in support for the depot. She wanted to let them know tonight that she pledged to work at the state level for the extension of the train service, with the City Commission, and with the members of the community for the preservation and improvement of the working depot.

Jane Pennington, President Downtown Lawrence, Inc., said on behalf of their Board of Directors and members, she was present to express their support of the proposal to acquire the station. She thought everyone had talked about the great benefits, but in downtown in particular they thought there were some special benefits. The fact that AMTRAK riders could get off of a train, stay as long as they would like, and then get back on that same train presented tremendous opportunities to bring people downtown, have them spend the night, let them enjoy all the amenities, and then let them get back on the train. They thought it was a great idea and would hope the City Commission would support the depot too.

Commissioner Hack said every once and while, sitting on the City Commission could not be such a positive experience. It did not happen very often, but this was not one of those times. She thought this was a great and exciting opportunity to see people work together. She was pleased and excited about this opportunity. She thought this was a perfect location to invest the City's time and money even if right now all they could do was take it and hope to raise the money to secure the depot, but there was a potential to really use this depot. She was excited about it and thought they would be making a huge if they did not proceed with acquiring this offer.

She did not think AMTRAK did not want to take care of the station, but the question of not having the availability and funds to do so. The worst thing that could happen was if the depot became an ATM machine with a couple of benches with people waiting to get on and off

the train. It was a delicate dance the City was doing right now but what they needed to do was be proactive and say they needed to move forward. Lawrence could do this and there was a lot of opportunity here.

Commissioner Highberger said the Lawrence Journal-World editorial page asked quite frequently, where all the people that envisioned were, but they were right here. They only had 4,000 passengers at their station, but could easily go to 14,000 or higher. They could get the commuter rail from Kansas City to Topeka. That station was going to be a crucial part of the transportation infrastructure. He said this was a difficult budget year, but would strongly encourage the City Commission to ask staff to move forward with the acquisition and try to minimize the impact on the 2009 budget. He thanked everyone for their work and bringing the issue to the City Commission.

Mayor Dever said this was a great opportunity. He grew up in a town of commuters, in Chicago. He said a lot of depots looked like this on the Chicago Northwestern Line and were built around the same time. There were a lot of responsibilities with ownership and thought the City had the opportunity to improve. He said in reality it was a gateway to visitors which was the sad part because the first glimpse people get when they're in Lawrence. He was not sure he would want to step off this train at 5:00 a.m. or get on it at midnight with the fact that it was in disrepair and not safe. Whatever they could do to encourage visitors and tourism here he thought was a great opportunity. Whatever the Commission could do to help with that was an investment in Lawrence.

He said it might be practical at this point if they did anything with the acquisition to put some caveat to say the City could not afford to put investment in the building. Obviously, there was disrepair and things that needed to be done by the owner, but overall with routine maintenance, he was not sure it was something they could bite off right now. He would not be against trying to acquire it as long as there were stipulations and wording and assume the gigantic liability for repairing it or responsible for maintenance immediately. It was a tough year

budget wise and tough thing to sell to the public when they were asking for money or acquiring a piece of property that might require some immediate investment. He thought it was a great idea and applauded the efforts because he appreciated the concept.

Environmentally speaking, he was 100% behind the concept because train transportation worked. He said it might not be something they could jump on immediately, but something he would be in support of.

Vice Mayor Chestnut said he thanked all of those with the passion behind this project. It was important for its success. He agreed with a lot of the comments the other Commissioners had made about the desire to have better rail service and a better facility to come into. There was a part of him that was really disturbed by the fact that they had comments of demolition by neglect, and agreed that he did not want that to happen. He asked where Burlington Northern was in this and that was the thing that bothered him more than anything else because the fact was if he read the entire summary, that they were not interested in ADA compliance five years ago. Now, they were within 2 years of forced compliance under CFR 38 and 39. They were interested in changing ownership and shifting \$400,000 worth of responsibility that was really theirs along with a \$100,000 plus of maintenance that was really theirs to a public entity. He said he would say BNSF made a determination that deeding the building over for \$1.00 and moving away from that responsibility was probably beneficial to them, especially if they got a tax deduction in the mix. Also, probably wanting to have a space in the building and since they donated the building they probably did not want to pay any rent because they had to continue operation. There was a part of him that they had a discussion a couple weeks ago with a number of people in the room about the tragedy of demolition by neglect on residences in the City of Lawrence, but were not asking the City to subsidize that. They were disappointed in the property owners. He was disappointed as well. It was something that struck him and believed they needed better rail service and also believed that as they had changing economic times with

energy costs and so on, that rail was going to become a better option and more feasible option for many people.

He felt like one of the things they were doing here, because he also believed that Burlington Northern was not interested in pursuing a historic designation up to this point, so there had been a lot of changes there, that if the City was moving forward they were basically making an implicit responsibility to this and it was very open ended. One of the things he was reminded of was they had a discussion 4 – 6 weeks ago about the Carnegie Library which was also a very important structure in this town. They were probably looking at \$1 million worth of commitment there. He was having a difficult time moving forward because he did not know how big of a commitment the City would be making. He said he would like to have a discussion on how they could see where this went without making implicit that the City was eventually going to take over the building and its responsibilities.

He asked if currently, the property owner had to comply with City Code or were they exempt from City Code.

Corliss said he was not aware of any exemption that would apply. He thought they had to follow the City Codes. He did not know if it was dangerous or unsafe structure. It was not habited so they did not have some of those code requirements as well. Staff could take a look at that issue and see. There was a room full of railroad experts and did not know it would be all that successful, but might be worth a try to get them to be more responsive to that facility, but the railroad people they were hearing from indicated there was no financial incentive for them to do that, so there would have to be some regulatory penalty that would be disincentive for the lack of conduct.

Mayor Dever said the proposal from staff laid out some specific hurdles and the City Commission needed to go over every hurdle. He said there was a process in place and at least they could get the ball rolling toward the assessment. He said they should talk to the owner

about doing the work, at least fix the envelope of the building so the City did not need to do anything immediately.

Corliss said there had been contacts over time to try and get BNSF to do things and they pointed to things like no budget and no financial incentive to work on the station. He said a good coat of paint would help, but there were probably major structural issues too. He said the primary concern for staff was what they would be getting and the timetable of some level of expectation as to what the City would do. He said in his opinion there were a lot of competing priorities. One of the higher priorities was street maintenance. He said he would love to restore another depot, but it was that “wants” and “wallet” issue that would keep coming at the City.

Commissioner Hack agreed with the Vice Mayor in that it seemed it was counterintuitive to take this leap right now when the City was looking at budgetary issues, but if looking at the acquisition process outlined in the memo, there were safeguards along the way. Secondly, the City could decide the community could not afford it and not do anything and in five or ten years would be responsible for one more thing in East Lawrence falling apart by neglect because the City had not been proactive in that station. She said it was not like this issue just happened yesterday, but it had been a gradual decline. She said the City would not refurbish the depot by the weekend, but the City could put itself on the path to making a big difference in connectivity downtown through East Lawrence. It was important for the long term health of downtown and rail service. The Commission needed to look beyond the current road block.

Commissioner Amyx said he, former Commissioner Bob Moody, former City Manager Mike Wildgen received a letter from Union Pacific indicating their desire to tear down the depot and the City needed to come up with a quick plan. The City had an option of moving that building and their group discussed fundraisers to come up with enough money to move that structure. The railroad was interested in helping move that building and eventually the building was allowed to stay at that location with the work of Dave Corliss and many others.

He said this was an opportunity to look at the building as an important community building to East Lawrence. Safety concerns was an issue with passengers boarding and getting off the train in the middle of the night and where those passengers would go after arriving to the depot. He thought this was an opportunity for the City as well as a responsibility to proceed with acquiring this property. He said there would be opportunity to rent space in the depot and the possibilities were endless.

He said the City Commission needed to direct staff to negotiate the ownership of the depot and give interested parties the opportunity to put together a community plan to offset or pay for those renovations. He said he thought the City should seize this opportunity.

Mayor Dever said this facility was different than the Carnegie Library because the depot had been operational, functional and a transportation opportunity. He said with people stepping up and promising to help his interest in the depot and his support was contingent upon the support from the community in moving forward. He said right now the City could not afford to renovate this depot, but with the good faith of the people in the community, he thought this was a good chance in getting people together to improve that area of East Lawrence and improve the City's opportunity for transportation and maybe getting more people to use the train.

Vice Mayor Chestnut said he understood there was consensus on option 4, not any of the interim steps. He asked where the Commission was at on this issue.

Commissioner Highberger said the Commission's consensus was option 4. He said there were very good points made about their financial responsibilities and might be able to negotiate.

Commissioner Amyx said his recommendation would be closer to Option 3, which was to proceed with the ownership, delay the restoration only to a time when a plan could be put forward. He said a plan was needed because the City did not have the money to restore that building right now. He said the community should take the opportunity to look at available grants.

Corliss said what he was hearing was to direct staff to begin negotiations with the railroad, prepare a proposed acquisition agreement with the railroad and concurrently work on an operational and facilities plan as far as what maintenance was needed immediately and what items could be deferred. He thought it was important that if the City owned the property, that it be safe. The final action would be to draft an acquisition agreement and have staff develop an operational plan as to how the depot would be operated because it was a City facility.

Mayor Dever said it was worth the work because of the work everyone else put into this issue and the City should contribute somewhat to the endeavor. He said he heard someone mention that ADA compliance could be delayed past year 2010.

Corliss said staff needed to look into that issue, but he did not know if the City wanted to because it might be a legal and policy issue. He said as he understood it was acquisition in a sense the City would be preserving the building as far as its ownership, but also minimizing the City's expense to the greatest extent possible.

Vice Mayor Chestnut said just playing out the scenario of ownership, he said if it took a year to 18 months to finalize the ownership because it was made clear it was probably a long process on the owners end.

Lang said they were asking for another ten years, extension of the ADA date because they served approximately 550 communities nationwide and in excess of 300 communities were not in compliance. It was not possible to comply so they asked for an extension. He said one thing he failed to address in his remarks was that they authorized at a Congressional level every 5 or 6 years and the reauthorization bills were quickly moving through the House and Senate. The reauthorization bill in the senate passed last year and the reauthorization bill in the house passed last week. In the House bill there were \$450,000,000 authorized in funding for states such as Kansas to move forward to develop service. He said they were also asking the authorizers and appropriators for funding for ADA compliance. He said they were only at the authorizing stage right now and it was up to the appropriators.

Commissioner Amyx suggested staff inspect the building and give the City Commission an evaluation of that building. He said it would be a good place to start in answering questions.

Moved by Amyx, seconded by Hack, to direct staff to begin negotiations with the railroad and prepare a proposed acquisition agreement and concurrently work on a proposed maintenance and operational plan. Aye: Amyx, Dever, Hack, and Highberger. Nay: Chestnut. Motion carried. (13)

The City Commission recessed at 9:25 for 10 minutes.

The Commission returned to regular session at 9:35 pm.

Receive report from City Auditor.

Michael Eglinski, City Auditor, presented the staff report. He said at the end of April the City Commission approved his work plan which was to take a look at the upcoming employee survey and feasibility, including a couple of questions about the ethical environment. He said there were a couple of good reasons to ask those questions in the employee survey. One was to provide the City Commission and City Management with a way to monitor the environment and promote ethical conduct. The other thing it did was set a base line so in future years when the City did employee surveys, they could monitor changes and see continued high ethical standards.

An interesting thing in the report was work done in Austin, Texas where they saw strong correlations between the high ethical standards and really positive outcomes like fewer and less costly successful legal claims, fewer public complaints, higher perceived quality of service, fewer loss time injuries and sick leave, and stronger employee commitment to the organization. He thought it was a good idea and he made a recommendation that the Director of Administrative Services should incorporate a couple of questions in the upcoming employee survey which he thought was going to be in August and management agreed with the recommendation. (14)

Consider the following transit related items:

- a. **Consider staff and Public Transit Advisory Committee recommendation to accept passenger fare fee transfer proposal submitted by the University of Kansas.**
- b. **Consider authorizing staff to begin negotiations with MV Transportation, Inc. for options to provide transit services beginning January 1, 2009.**

Cliff Galante, Transit Administrator, presented the staff report. He said staff received a proposal from the University of Kansas regarding a transfer between the City system and the University system. This proposal was presented to the Public Transit Advisory Committee a few weeks ago and both staff and PTAC recommended the proposal that was presented. Basically, what the proposal discussed was that the public, if they showed their T pass, could access the University of Kansas bus service. The public would not need to pay anything, only show their pass to access it. In return, the University of Kansas, if any student showed a valid KU ID, they could access the City bus system. Also, if receiving transfer tickets from either system, each system would honor those transfer tickets free of charge. He said with all the discussions that had been surrounding the merger of their transit system, this was a natural thing to do because it promoted and managed greater transit use in the community. Both staff and PTAC recommended this proposal.

Commissioner Highberger asked about the revenue impact.

Galante said this proposal was not revenue neutral. The impacts would be minimal. It would be difficult track because the way they counted KU on Wheels, it was considered reduced fare and when doing the tally of reduced fare, it was combined together. He said K-12 students were also considered reduced fare along with KU students, people on Medicare, people with disabilities were all considered for reduced fare and it was hard to pull out what aspect was KU. He would estimate that it was probably about \$5,000 a year that would be impacted which was minimal.

Commissioner Highberger asked if there would be a joint route map.

Galante said at some point. He said it would probably be difficult to get the routes onto one map, but certainly that would be a goal to make the map and route more user friendly and convenient for people.

Mayor Dever asked what about Google transit.

Galante said they were working on Google transit. Staff did a presentation to PTAC a couple of weeks ago. The system was up and going, but were still trying to work out the bugs of the system. There were some things that were inherent with the Google program and they were a little reluctant to formally launch the program out to the public because some of the information they were getting gave really weird results. Staff wanted to make sure to work through those bugs, but once staff felt comfortable in launching that system, Lawrence Transit System would be the first transit system in the State of Kansas to offer that trip planning service and currently there were only 37 transit systems in the entire country that provided Google Transit Trip Planning. It would be a great feature to provide to citizens.

Mayor Dever asked if he recalled in the meeting if KU already geocoded their locations that would make it easy to add.

Derek Meier, Transportation Coordinator for the University of Kansas, said they were working on it. They hoped to have it done by the end of the summer.

Galante said the second agenda item dealt with the procurement that they underwent earlier this year to solicit the services of a private transportation contractor. The City was in the current year of their 5 year contract with MV Transportation and that contract expired at the end of the year. Staff worked jointly with the University of Kansas in conducting a joint procurement for a contractor to both operate the City and University service. At this time, staff after evaluating the proposals, did a nationwide search. There were two companies that submitted a proposal, which was MV Transportation and First Transit. After evaluating the proposals, based on a variety of factors, staff unanimously recommended that MV Transportation be the service provider. The University as well came to the same conclusion and that was their

recommendation to the University Provost. He thought the City had been well served by the services of MV Transportation and thought MV had been very responsive to the needs of the community. He said staff was asking for City Commission concurrence on the recommendation so staff could have further discussions with MV about what 2009 might look like and what their relationship might be.

David Corliss, City Manager, said the City's contract with MV was likely to be dependent on how transit would be funded next year and how they were going to fund transit next year had been a subject of discussion in this room in the past weeks which would be finalized in the next couple of months in finalizing the budget. If they pursue the option of seeking a sales tax in order to fund transit, which had a lot of merit to it as far as a continuing obligated revenue source that could grow over time, staff was likely to enter into some type of agreement with MV but would not finalize an agreement until they knew the results of the transit sales tax election.

He said the other key part was the City's discussion with KU students for the merger and finalizing the letter of intent on the merger so all those things could merge together and hopefully have the support of the voters to keep the City's transit system at a high level in cooperation with KU and hopefully a merger with KU in 2009.

Commissioner Amyx asked if there was consideration given to the City running its own system versus contracting it out.

Corliss said staff did not have the final detailed analysis. He said the general hunch was that it would be more costly for the City to operate the system, based on labor costs, maintenance costs, expertise and overhead involved. He could not point to a full blown staff memo where they have gone out and tried to figure out the rate of pay, overhead costs, and maintenance issues.

Galante said in looking at the other transit systems in the state and other urban providers comparing the ones that contract out compared to the ones that operated in-house, the communities that provide the service in-house, their labor rates were substantially higher

than what the labor rates were in Lawrence. Labor was a huge component; about 60% of the total operating contract was driven by labor costs. It was a significant cost.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Amyx said on the first item that dealt with the transit slips, IDs, and passes, it was all about increasing ridership and the City's goal was to put as many people as they could on their busses and KU on Wheels had the same deal and wanted to make sure both systems worked together in a way that made sense for the City's riders. He thought that was a great idea and applauded everyone for putting this plan together.

The second item was the he thought negotiating needed to start now. He said he was not a proponent of taking on the business in-house, but did not know if they had any discussions on that in the past and understood the cost of it.

Moved by Chestnut, seconded by Highberger, to approve a recommendation from City staff and the Public Transit Advisory Committee, to accept the passenger fare free transfer proposal submitted by the University of Kansas. Motion carried unanimously. (15)

Moved by Chestnut, seconded by Highberger, to concur in the selection of MV Transportation, Inc. and authorize staff to begin negotiations and any recommended contract would be subject to final City Commission approval. Motion carried unanimously. (16)

Discussion of potential infrastructure and equipment projects for sales tax initiative.

David Corliss, City Manager, said one of the Commission's directions to staff was to provide additional information about the possible uses of an infrastructure sales tax. Staff took the .3% sales tax and in the staff memo there was a total of the funding that was available, keeping in mind the City did not receive a full year of funding next year because it would not be effective until the beginning of the second quarter of next year if the voters approved it. Also, a 2% annual sales tax growth was projected which was conservative, but appropriate and was based on the estimate of just short of \$12.9 million, what a 1% sales tax would generate. What

was seen was a starting point for discussions and was something staff believed was appropriate for the use of these resources, understanding the main emphasis was street maintenance, but other infrastructure and equipment needs were appropriate to consider.

He said the 10 year total was \$42 million. One of the things, again if the sales tax proceeded and was approved, obviously staff would be in discussions with the City Commission about whether the City wanted to debt finance any of those projects using sales tax receipts. It might or might not be something to look at, but would make sense, particularly on the street reconstruction projects.

One of the things that staff was impressed upon was the need for Fire Equipment replacement plan, which was a 10 year source that they would be committed to and would provide significant resources to make progress in that area. He said the City did not currently have a replacement program in place, but had a replacement program for police vehicles and the County did for ambulances as part of the emergency medical services provided, but not for the City's large fire apparatus.

He said regarding the Burroughs Creek Trail Project, there was no money budgeted for the trail. Historically, the City was not able to budget a contingency in the City's capital budget. He said he thought it was an important project for the entire community, particularly for the neighborhoods that it would impact. It met a lot of the City's multi nodal goals, as far as bicycling and pedestrian traffic. It took advantage of acquisition that was necessary for the sanitary sewer line. He thought it was appropriate to include it in the infrastructure and thought it was appropriate to focus on that if the sales tax did not pass; the City would be continually challenged to provide enough resources for street maintenance and whether or not it made sense to put public money that could go to street maintenance in the trail which the City would be forced to reduce some of their future debt capacity or mill and overlay money to put into that facility. He said they were putting a half million dollar designation for sidewalk gap projects and residential street maintenance. He thought it was important to recognize it and was in addition

to the funding staff would be recommending for 2009 and future years for the street maintenance program. He said it was a supplement to the street maintenance.

He said most significantly in this list was the potential reconstruction candidates where city staff looked at a list of projects where the pavement conditions was such that mill and overlay was not sufficient and reconstruction was the recommended street maintenance activity, as opposed to just working on the surface. Because the streets were primarily arterials and collectors, that needed to be a higher candidate to rebuild. He said 15th Street or Bob Billings Parkway, Iowa to Kasold, had some major base issues. Staff stated as soon as they go out and patch that roadway, staff would be back again some place else. Kasold, Bob Billings Parkway to 6th Street did not look too bad right now. It had a pretty good overlay that was completed 4 years ago, but the concern was the base was in a bad condition and was going to deteriorate and needed to be constructed. He said 19th Street was undergoing substantial work now. Wakarusa's base was failing and needed to be reconstructed. The other major infrastructure project was the 5th and Maple Pump Station Project. The City had been challenged by the North Lawrence neighborhood to look at how they were going to get at that project. It was the highest priority project coming out of the North Lawrence Drainage Study. The storm water utility could not get to this project for years to come and if the project was not included in this type of financing, he was not sure when they would be able to get to that project.

This needed to reflect what the commission thought would be the highest priorities. It needed to be a good Commission discussion about the level of definitiveness that they wanted in any type of proposal. When staff talked to communities that have been successful with sales tax, usually what that community stated was the better the purpose and sometimes the more specific the purpose that was told to voters, the better they felt about campaigning for it and perhaps the higher likelihood of success. For instance, if they just said infrastructure on the ballot, it might not be as informative to the voters. He said they did not spend all the money and about \$4.7 million that would be dedicated to infrastructure and equipment. There had been

some talk about funding for economic development purposes and if there was a way to help bring jobs and tax base to the community, it would be appropriate to use that. He said staff needed a little bit of flexibility over 10 years about where there might be another road project. Staff would not be getting at the entire list, but would make a substantial project. The other thing to keep in mind was by putting the resources here, they could also supplement it with bond and interest resources as well. The state was not going to have funds and hopefully the state would be back again since this was a 10 year project and have substantial state projects on roads in the community.

He said the City had a tough winter road wise and thought the crews had done a good job in getting to a lot of the patches, but it was disheartening to hear the fact that staff was going out there and putting in some materials, but they knew there needed to be reconstruction on those facilities. They were at the age in the community and were working the streets pretty hard to where that needed to be done in some aspects of the community. Some of the projects in some of the older parts of town the roads were in a little bit better shape than some of the arterials which a lot of those better streets had to do with road design because traffic was not in one place.

Commissioner Highberger said he was in general support of the recommendations, but had a couple of questions about why some of the road projects were on the list. He said he looked at the pavement management index and 65 was the level for arterials and if it went below that, the recommendation was to redo that section. All the Wakarusa sections and all the 15th Street sections were above that level. He asked if the level was high because those streets had been reconstructed recently.

Chuck Soules, Public Works Director, said that was the same issue on Kasold. The base was not there and had drainage problems because there were no under drains or sewer system. Staff could cover that stuff up and get 4, 5 or 6 years, but if this passed, the process it took, they were a year away before they could start building. He was afraid that with Kasold in

the next two years, staff would be out there every day repairing that road. He said Bob Billings Parkway was the same way and the overlay on that was only done a couple of years ago. There were drainage issues and base issues. Staff spent a lot of time on those major arterial streets.

Corliss said that was a key issue that staff tried to communicate to the public that looks were deceptive, but the underneath was falling apart and could not be easily repaired without continued expense. Staff thought they were at that depth of knowledge to be able to make those types of judgments about where they would be able to put those types of resources.

Soules said the amount of traffic was also a factor. There was community inconvenience and the time staff put into repairs. Some of the patches on Wakarusa sometimes took them a week to two weeks to complete. There was a lot of lost time and effort and then, the crews would be out there in another month doing the next piece that was not fixed. He said it took a lot of effort to keep those streets up, but it had to be done because of the volume of traffic. They could not leave a pothole because it became a crater.

Corliss said the resources expanded on the arterial and collector streets, if staff did not need to spend time on those streets, staff could pay more attention to residential streets.

Mayor Dever asked if Wakarusa had one of the highest concentrations of industrial land in the community.

Corliss said yes. He said one question needed to be asked was what level of specificity did they want. If staff was guessing wrong on Kasold between 6th and 15th Street, staff would not fix the road a year or two later, but wait until it was the right timing. He said staff thought it was appropriate for the community to know where the resources would be since they were voting on it.

Mayor Dever called for public comment.

David Kingsley, Lawrence, said he did not have a problem with taxes, per se and he was not part of an anti tax group. He said he would like to see more taxes at the federal and state

level that would come down to the local level. He thought that was more of a problem they were facing. He said he would be in favor of a sales tax for public transportation for poor people that have the highest burden of those taxes were the ones who were going to benefit the use from that particular sales tax. What he had a problem with was the current process. He said when doing taxation, they needed a rational relationship with the budgeting and operations process of the City. He said sales taxes were insidious. After the last 30 or 40 years of restructuring the entire tax code in the country, sales tax was going up to 3/10 of a cent and they were starting to move close to 8%. He said he wanted to see some sort of analysis what a family in the middle income range who owned a home that was \$250,000 would pay on a mill levy increase that would equal this particular increase in the sales tax and what that would work out to be.

He said the City did a nice job in putting together the comparison of sales tax with other cities in the area, but thought staff was comparing apples and oranges. He said the City needed to compare the sales tax in Lawrence at 7.3% with cities without that 1% where they had a transportation district that was paying off a bond. He would like to see the analysis from City staff in looking at not just the sales tax that was being collected in that City, but what were the property taxes in that city and mill levy. He said he would like to see the balance between sales and property and not put it all onto the backs of the people who were going to get hurt most by this.

He was also bothered by the analysis of the process of this City. He thought the issue was cutting edge operations and would all become one department. The biggest general fund department was the police department. He asked what they were looking at in terms of crime and community policing. He asked if they were putting a lot of local resources into taking care of a state law. He wanted to see a discussion in the community about the community's priorities, where they wanted to put their money and what they would like to see as citizens.

He said the City needed to begin to push back on the State of Kansas because the City was having a tough time at a local level in trying to fund the local government and the state was

not helping the City, but were placing mandates on the City. He said they needed to start asking the local delegation to look at this and was also in favor of earmarks.

Gwen Klingenberg, Lawrence, said when the depot issue came up, perhaps this particular sales tax might be a good place to think about regarding the depot issue.

Vice Mayor Chestnut said he did not disagree that sales tax had some regressive nature. If looking at the combination of Douglas County and the City of Lawrence in 2003 and looking at the revenue that came in from sales and property tax, it was about 40% property tax and 60% sales tax, but that ratio has now been inverted. What had happened was assessed valuation had grown about 6 – 8% compounded and was killing property owners. Because sales tax tended to go at the rate of inflation, the fact was where sales tax was a greater revenue generator than property tax that was now shifted. In his mind in looking at this analysis, it was important to try to look to rebalance that and the fact that they had a number of people in the community that were not residents. They carried about 15,000 – 20,000 people that were not considered permanent residents. It was also important fact that those non residents ride on the roads and consume a lot of city services. He thought that ratio was important.

Another point brought up were TDD's in Wyandotte County, which only applied to that particular project and that 8.1% sales tax was just for The Legends, not Wyandotte County. If excluding the TDD's, the City was ranked 10 out of 12 communities as far as the level of sales tax. They were at 7.3% and one might be lower, but the average in Johnson County was 7.45 – 7.7%. The City would put their selves in that relevant range. He agreed that a lot of analysis needed to take place and in his mind in going through this, looking for different revenue sources, he was concerned in this community about increasing property tax.

The mill levy also was focused on, but there was another issue. The City was growing at a rate 10 years ago 8 – 9% compounded and for home owners who had been in their homes for 40 or 50 years, they were seeing their tax bills raise over a 5 year period 40 – 60%. Regardless

of where this City was at in comparison with other communities, it was also where they were at 5 years ago. He was concerned about high property valuation. There were parallels with people discussing Boulder, Colorado. It was tough to live in a community where an average 2,200 square foot house cost \$500,000 to build. What they ended up with was a community of people who could live there, the very poor, and no one else because the middle class was eliminated. He took into consideration a lot of those things and in looking at where they had been as a community and where they were now with the balance of sales and property tax, it seemed to him like a logical place to go. He said they had to take into consideration the middle class property owners who see it tougher and tougher to live in Lawrence.

Commissioner Highberger said he liked the idea of finding balance, but has not found a good indication of what that was. His number crunching led him to believe that property tax became regressive, for middle class and poorer people. He said the problem was they did not have a progressive source of income. He said there were mechanisms where states had a surcharge on their income tax and give back to cities and municipalities and there was a progressive source of income that was available that this City did not have, since the State demand transfers had stopped. He said he was not thrilled with the sales tax, but at this point, it was the only way of meeting some of these needs. He said he was supportive of moving forward and would like to see them bundled. He was generally in support of the infrastructure projects laid out by staff.

Commissioner Amyx said two years ago he started the conversation about sales tax because he wanted to see the shift from property tax to the use of sales tax to fund the budget. He knew they all heard the same comments of people being taxed out of their homes. Also, they talked about downtown and how important it was to Lawrence, but it was expensive to pay property tax in downtown Lawrence. He said if the City could do some of the things that had been discussed and with the 10 year sunset on this particular sales tax, it would give the City an

opportunity to take care of some of the maintenance issues. Another important issue was fire equipment which needed a financial stream to pay for that equipment.

Commissioner Hack said the Commission lobbied state officials constantly and went once a year to Washington D.C. to talk to the officials. The only time they did not like earmarks was when it went to some other bridge in another community or state.

At another time, she would like to discuss the School Resource Officers and would like to share that information because there were some valid points to having those SRO's and thought they met the qualifications for alcohol funds.

She said from the voters' standpoint, the level of specificity did two things; first it said to the City Commission that they were holding your feet to the fire in specific areas and would vote for this because they were going to hold the City Commission to those commitments. It helped individual voters have a personal stake in this. She also liked the idea of equipment reserve and could not send firefighters out without adequate equipment anymore. The City had to have a stream to make up the deficit. She liked the idea of the sidewalk gap, residential maintenance and those big projects.

The reason she would support the division as outlined by staff was that some of them were really good with numbers and others were not, but looked at a broader perspective. Staff was in this day after day, and lived and breathed each one of those details and numbers. To her, it was one of those areas where staff knew the best and was important to go with staff's recommendations on the divisions.

Mayor Dever said as far as the split, part of his only concern about identifying funds for equipment, there might be a more effective way to bond or pay for equipment by using credit. He thought the City could pay for equipment before the useful life was over and could end up with an asset at the end for disposition. Roads seemed to deteriorate more rapidly and did not have a finite lifespan to those roads. He said that was why he liked the idea of the funds being used for roads because that was the unknown in the formula. He said with equipment it

seemed it could be tangibly bonded out more readily. He said his only concern was there was a limited amount of resources and had a limited amount of time, but would be using those monies effectively. He was not against earmarking the funds to be spent for the fire trucks or fire equipment or any type of service the City should provide, but he wanted to make sure they did not dilute the revenue so the City could take on projects that were meaningful for the community.

Vice Mayor Chestnut said the projects were great and the City had to be very specific. He suggested giving thought in the presentation on how to prioritize those projects. He said it was important to give the public an understanding of the process they would be going through in the evaluation. Also, the City should have a fire equipment program, but it should be in the bond and interest fund because it was a fund that was in perpetuity versus having a sunset clause.

Commissioner Amyx said he did not disagree with what Vice Mayor Chestnut stated, but when looking at the projects that came forward out of nowhere, it was easy to put that equipment off for one more year.

Corliss said staff needed to draft the actual resolution that called the election. He said he and the Vice Mayor had a good discussion about fire equipment and it was a balance issue. The value he saw was this was a ten year commitment for this amount of money and you could not commit future Commission's on a bond and interest program, but you could have a political commitment. He said it was not any different than what the City did for police vehicles or the County did for ambulances.

Vice Mayor Chestnut said what he was hearing was it was probably stronger and more binding to put it in a political commitment than in bond and interest.

Corliss said he was planning on showing the Commission the pledging statute that showed what it would be and one of the things he had seen successfully done in other communities was a sales tax audit committee who made sure all the money was spent for

everything that was pledged for which was a good integrity issue. He said he was not saying fire equipment could not be done with bond and interest money, he just knew sometimes it was crowded out with other projects.

Commissioner Highberger said he would be interested in placing fire equipment as part of the bond and interest fund. (17)

PUBLIC COMMENT: None.

Moved by Chestnut, seconded by Amyx, to adjourn at 10:50 p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF JUNE 24, 2008

1. Bid – Electric service for storage bldg at Wastewater Treatment Plant to Superior Electric for \$39,000.
2. Publication – Amendment to 2008 Budget.
3. Ordinance No. 8277 – 1st Read, (TA-04-05-07) Mixed Use Zoning District.
4. Ordinance No. 8290 – 1st Read, Municipal Court Fees.
5. Ordinance No. 8282 – 2nd Read, Comprehensive Plan Amendment (CPA-2008-1) SE Area Plan.
6. Resolution No. 6772 – repeal benefit district, 6th & GWW & GWW from 6th to Ken Ridge.
7. TSC – Deny “no parking” S side of 17th Terr between Barker & New Hamp.
8. TSC – Deny ‘stop sign” intersection of Cambridge & Sunset.
9. City Manager's Report.
10. Ordinance No. 8285 – 1st Read, annex 155 acres, NW corner of N 1800 & E 900.
11. PDP – (PDP-02-02-08) – University Park, 1301 Iowa, 42 single family homes, approx 9.27 acres.
12. Rezone – (Z-02-05-08) 9.27 acres from RS7 to RS7-PD, W side of Iowa between Stratford approx 200' S of University Dr.
13. BNSP Depot staff report.
14. City Auditor Report.
15. Passenger fare free transfer proposal.
16. MV Transportation contract
17. Infrastructure & equipment project for sales tax initiative.