



City of Lawrence

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

August 5, 2008

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

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Dever recognized gifts from Lawrence's Sister City, Hiratsuka, Japan; recognized the Lawrence, Kansas Police Department School Resource Officer Unit for being selected as a National Model Agency for 2008; and proclaimed August 2, 2008, as the 30th Anniversary of Independence, Inc.

CONSENT AGENDA

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve the City Commission meeting minutes of July 15, 2008 and July 22, 2008. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve the Community Commission on Homelessness meetings of May 6, 2008 and June 10, 2008. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve claims to 631 vendors in the amount of \$4,108,776.23 and payroll from July 20, 2008 to August 2, 2008, in the amount of \$1,773,416.70. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve the Drinking Establishment Licenses for Ingredient, 947 Massachusetts Street; Tres Mexicanos,



1800 East 23rd Street Ste: H; La Parrilla, 814 Massachusetts Street; Rick's Place, 846 Illinois Street Ste: F; and the Retail Liquor License for Cork & Barrel, 2000 West 23rd Street. Motion carried unanimously.

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve Change Order No. 1 In the amount of \$19,895.67 to Asphalt Improvement Company for Project, KLINK resurfacing, Iowa Street, from 646.28' north of 31st Street to Clinton Parkway/23rd Street. Motion carried unanimously. (1)

The City Commission reviewed the bids for pumps and motors for the Utilities Department. The bids were:

	VENDOR		VENDOR		VENDOR		VENDOR		VENDOR	
	Patchen Electric		Douglas Pump		JCI Industries		Letts, Van Kirk & Associates		Fairbanks/Morse	
	Rebuild	New	Rebuild	New	Rebuild	New	Rebuild	New	Rebuild	New
1			15,112.00	25,370.00	7,750.00		6,186.00		17,000.00	
2	5,353.00	22,773.00	7,474.00	5,582.00	4,074.00		5,375.00		8,620.00	
3			10,211.00	31,078.00	13,829.00		8,187.00		12,000.00	
4	6,671.10	12,528.00	8,441.00	8,018.00	4,340.00	7,594.00	6,875.00		8,174.00	
5			6,876.00	6,386.00	11,079.00		6,533.00		9,400.00	
6	2,898.00	2,742.00	3,996.00	2,061.00	2,118.00	2,118.00	3,493.00		5,980.00	
7			8,621.00		10,625.00		7,159.00		12,038.00	17,915.00
8	6,320.00	8,330.60	9,880.00		5,450.00	14,128.00	6,125.00		11,078.00	5,355.00
9			5,211.00	4,705.00	6,197.00	7,900.00	2,973.00		8,500.00	
10	956.60	1,036.60	2,756.00	414.00	457.00	457.00	1,036.00		1,998.00	
11				17,273.00	9,377.00	17,100.00	4,653.00			
12	3,547.00	4,598.80	3,751.00	2,940.00	2,793.00	2,793.00	3,125.00			
13			5,335.00	18,590.00	6,020.00	16,100.00				
14	2,075.00	2,434.40	3,836.00	1,460.00	1,143.00	1,143.00				
15			11,230.00		9,796.00		9,355.00	41,373.00	11,235.00	
16	9,423.00	43,582.00	11,511.00		4,960.00		7,625.00		7,625.00	
17				15,570.00	11,672.00	14,950.00	4,372.00			
18	3,847.00	4,589.90	4,376.00	2,595.00	1,865.00	1,865.00	2,750.00			
19			6,695.00	7,714.00	5,704.00		3,319.00		6,275.00	
20			7,622.00	5,177.00	4,946.00	6,970.00	3,271.00		8,392.00	
21			6,822.00	7,772.00	5,924.00	14,000.00	3,453.00		7,657.00	
22			6,772.00	8,896.00	5,804.00		3,453.00		7,219.00	

ITEM	BUILDING	USE	LOCATION / EQUIP #	REBUILD VS NEW	COST	VENDOR	CHOICE	REASONS
1	Clinton WTP	Transfer Pump	1	24%	\$6,186.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
2	Clinton WTP	Transfer Pump Motor	1	73%	\$5,582.00	Douglas Pump	New	Will allow old unit to be used as spare

3	Clinton WTP Intake Bldg	Intake Pump	2		\$31,078.00	Douglas Pump	New	Raw water intake pump and there is no backup if this is down.
4	Clinton WTP Intake Bldg	Intake Pump Motor	2		\$7,594.00	JCI	New	Raw water intake pump motor and there is no backup if this is down.
5	Clinton WTP Pump Gallery	Central Service Pump	1	93%	\$6,836.00	Douglas Pump	New	New unit cost is almost same as rebuild of existing equipment, plus will allow for spare unit.
6	Clinton WTP Pump Gallery	Central Service Pump Motor	1	106%	\$2,061.00	Douglas Pump	New	New unit is cheaper then rebuild of existing equipment.
7	Kaw WTP East Shop South	Central Service Pump	2	48%	\$8,621.00	Douglas Pump	Rebuild	Most economical to rebuild.
8	Kaw WTP East Shop South	Central Service Pump Motor	2	102%	\$5,355.00	Fairbanks Morse	New	New unit is cheaper then rebuild of existing equipment.
9	Biosolids Dewatering Bldg	Washwater Pump	1 Press Rm	63%	\$4,705.00	Douglas Pump	New	Will allow for spare in time of emergency
10	Biosolids Dewatering Bldg	Washwater Pump Motor	1 Press Rm	110%	\$414.00	Douglas Pump	New	New unit is cheaper then rebuild of existing equipment.
11	Biosolids Pump Station	Thickened Sludge Pump	TSP-2	27%	\$4,653.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
12	Biosolids Pump Station	Thickened Sludge Pump Motor	TSP-2	100%	\$2,793.00	JCI	New	New unit cost is same as rebuild of existing equipment.
13	Gas Control Bldg	Gas Compressor	2	33%	\$5,335.00	Douglas Pump	Rebuild	Most economical to rebuild.
14	Gas Control Bldg	Gas Compressor Motor	2	100%	\$1,143.00	JCI	New	New unit cost is same as rebuild of existing equipment.
15	Influent Pumping Station	Raw Sewage Pump	RSP-4-2	23%	\$9,355.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
16	Influent Pumping Station	Raw Sewage Pump Motor	RSP-4-2	11%	\$4,960.00	JCI	Rebuild	Most economical to rebuild.
17	North Final Bldg	Waste Pump	WASP-1	29%	\$4,372.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
18	North Final Bldg	Waste Pump Motor	WASP-1	100%	\$1,865.00	JCI	New	New unit cost is same as rebuild of existing equipment.
19	PS 13 2210 East 23rd	15-2039	1	43%	\$3,319.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
20	PS 23 3003 O'Connell Dr		1	63%	\$3,271.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
21	PS 27 3099 Sherwood Dr	14-1595	2	44%	\$3,453.00	Letts Van Kirk	Rebuild	Most economical to rebuild.
22	PS 31 2838 Meadow Dr	6603885	1	39%	\$3,453.00	Letts Van Kirk	Rebuild	Most economical to rebuild.

Total \$126,404.00

Note: On item 7 the low bid from Letts, Van Kirk was unable to perform certified performance testing before reinstalling this pump so their bid was rejected.

Highlighted indicates low bid

As part of the consent agenda, it was moved by to award the bid to Letts, Van Kirk for \$38,062, Douglas Pump for \$64,632, JCI for \$18,355, and Fairbanks Morse for \$5,355, totaling for all pumps and motors, \$126,404. Motion carried unanimously. (2)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to authorize a purchase order to Software House International for \$42,701 to continue the City's

Select Agreement for Microsoft software maintenance for various Departments from July 1, 2008 – June 30, 2009. Motion carried unanimously. (3)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to set bid date of August 19, 2008 for an electrical service upgrade of the Central Maintenance Garage. Motion carried unanimously. (4)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to authorize payment of \$19,076.27 to P.H.I. Investigative Consultants, Inc., for fees and expenses for leading the Practical Homicide Investigation Seminar. Motion carried unanimously. (5)

The City Commission reviewed the bids for 408 residential trash and recycling carts for the Public Works Department. The bid was:

BIDDER	BID AMOUNT
Roy Conley & Company	\$25,913.00

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to award the sole bid to Roy Conley & Company, in the amount of \$25,913.00. Motion carried unanimously. (6)

Ordinance No. 8295, establishing “20 mph speed limit” on Crescent Road between Engel Road and Naismith Drive, was read a second time. As part of the consent agenda, it was moved by Amyx, seconded by Hack, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve Maintenance Agreement between the City and owners of Bauer Farm, Free State Holdings, Inc., a Kansas corporation, Free State Group, LLC, a Kansas limited liability company, and Bauer Farms Residential, LLC, a Kansas limited liability company and authorize the Mayor to sign the agreement. Motion carried unanimously. (8)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to accept dedication of easements and rights-of-way for a Final Plat (PF-05-04-08) for Bauer Farm First Plat, located at 4700 West 6th Street. Motion carried unanimously. (9)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to receive request from Public Wholesale Water Supply District No. 25 to respond to water supplier proposal , refer to staff for recommendation. Motion carried unanimously. (10)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to approve the request from Bruce and Kristen Barlow for a variance from 19-214B of the City Code which states that a private sanitary sewer service line shall not be located in a City public right-of-way for greater than 15 feet for BKB Addition, currently 811 and 815 Elm Street. Motion carried unanimously. (11)

As part of the consent agenda, it was moved by Amyx, seconded by Hack, to receive Lawrence Freenet second quarter report. Motion carried unanimously. (12)

Vice Mayor Chestnut, pulled for separate discussion, the first reading of Ordinance No. 8312, establishing the City's part of a joint Resolution/Ordinance concerning charges for ambulance services. He said he supported the ordinance, but he wanted to place in the record that as the City Commission passed the budget this year, to have discussion about the impact on the cost sharing between City and the County since it would increase fees as much as \$600,000 and all of that revenue would go to the County.

Mayor Dever called for public comment.

After receiving no public comment, it was moved by Chestnut, seconded by Hack, to adopt on first reading Ordinance No. 8312, establishing the City's part of a joint Resolution/Ordinance concerning charges for ambulance services. Motion carried unanimously. (13)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said regarding the July sales tax distribution, the City was on target to achieve the City's budget numbers for 2008. The 2008 projected amount showed an increase over the 2007 distribution and could contribute some of that increase to the federal stimulus rebate checks and also some relation to inflation as well.

(14)

REGULAR AGENDA ITEMS:

Consider Z-04-09-08, a request to rezone approximately 155 acres from A (Agricultural) to IG (General Industrial). The property is located on the NW Corner of N 1800 Road and East 900 Road; I-70/K-10 Business Park.

Sandra Day, Planner, presented the staff report. She said the subject property was surrounded by agricultural zoning and there were a number of pockets of suburban residential homes as well as the existing Urban Growth Area. Also, there were a number of existing structures surrounding the subject property as well as agricultural uses. She said part of staff's review was an assessment of the Comprehensive Plan, Horizon 2020 which spelled out some of the location criteria used to look at the location of new industrial uses.

Some related development actions for this property that would come before the City Commission included the annexation which was considered recently, the update to Chapter 7, Transportation 2030, and also the Sector Plan which was pending.

The adoption of the Development Code's purpose was to try and reduce some of the different zoning districts. This particular site gave an overview of industrial zoning and also shown, was the GPI District that included public facilities that had an industrial flare and also captured school districts. There were also pieces of PID and under the old code, it was a Planned Industrial Development.

She said it was important to understand the different types of industrial districts in the new code. The IBP (Industrial Business Park) was the least intensive of the three district's staff was working with. The IL (Limited Industrial) District would typically not have external uses

associated with noise, vibration, or things that go on for a duration of time. The IG (General Industrial) District was the most intensive of the three industrial districts and it was intended for those large scale intensive activities.

She said one point to make with the City's Development Code was that zoning districts were titled IL and IG, but there were also land uses that were IL and IG and it sometimes created confusion. Again, the primary distinction between industrial intensive and industrial general were that those nuisance activities were the ones that were occurring in the most intensive land uses and were found in zoning district IG. One of the other distinctions between the IL and IG was the fact that commercial uses were not allowed in the IG District, but would be allowed in the IL District.

Staff went through an exercise, during the review period, of looking at various uses and where those uses would be categorized. She said Hallmark, for instance, was a manufacturing use, but could fall into the IL or IG Districts. Uses such as Penny Ready-mix, LRM, and Hamm, were classic heavy industrial uses that would be found in the IG Districts. There was also discussion about the relationship of industrial properties to residential properties and that relationship.

She said many of the industrial areas were predominately built out and there were pieces and pockets within those different areas that either could allow or accommodate some smaller new businesses. In each of those cases there were residential activities occurring within a close proximity to the industrial district. Some of the residential came after the industrial zoning and the development and some came before. She said Hallmark for example had a piece of undeveloped ground on the far east side and there was also the park on the west side that provided a large buffer area to the developed neighborhood to the west.

Santa Fe Rail Road Corridor was an area predominately made up of M1 and M2 zoning, but upon rezoning in the new development code, all moved to IG District. It was characterized by having smaller lots, but much higher density and a lot of single-family homes, but on much

smaller lots and that increased that intensity. It was obviously part of an old railroad corridor and that historically would be where that industrial activity came from.

The applicant proposed specific use restrictions to try and address some of the concerns. Those use restrictions to the IG District were truck stops, explosive storage, slaughter operations, and salvage operations which were specific uses the applicant agreed to restrict as part of that zoning approval.

Day said the City Commission had a valid protest petition regarding that property and it required the Commission to take that extraordinary step if deciding to make a motion to approve the rezoning. Staff forwarded to the Planning Commission a recommendation for approval. The Planning Commission acted to forward a recommendation for approval of this item to the City Commission for consideration.

Commissioner Amyx said in looking at the map with the amount of IG that existed, he asked if IG was a preferred type of zoning.

Day said there were a lot of uses that could fall into the IL District. The reason there were different districts was to accommodate various types of land use patterns. The presence of the amount of IG District was a reflection of the decision to collapse the M-2 and M-3 under the old code and bring those zonings under the IG District. There were a lot of M-2 Districts, under the old code, that would be very easily classified and very comparable to the IL Districts and many of those uses would fit without being non-conforming.

Mayor Dever asked if Day's point was because of the conversion of M-2 and M-3, staff decided to put those zoning categories under IG instead of IL Districts.

Day said M-1 and the M-1A were the least intensive and M-1 was a traditional business park. M-2 was the more moderate of the industrial zoning districts and there was also an M-3 and an M-4 under the old code which were the more intensive pieces. She said she did not know where that discussion occurred that brought in M-2 and M-3 which were the two biggest areas under the old code and all went to IG District.

Scott McCullough, Director of Planning and Development Services, said in terms of staff's analysis for this specific property and why staff supported IG versus IL or IBP had not so much to do with how staff collapsed zoning districts from the former code to the new code, but staff looked at factors such as the allowable uses in IL that had quite a few commercial type uses. He said when going through the sector plan, staff did not necessarily believe that commercial uses were appropriate and wanted an employment center for this area to create jobs and staff felt IG helped in that area. It also helped to reduce some of the exercise staff had to go through with a potential user of that site in order to classify that user in a certain zoning district. In request for employment centers, in the community and region, staff wanted to create marketable sites. Also, marketing sites to potential users, the more marketable the property, the better chance at competing with other cities in other areas of the country. IG was the least restrictive zoning category at that location with the extraordinary transportation network seemed to be the best fit for what staff was trying to do in Sector Planning for the area and with what Chapter 7 was attempting to do for meeting the goals of several thousands jobs in a short timeframe.

Mayor Dever said staff was kind enough to provide the City Commission a percent of industrial land that was currently zoned and it was identified that after the transfer from the M codes to the IG, that 76% of industrial land fell into that category. He asked if staff had any idea of the amount of vacant land or buildable land based on that category.

McCullough said staff had not done that exercise for that request, but it could be something staff could provide.

Day said staff discussed with GIS staff about providing that information and it would take several days to run a couple of programs to capture that information.

Commissioner Amyx said in looking at the Santa Fe Railroad corridor, that corridor was predominately IG. He said McCullough mentioned the extensive roadway network that existed

in that area and asked where the extensive roadway network was around that particular site when the recommendation was to place IG right in the center of a neighborhood.

McCullough said as he understood it, it was transferred from former code and was a conversion of one of the M Districts to the IG Districts and was already established as the heavier industrial pocket.

Commissioner Amyx asked if it was to accommodate the existing business along that corridor.

Day said it was really property historically that had heavier uses in the 1960's and 1970's when that rail corridor was very active in that area. That area was also in the Burroughs Creek Area Plan and there were some rezonings that dealt with small pieces of property that actually down zoned in some of those areas. She said it was a different type of transportation network at that time.

Vice Mayor Chestnut said regarding the small area of PID (Planned Industrial Development) that carried over from the old zoning code must have been a highly specialized situation as far as definitions because that area was highly intensive.

Day said she could not recall the specifics of that particular project, but for the past 15 to 20 years, PUDs (Planned Unit Developments) were the preferred tool because of the amount of control in the PUD versus conventional zoning under the old code. She said that area was still at that business park. There was also PID zoning in the Franklin Road area which was much more intensive with the same zoning, but dealt through the PUD and could tailor any number of different elements.

Mayor Dever asked what the zoning was for the business park on the east side of town when it was first created.

Day said it was an M-2 zoning district.

Jane Eldredge, representing the applicant, said as Day remarked, the planning for this type of industrial use had been going on in a number of the plans for quite awhile. In March,

Transportation 2030 was adopted by the Planning Commission and the extensive road that was available was on the Farmer's Turnpike which was now characterized as an arterial road and had direct access to I-70 as well as direct access onto K-10 on to US 59 and US 40. She said this was a unique location in Douglas County and one that had been recognized by staff and elected officials on the City and County levels.

ECO² looked at industrial sites and identified this industrial site as a site to study and in fact when ECO² tallied up all their grades, this was the second to the highest grade for any industrial site. The site had minimal amounts of slope, not on prime farmland, and was suitable for this type of use. The revised Chapter 7 of Horizon 2020 identified several appropriate land use sites and again, this site was clearly identified in the revised Chapter 7. She said when the Planning Commission looked at this issue, the Planning Commission found the site was compatible with a number of policies, particularly the employment policies that were existing in Chapter 6 and Chapter 7 of Horizon 2002. The Farmer's Turnpike Sector Plan had been with the Planning Commission and with public discussion for quite a while and that plan also recommended this location as industrial largely because the site was unusual and had excellent access.

In the protest area, there were 10 residences that were all on large lots. This project and the discussion about zoning and annexation had been going on for quite a while and in December of 2007 the Planning Commission recommended a County industrial district. In February of 2008, the City Commission suggested the Planning Commission look at annexation. The Planning Commission looked at annexation and recommended this property be annexed. The project came back to the City Commission and the City Commission adopted Resolution 6764 sending the resolution to the Douglas County Commissioners to look specifically at the issue as to whether annexation would hinder or prevent proper growth in the area or the development of the area or any other incorporated city within the County. The County Commission met and found and determined the annexation would not hinder or prevent the

proper growth and development of the area in any other incorporated city and recommended the resolution that came back to the City Commission, stating the findings. On June 17th, the City Commission approved annexation.

During all of this time, the applicant worked with staff and they appreciated staff's extensive review, particularly looking at all the choices of industrial uses and the applicant presented to staff a list of 47 existing business and asked staff to help identify what businesses would go in which category. Staff was able to clearly identify 8 to 10 business and their category and the other businesses were unclear from the ordinance which was one of the reasons staff recommended IG zoning. The other reason was because the old M-2 zoning, large industrial parks were zoned IG. She said the applicant wanted to provide the best possible industrial uses in that location.

The day after the City Commission approved the annexation the applicant had scheduled a neighborhood meeting on June 18th. She said Mr. Schneider, attorney representing Scenic Riverway Community Association, directed his clients not to attend the neighborhood meeting and only 4 people came to the meeting to talk about the zoning. She said she was careful to admonish one person that arrived at the meeting and told that person if they were a client of Mr. Schneider's they were not supposed to attend that meeting.

She said on June 25th, the Planning Commission recommended zoning to IG which brings the applicant to this City Commission meeting. She said this issue had been well discussed and well documented. She said the applicant was asking the City Commission to approve the recommendation of the Planning Commission, specifically by approving the IG zoning, but that it be conditioned as the Planning Commission conditioned it on the simultaneous publication of the annexation and zoning ordinances so that when it was officially annexed it would officially have a proper zoning designation. The applicant also asked about what uses would be appropriate to exclude and asked that it be conditioned on the exclusion of a truck stop, explosive storage, salvage yard, or slaughter house.

She said in the zoning matter the City Commission needed to base their decision on the findings. The Planning Commission based its recommendations on the finding that were presented in the Planning Staff report and the applicant was asking the City Commission to adopt the ordinance.

Mayor Dever called for public comment.

Marie Willis, Lawrence, said she was a member of the Scenic Riverway Community Association. She said a few weeks ago, she was attended the City Planning Commission meeting as a reluctant presenter and because of her negative views concerning the actions taken by the City and Planning Commissions concerning the 155 acres being considered. She said the residents inhabiting and working the land surrounding the acreage in question were not being heard or at least not being taken seriously. At that meeting, she was told a few weeks ago by all the members of the Planning Commission that they were being heard. In the course of that evening, she decided it was true. Perhaps they also had been guilty of not hearing, but at that meeting they came to say they wanted to work with Planning Staff and the Planning Commission and showed that they were not adverse to development. The fact was they had never been against development, per se and they recognized the potential of the property in question and they were seriously interested that property be put to the best possible use for the City of Lawrence, Douglas County, the developers and the stakeholders whose lives were immediately and deeply affected by the choices that would be made and in the near future.

She said as she explained to the Planning Commission, in addition to being willing to work with the City on this project, they were people of some expertise. They had diverse and multi-faceted interests and capabilities. She asked the City Commission to not look upon them as persons against, but as pro-active progressive, responsible, caring citizens, and persons who were for making Lawrence and Douglas County a better place for everyone, not only to survive, but thrive. As the City Commission considered the adoption of the IG zoning, she asked the City Commission to seriously consider what they had to say.

Saunny Scott, Lawrence, said in establishing another employment center, the City Commission should be aware that transportation was needed and they did not want an employment center for only people who owned cars and that meant an extension to the transit bus system.

Joan Golden said she was present as a community volunteer of several organizations that were dependent upon funding from the City, County, employers, and individuals in the community. She asked the City Commission to seriously consider the adoption of this zoning ordinance to continue to have places for new businesses to come and continue to sustain the funding that came through the City and County.

She read a statement from Steve Brown, Plant Manager of Berry Plastics which read:

“Unfortunately, I’m not able to attend tonight’s meeting. I would, however, like to communicate my thoughts regarding the need for additional, available, industrial land or properties in this area. As noted during previous meetings companies like ours, Berry Plastics, needs to have options available to us, to allow us to continue to expand although, I or we are not endorsing this specific property in any way, I do want to send a strong message to the Commission and the community that companies like us really need to have available land options out there. An important note would be that IG zoning allows the maximum flexibility for such properties and would be of interest to both new and existing companies.

Additionally, we, Berry Plastics, have proven steadily over the years that smart economic growth in a community such as Lawrence benefits all parties. As our employee base continues to grow so does the revenue brought to the area by these employers and their families. We are now working hard in lots of areas to foster our relationships between Lawrence area youths and to show our commitment in helping train and just as importantly, retain adult skill to bolster the technical element within Lawrence and the surrounding areas. To allow us to continue along this path, it was imperative that Lawrence, at large, recognizes this too.”

Gwen Klingenberg, Lawrence, spoke in opposition to the proposed rezoning. She said there were a number of great companies in Lawrence, but she wanted the City Commission to think about what the area would look like as a gateway for Lawrence and Lecompton. She said there were companies in IBP's (Industrial Business Parks) that were manufacturing and pharmaceutical companies. She said Hallmark was zoned IG, but it could have been zoned IBP, IL, or PID. The applicants were asking the City Commission to condition a conventional zoning to remove some possibilities, but she believed that was contrary to according to state law.

Also, according to 20-1303(l)(1), City Code, City of Lawrence stated: "A plan shall be prepared and adopted prior to review a petition for map amendment." She said that meant there was no sector plan approved yet and zoning could not be applied for at this time.

According to T2030 read: "Gateways are locations on transportation corridors that define the entrances to the cities. These provide visitors with the first impression of the City and often indicates the transition from rural to urban land uses as such cities desire to make these locations as attractive and is informative as possible.

She said Day indicated, during a Planning Commission meeting, that Berry Plastics would likely fall into the manufacturing use and the warehouse distribution piece could fall into an IBP, IL or IG zoning district. She said Martin Logan, Impact Worldwide, and Microtech fell into the manufacturing production technology category that would be allowed in IBP, IL or IG zonings. She said Berry Plastics indicated on their website that they wanted to be sustainable and reduce the environmental footprint throughout reduction of energy consumption, emissions, raw materials, and so on.

She said at this time, she asked the City Commission not to support the rezoning until the neighborhood had the time to sit down with the Planning Department and work through a new plan.

She said she wanted to point out to Berry Plastic that there were still places available for warehouse purposes.

JoAnn Farb said she had a question she wanted the City Commission to think about and the question was did the City Commission believe that government had the responsibility to keep its word to citizens and was that part of what made good government. She said her family moved to Lawrence about 3 years ago and prior to that move, her family was involved in an eminent domain situation that ended up that her family lost an important home. She said having gone through that court battle regarding eminent domain, when her family moved to Lawrence they wanted rural property, privacy, and a safe place to raise their children. She said they looked very carefully and had learned that eminent domain liked to follow certain types of existing easement and were very careful to make sure there was nothing like that anywhere near that property. They also went to the Planning and Zoning Department to ask if there was anything about that property that could possibly not make that area a good place to settle and they were told everything looked fine. She said they had only been in their new home which was a mile north of this proposed site and they were devastated because they found out this project was in the works. She said they did not want noises that would disrupt their peace, smells that were unpleasant, or run-off in their water and streams. She said there were hundreds of families that moved into that area because it was a gem for Douglas County. She said their family moved to that location because of the quality life that it afforded. She said government made an agreement to her family through Horizon 2020 and the various planning procedures that were in place. Now, in a matter of months, and from a handful of people, this was all going to be overturned with little community oversight. This was very objectionable and did not create faith in government. She implored the City Commission to not grant the industrial general zoning to this property at this time. She said it could be something the City Commission could do later with the right applicant and the right set of conditions. This property had no utilities and there was no hurry to do anything because nothing was going to happen in a short

period of time. The industrial business park would be a much better fall back position for this project and it would be something area residents could live with.

Jerry Samp, Lawrence, said he was present to discuss jobs. He said his clients told him more and more that more jobs were needed in this community and his clients did not want to drive to Topeka or Kansas City. He said he knew something about the availability of ground in this community. He said he served on the board of the Douglas County Development Inc. He said they had been developing East Hills Business Park for the last 20 years and there was one lot ready to be built upon which was about 5 acres. He said his experience with DCDI told him that an owner would need to be willing to take 20 to 30 years to own a piece of property and develop that property. He said as a taxpayer and a local business person, he urged the City Commission to support the proposed zoning so this community had the possibility of having more jobs in the community.

Jon King, Lawrence, said he had been in the Lawrence community for 18 years and had seen a lot of things that did not go very fast around this area. He was present because the I-70 corridor needed an industrial park and this community needed an industrial park for some time. He said he served on the ECO2 Industrial Park Committee that helped develop those places in that area. He said he could appreciate the neighbors and those who did not want this in their backyard. He said he lived less than a half of a mile from Hallmark and lived with industrial parks all the time and he might not have wanted the industrial park had he moved there prior to the construction of that park, but he moved in after the park was constructed. He saw the industrial park as an asset to this community and saw the possibility of having an industrial park that had the opportunity to attract any number of different sorts of employers as being critical as to what this community needed. He said this community had a private developer that was willing to use their assets to make this happen.

Ron Schneider, Attorney for Scenic Riverway Community Association, said he first wanted to note for the record that he has had ex parte communications with some of the City

Commission including Mayor Dever and Commissioner Amyx. He said he was aware that some of his clients had conversations with Vice Mayor Chestnut. He said he called and left phone messages with Commissioners Highberger and Hack, but those phone calls were not returned.

He said there was a protest petition which was filed in this case and by statute, by law, there were 3 options. He said those 3 options could be found in a section of K.S.A. 12-757 which read:

1. Adopt such recommendation by ordinance in a city or by resolution in a county;
2. Override the planning commission's recommendation by a 2/3 majority vote of the membership of the governing body; or,
3. Return such recommendation to the planning commission with a statement specifying the basis for the governing body's failure to approve or disapprove."

He said he wanted to remind the City Commission of its duties under the law as enumerated first in the famous Golden case and just about every other planning case that had followed. He said the City Commission was to consider specific factors which were:

1. The character of the neighborhood;
2. The zoning uses of nearby properties;
3. Suitability for the uses to which the current property was restricted;
4. The extent to which the change would detrimentally effect nearby property;
5. The length of time the property had been vacant as zoned;
6. The gain to the public health, safety and welfare by the possible diminution in value of the applicant's property as compared to the hardship imposed on the applicant if his request were denied;
7. The recommendations of a permanent or professional planning staff; and,
8. The conformance of the requested change to the City's master or comprehensive plan.

He said they had heard that within 1,000 feet there were 10 houses, but he begged to differ and thought there were between 15 to 18 houses in that area and there were far more residences if going beyond just the 1,000 feet. He said in $\frac{3}{4}$ of a mile there were 250 residences in that area. At times that area had been described as agricultural and he had taken strong exception as well as his clients because it was a rural neighborhood with very modest houses. He said any legal activity would be permitted on this site except for the proposal for exceptions that the applicant had offered. That meant anything could be allowed such as heavy industrial in the highest degree possible.

He said there were three basic industrial zonings to consider when someone wanted an industrial application approved which was IBP, IL, or IG. In this situation, IG listed everything that was permitted which again, was pretty much anything under the law. Most importantly, he would direct the City Commission's attention to the comments that nuisance conditions could result from continuous frequent or repetitive noise or vibrations; noxious or toxic fumes, odors or admissions, electrical disturbances, or night illumination into residential areas which was for IG zoning only.

He said there was a significant difference between IBP, IL, and IG. Most importantly, was the key comparison and difference between the IL and IG districts was the IG district prevents activities that could create noise, vibration and other types spillover nuisances outside the immediate boundaries of the subject property. Another distinction in those districts was that retail commercial uses were not allowed in the IG. He said the district was generally incompatible with residential areas and low intensity commercial areas. He said there was a proposal of putting in a heavy industrial site and again, anything legally permissible next to a residential neighborhood. He said he would suggest this project was bad planning and in the worst case scenario, it was dangerous.

He said he did not think the City had jurisdiction in this matter until actually annexing that property. He said he discussed that with City legal counsel and they disagreed. He said he researched the subject thoroughly and could not find any case directly on point supporting his position or directly on point, rejecting his position. In other words, the City had not gone through the final steps of annexing this land and that land was still in the County. He said his argument was, until the City annexed that property, the City could not zone the property.

He said there was an appeal to the County right now concerning the annexation. How long that would take to resolve, he could not answer, but it would be many months no matter what. The pending change of zoning was essentially a conditional zoning and a conditional annexation. He said he believed conditional annexation was equally questionable and there

was even a stronger argument that conditional zoning was improper and illegal. He said he talked to legal staff and agreed there was no case law that dealt with that directly and there were arguments on both sides of the case “for” or “against” the validity of conditional zoning in the State of Kansas. No one could show a Supreme Court case or Court of Appeals case in the State of Kansas that stated “yes” it was permissible and under the situation facing the City Commission today, the City Commission was doing some conditional zoning and were limiting the zoning by taking out 4 permitted uses.

He said there were some legal questions and procedures that were unresolved and the City Commission should not go down that route unless they were certain. There was a sector plan that was previously mentioned and he was optimistic that if the City Commission waited, in 2 or 3 months as the Planning Commission had given staff direction to do so, a sector plan would be seen that was innovative, creative and created the opportunity for numerous jobs and development in this community. He said the applicant did not have a tenant or designated business at this time. He said they heard discussions about industrial park, but this was not an industrial park and frankly that was the main reason, he was present on behalf of his clients objecting to this proposed zoning. By allowing IG zoning on 150 acres, it was not so much as what a person would do to that 150 acres, it was what would be prohibited and foreclosed from developing nearby.

He said in discussions everyone asked what would be an ideal opportunity, the term GOOGLE campus or IBM campus which was what everyone dreamt about. Changes of that type of development coming to this area, he did not know, but Lawrence was as good as place as anywhere in the United States for such an opportunity. If allowing this area to be zoned with heavy industrial, which permitted any use, he asked if anyone thought a GOOGLE type campus would locate next to that type of industrial and the answer was an overwhelming “no.”

He said the applicant wanted the opportunity to develop this land so the applicant could have a successful business. He said that was the applicant’s interest, but asked how they

wanted to go about doing that. He said the applicant was not sure, but the answer the applicant was presenting, was let them do anything possible and not to limit their use.

He said the Chamber of Commerce testified before and again stated their goal was to have a site available for potential new development which was an honorable goal, but in order to do so, they also said they needed infinite flexibility, and need to be able to tell the potential developer there was 150 acres and the developer could do anything they wanted on it that was legal.

He said he perceived the City's goal was to provide new jobs, expand the job opportunities in this community, and increase tax revenue. He said his clients' goals were to live safely and as quietly as his clients wanted, but realized times had changed. He said his clients' goal was to encourage and participate in quality, commercial, development in that area and not to prohibit or foreclose and not to deny what could be. He said his clients were asking for the opportunity to work the sector plan out and give his clients the opportunity to come back to the City Commission and present something that would meet the goals of everyone.

He said they knew there was no City water, city sewage, limited infrastructure and there was a certain expectation by some people that rural water would be provided by the rural water district, but that was in contention. The rural water district would state they would not be providing water and they were in fact, prohibited to provide water by their own bylaws or procedures.

If looking at everyone's goals and especially the applicant's goal, Chamber of Commerce and the City, what good would it do to change the zoning no matter what it was without water, infrastructure of sewage. He said if the City wanted to increase job opportunities and the tax base, he asked how the City could do that without those systems in place.

He said he submitted to the City Commission that this was not the time or place to approve this change of zoning and it should either be denied or referred back to the Planning Commission so the sector plan would be in place. He encouraged the City Commission to take

the appropriate action, remember their responsibility was to the community of Lawrence and Douglas County in general and not to the applicant, or his clients per se, but what was in the best interest of this community. If zoning that area heavy industrial, he was certain that in the future there would be regret and the regret was not because the City Commission allowed activity on 155 acres alone, but the consequences and ramifications to any other future development in the area.

Commissioner Amyx said regarding the development code, specifically site planning, he asked if it could take care of any concerns of Schneider's clients.

Schneider said it could take care of some his clients' concerns, but if there was a particular industry such as a smoke stack industry that was making noise 24 hours a day, emitting smells, and having lights on at night, he did not think a site plan could control those types of concerns. Certain industries were just going to be by their nature, offensive and intrusive and no matter how sincere the owner was, if there were residential properties near that site, those residents would be affected. He said there had been a reference to Hallmark and one of the reasons IG had been considered was because the way the City's code was drafted, IL would not permit a manufacturer or assembly plant such as Hallmark because it had more than 20 person employed at that location. Reluctantly, in the alternative, if the City Commission approved the zoning, he asked the City Commission to zone the area IBP and if someone like Hallmark came forward in the future and the City Commission had to zone in IL or IG to accommodate Hallmark, he could assure the Commission he would not be speaking on behalf of his clients in opposition because his clients would welcome that zoning with open arms.

Commissioner Amyx said if the City Commission considered the criteria set out under Golden, once getting into the next step after platting and other things that needed to happen, he asked if the development code could not protect the neighbors.

Schneider said the development code could not protect the neighbors in all situations.

Commissioner Amyx asked if that statement regarding the development code was true in other zoning districts whether it be commercial or anything else.

Schneider said that statement was true to a certain extent, but the point he was trying to make was once zoned IG, that zoning opened up the door for any activity, the most intensive industrial activity, by nature, was going to adversely affect property nearby. Commercial activity such as retail or IBP zoning did not have the same impact.

David Ross, President Scenic Riverway Community Association and the Regional Manager for Puro-Zone, said Puro-Zone started in 1943 and was a business that supplied building maintenance products to schools, hospitals, and industrial accounts. He said when he started with that company in 1992, the company did a million and a half dollars a year and this year their company would exceed eleven million dollars. He said they grew 650 percent in 16 years and were competing with businesses such as Wal-Mart, Sam's Club, Home Depot, and Lowes. He said their company grew by identifying the competition, identified what their company did differently and better, and did those things over and over again. Their company tried to come up with innovative ideas and thought outside of the box. He asked the City Commission what the Chamber would be up against when receiving a phone call from a prospective business. He said reading the website of the New Century Business Park in Gardner, Kansas, it had the advantage of owning and operating its own water system and rail switching equipment. That business park's water system had a peak flow capacity of three thousand gallons a minute. The wastewater plant at New Century had a capacity of one and a half million gallons per day; natural gas was available; the Burlington Railway provided the mainline rail service and intra plant switching requests were normally responded to within 20 minutes during normal business hours; and it also had a fire station located in the heart of the business park that was staffed by 14 full time and 50 volunteer fire fighters.

Again, he asked the Commission what our Chamber of Commerce had to offer. He said the Chamber was able to offer I-70 access, 155 acres, and an anxious developer. There was

no water, sewer, gas, and no rail, but there was a fire station that was almost 8 miles away down a busy highway. Those things were all available at the east end of the Sector Plan next to the Santa Fe Industrial Park. He said they had been in contact with some of the neighbors in the area that had indicated a willingness to sell some of their property and understood it was possible that Westar Energy might consider leasing some of their property for an industrial area as well. Whether that happened or not, the point was that infrastructure was available at the eastern end.

He said Lawrence also offered a university town with all of the educational and social things that went along with a university town, a vibrant downtown, well educated workforce, and a wonderful rural setting. He said just like Puro-Zone built on its strengths, it did not try to go head to head with the competition.

At an earlier Planning Commission meeting, their association presented some different ideas that had been used across the country such as California, Illinois, and in Canada which was about different ideas and ways the Chamber could compete with something like a New Century Business Park, and not trying to match that park item to item, but by thinking outside of the box and think of different ways to utilize this property and provide the employment that Lawrence and Douglas County needed, maintain the value to the surrounding area, and allow the owner of the property to develop it in a profitable way.

Based on the ideas presented, the Planning Commission voted 9-0 to allow their association, until October to come up with a plan. They came up with a committee of 12 individuals and tried to cover a broad spectrum which was 3 former Planning Commissioners, 3 major land owners that surrounded the property in questions, a representative from the Lawrence Neighborhood Association, a representative from the League of Women's Voters, a former and present professor at K.U., and a K.U. Biologist. They had also been contacted by the Clinton Parks Fish and Wildlife Service that they would also like to have a person seated in this committee to assess drainage and water issues. The point was the Planning Commission

decided unanimously to allow their association the time to try and put together something innovative. He said their association requested the City Commission deny this rezoning request and allowing their association some time to work on this issue. At a recent Planning Commission meeting, a comment was made by Planning Commissioner Hird that said this was an opportunity to do things right and also a comment by Planning Commissioner Rasmussen that said he wanted to send something that was of good quality to the City Commission. He asked the City Commission to allow them to do that and present something of good quality.

Marguerite Ermeling spoke in opposition to the requested rezoning. She said there were a number of different communities that had already created zoning for rural districts and she believed this County was now looking at an addition of rural development in the County under a new zoning. She said they might incorporate and create in a very innovative way, one that was not out of the Traditional American Planning Association emphasis and was actually incorporated in those types of conferences. It was also at the school level to teach their planners, for the future, on how this might work to bring to their communities. She said it was about creating rural residential industrial parks or zoning.

She said there were a lot of industrial park zoning or conservation industrial areas, but either way, the object was to demonstrate there was a way to place industrial into rural space and should have its own designation as a specialized rural industrial park area. She said there was, within the City's existing codes, some way to accomplish that without going through the process of adding new zoning districts. She said perhaps it is old fashion and out of sync with our current efforts, but certainly the planned industrial development with overlays of one form or another of an industrial zoning were certainly possible to produce this type of outcome.

She said it was within their hope that uses might need to be looked at within the City's zoning and look at questions like, where were industrial zones; if those zones were appropriate; and, if the contents of the uses could come up for the land use issues under each one of those was still appropriate or something this community wanted.

She said they had struggled and worked hard on their presentation to the Planning Commission regarding a sector plan. She said they had identified quite a bit of area from neighbors and friends in the area of the Santa Fe Industrial District and identified a number of land parcels that were possibly able to come into the industrial zoning. She said they introduced both IG and IL or other down zoning as they came to the west. She said they looked at that area intensely because of the presence of existing infrastructure, the railroad spur, and access to I-70. It also allowed industrial to be on exactly that applicant's place. What shape it took everyone could agree it was a ripe site for some type of industrial. She said it would encumber them tremendously in their work on a Sector Plan to have a designated zoning at this time, without a plan, something to look at, and industrial guideline present. She said it would be wonderful if the City Commission would consider there was a super opportunity to make a great plan.

Donald Fuston, Chairman Water District No. 6, said not too long ago he was told that the City of Lawrence would not provide water for the industrial site which brought up a question of who would provide that water. He said their board discussed and their attorney discussed this issue regarding Rural Water District No. 6. The board was told that Rural Water District 6 had no obligation to provide water for this industrial site because it was the City's responsibility. He said at their July board meeting, the board unanimously approved a resolution to deny the use water out of Clinton Reservoir, to support the industrial site. Again, he said Rural Water District No. 6 would not provide water from their allocation out of the Clinton Reservoir to provide water for the industrial site.

Commissioner Amyx asked if Water District No. 6 would only provide water to rural residential.

Fuston said correct.

Commissioner Amyx asked if they provided water to anyone else.

Fuston said they provided water to the Kansas Turnpike at the toll booths and the Baptist Church.

Commissioner Amyx asked if their water district would provide water to the church and turnpike, but not industrial. He asked if their board made a change in their by-laws.

Fuston said there were no changes in the by-laws. There were three places in their by-laws that he had the right to deny the use of supplying water to an industrial district. A water district was not designed to provide water for fire protection or to provide water to an industrial park.

Mayor Dever said for any land use besides residential, Fuston could arbitrarily determine whether or not to serve those uses based on the type of land use. He said every time someone wanted to build something Fuston would determine whether to service those customers.

Fuston said he did not understand the Mayor's question.

Mayor Dever said that even though there was a meter available for this site, that Fuston would not service that site.

Fuston said there was a meter on the site, but the day that area was changed from agricultural to industrial they would no longer have that meter.

Mayor Dever said any land use changes that were made in the future, whether it was that piece of land or a piece of land down the road, Rural Water District No. 6 would not service those areas because they did not have to. He asked how Fuston drew the line and how Fuston made that determination. He said if they were talking about plans for the future, it was important to note whether water would be available in the future.

Fuston said if the Mayor was in his position, he asked if the Mayor would ration water to over 300 families just to provide water to an industrial district.

Mayor Dever said no, but he had done some research on Rural Water District No. 6 and the availability of water that was treatable and available and he believed there was excess

capacity available from the document he read. He said he also researched what was available to Rural Water District by law and what their water rights were.

Fuston said water was not available anymore. The water was allocated out of the Clinton Reservoir and there would not be any more water coming out of Clinton Reservoir.

Mayor Dever said he looked at documents indicating Rural Water District No. 6 usage and what the use was over the last few years and what they were allocated by law to determine whether or not there was even an opportunity to build or develop. He said his assessment was there was an ample water supply available from the City of Lawrence Kansas to be direct through Rural Water District No. 6 and made available to that district, under their current volume the water district allowed by law.

David Corliss, City Manager, said it was correct that Clinton Lake was fully allocated, but the issue was the Farmers Turnpike and Kasold where Rural Water District No. 6 took water from the City, the City had a contract with Rural Water District No. 6. That district use was far below what they were contractually allowed to have at that location. Fuston had different by-laws and different legal counsel, but if Fuston was going to make distinctions about who Fuston was going to serve or not serve, staff would see how that proceeded. He said from his understanding there was a gap that was fairly significant between the amount of water that district contractually had the right to have at Kasold and Farmers Turnpike and what the district was currently using and additional water could be provided. Also, he understood the water uses at that location were not significant as far as daily use. He said the water district had certain rights and responsibilities about who they could serve and who they could not serve. He said there were legal responsibilities about who they could discriminate and distinguish between and that was between the water district and the applicant.

Mayor Dever said he wanted to clear up the fact of whether or not there was truly a rationing or a deficit of water supply that would create the need to not allow additional land use in that area or additional users of water in the area. He said Fuston had the right to choose to

elect to not service someone, but he wanted to clarify the availability of water and the determination to whether or not Fuston would serve this property. He said once the property came into the City, Fuston would no longer be required to provide water service to this parcel of land even though there was a water meter.

Fuston said the current water meter in that area had a 5/8 inch meter and water to an industrial park could not be provided with that type of water meter.

Commissioner Amyx asked about the number of gallons per year that RWD No. 6 was allowed to take from Clinton Reservoir and asked about their current water usage.

Fuston said there was a 32 million gallon allocation of water and a year ago 22 million gallons were used. If taking their standard growth from the last ten years and this project moved forward, anything over 2 million gallons of water for this industrial district would put them under the allocation restriction of water. Their water district's contract ended in 2019 which was only another 10 years and no more water would be allocated out of the Clinton Reservoir. He said no one had stated the projection for water for this industrial site.

Commissioner Amyx said under normal residential development in that water district, they would not only restrict use of the existing water users, but additional development would not be allowed.

Fuston said yes. He said for instance, the Kansas Turnpike had restrictions on the amount of water they could use as well as the Baptist Church in that area.

Commissioner Amyx asked if the water district placed those restrictions on the Kansas Turnpike and the Baptist Church.

Fuston said yes. He said he had a letter their lawyer had drafted and he would distribute that letter to the appropriate people.

Mayor Dever asked Corliss to summarize the current use of Rural Water District No. 6 and their water allocation so he could have that information to help in his decision.

Corliss said the City had a 1979 contract with Rural Water District No. 6 with a not-to-exceed amount on the gallons per day of 202 thousand. He said in 2006 Rural Water District No. 6 had 55,000.

Fuston said their district never had exceeded their daily allocation of water.

Vice Mayor Chestnut said the letter from the water district's attorney that was distributed, was signed by Fuston and not their counsel. He asked if Fuston wrote that letter from consultation with their attorney.

Fuston said the letter was from the meeting with their attorney.

Vice Mayor Chestnut said in the letter from the water district's attorney, the letter addressed a Mayor Michael J. Sullivan.

Fuston said he did not know where their counsel got that name. He said that was the reason he stated that he did not write the letter, but their lawyer wrote that letter.

Vice Mayor Chestnut said the lawyer wrote the letter, but Fuston signed the letter.

Fuston said yes.

Mayor Dever asked if approximately 73 million gallons of water was allocated in a year according to the 1979 contract with Rural Water District No. 6.

Corliss said that figure was about right.

Mayor Dever asked how many gallons of water were used annually by Rural Water District No. 6.

Corliss said the information staff looked at last for 2006 was 20 million gallons and through November of 2007 it was at 17 million gallons.

Fuston said, at one time, Rural Water District had used up to 22 million gallons.

Ron Willis, Douglas County resident, spoke in opposition to the proposed rezoning. He said the disposition of this 155 acre parcel had been contentious. The diverging perspectives on the lands use and its subsequent impacts on neighborhoods, Douglas County, and the City's of both Lawrence and Lecompton fostered polarization, but there was new hope. There was

hope that debilitating patrician polarities could be diffused and a widely acceptable land use solution for this parcel adopted.

On July 23rd, less than two weeks ago, the Planning Commission voted unanimously 9-0 to reconsider with standard participation and fresh vision, the large land use plan that included the 155 acres in question. In other words, the Planning Commission's recent action had fostered new hope. Tonight, the City Commissioner's could ratify and extend that hope, by not approving the general industrial zoning proposed for this 155 acre parcel.

He said in closing, he offered a limerick to guide the Commission: "The land use dispute has gone "to" and "fro", premature slick and fast, neither measured nor slow, for good information to guide deliberation on this zoning decision, he urged, just say "no."

Rick Stein, Douglas County resident, spoke in opposition to the proposed rezoning. He said the discussion was not about how this land would be used, but he heard all types of options and scenarios of how the land could be used. He said they were discussing who could decide and who retained the ability to provide information and input to determine the outcome.

He said from the applicant's perspective, he understood IG zoning made a lot of sense because it allowed the applicant unfettered opportunity to solicit the widest range of potential use. He said without constraints, the applicant and property owners could maximize the economic potential of their site. Developers made the most money when having the most options, but on the other hand with the IG zoning the applicant was requesting carried unknown outcomes for the people who surround the property immediately. He said for the community as a whole, it was a gateway for the community and a neighbor for people. He said because the use was unknown, but the intended use was not yet defined, they could not perceive or the outcomes could not be understood.

The City Commission recessed for 5 minutes to allow staff to work with the audio system so that everyone had the opportunity to hear the speaker's comments.

After returning from recess, Stein said one of the responsibilities of government was to facilitate change and the way that was done, was by monitoring and regulating that change. The way to facilitate that change was to monitor and regulate zoning. Zoning was a tool that helped with that change and the outcome resulting would be the best for the community at-large which the City Commissioner represented. It was an outcome that allowed developers to develop, but at the same time guarded the existing interest and protects those pre-existing interests as much as could be reasonable. It was a balancing act that required compromise. Facility change would simultaneously protect existing interests. The inflection point between the interest of the developer and the broader community was at the center of this dispute. He said it turned on the question of who should have the most flexibility to resolve developmental disputes and issues. He said he was not advocating on any level the City had control over the future of this land because it was the applicant's land, but he was advocating the City retain the right to have a great deal of input, or at least more input than IG the applicant requested permitted. He said it was not an unreasonable compromise. The IG request did not provide the City, in his judgment, adequate opportunity to impact the ultimate development on this site.

He said as Schneider had clearly explained, there were 3 distinct choices which were: 1) approve the application as requested; 2) zone that area IG, but in doing that the City Commission would be giving the bulk of the options to the applicant and the applicant would hold the preponderance of the cards and with the nominal parameters, the City Commission would be giving the applicant the right to chose the outcome, or deny the request; and, 3) consider this land in some other zoning category. The lower intensity uses would still give the developer the opportunity to engage in business conversations with people the applicant could exchange money with and at the same time, retain within the City, the right and ability to input ideas and thoughts to move it toward a solution that suited a broader interest and not just the developers.

Darrell Ward, Douglas County resident, spoke in opposition to the proposed rezoning. He said the rezoning of this parcel from A (Agricultural) to IG (General Industrial) was not the correct zoning for that parcel and that IG was too lenient for this parcel and such tenant that might locate businesses on this parcel under IG might not be a good fit for the neighborhood or the Lawrence/Douglas County community as a whole. This property would make for an excellent low impact, industrial wholesaler or warehouse operation which was entirely compatible with industrial limited zoning. It would also make an appropriate location for certain low impact employment and manufacturing uses, a planned industrial/business park setting which was entirely compatible within an industrial business park district. He respectfully asked the City Commission to deny the rezoning from A to IG zoning.

Jana Dobbs, Lawrence, spoke in support of the proposed rezoning. She said the community needed industrial and job growth. She said any site that was looked at was going to have its benefits and drawbacks. She said it was her belief the benefits of this particular site outweighed the drawbacks. The community was already back behind the curve when it came to industrial development and believed the City Commission needed to take action. She urged the City Commission to approve the applicant's request.

Beth Johnson, Lawrence Chamber of Commerce, spoke in support of the proposed rezoning. She said many times the mantra heard from real estate brokers was "location, location, location" because that was what people look for when looking at houses. In Lawrence their strengths were its workforce that could meet all types of needs for companies at different levels; access because there was a tremendous location between I-70 and K-10; Kansas City International Airport; and great access to different locations within Kansas City Metro and Topeka. She said what Lawrence did not have was, locations and the mantra of "location, location, location", the City was missing the very first thing.

She said the number one issue that companies ask for first was the location. She said the Chamber went one step further and determined which of those sites were buildable and

which sites were available. She said you had to have a willing land owner to have an available property that was able to market.

She said from Day's presentation it was stated there were 88 acres that were not built on. She said 28 of those acres surround O'Malley Beverage. Those parks ranged in size from a 4 acre parcel to a 24 acre parcel. They could put both parks together and get about 28 acres of buildable space. There was another parcel that was not buildable and used by a trucking company as a staging area. That parcel would never be buildable for an industrial site because it was very small. There were approximately 30 acres owned by Schlumberger and they were not willing to sell that acreage. There were companies near Schlumberger that would like to buy acreage from them, but they would not sell because they had their own plans for the future and they might want some buffer from what went into other areas. She said there were 15 – 20 acres owned by K-Mart and Lawrence Paper Company, but they would not sell their property, either. There was another 9 acres owned by Del Monte and they would not sell either. There was an area behind Reuter Organ and Standard Beverage that was a little over 20 acres owned by Roger Johnson or an investor group. He said Johnson would part with some of those acres at some point, but it did not have access because the road had never been completed to go back to that property. She said there was a landowner that might be willing to sell, but was not willing to let them market it. In her book, it was not really available because she could not put that property on their website.

She said they talked a little bit about Hallmark. Part of the area across from Hallmark had been designated for a park, so they were not going to build anything industrial on that piece of property. There was also the 45 acres that was across McDonald Road over by the school district that was owned by Hallmark. She said she would like someone to buy it from them and have had some companies look at it, but Hallmark was not willing to sell. Hallmark was holding on to their property for future plans as well.

She said they had two industrial parks that were not mentioned. She said Franklin Business Park had three lots across the front that were sold and either had a tenant or future plans in the works. There were 34 total acres and ranged in size from a 6 acre lot to a 12 acre lot, but they would have a hard time because of easements and road access to the lots to make them usable to build in those areas. She said there were 28 acres at Riverside and 34 acres at Franklin Business Park.

She said in East Hills Business Park was a different situation because there was a public/private partnership. There were 87 acres east of Noria Road that was available and sat in the 500 year flood plain and needed to be raised 2 feet to get out of the 500 year floodplain. In order to do the drainage right for that piece of property, it needed to be raised 7 feet and the City was aware of that because they received a letter from Douglas County Development, Inc. asking to partner in the development of that property. If going into East Hills, there were two lots that looked usable on the map, but both of those lots were detention ponds and would never be built on because they had to remain detention ponds. There was a piece of property across the road from API Foils that was about 5 acres owned by API Foils. She said the Spec Building was an empty building in East Hills that was 65,000 square feet. They marketed that Spec Building a lot, but it was an odd size. There was about 6 acres that surrounded the Spec Building that could be used. Across the road there was a waterway and to be able to build on that piece of property, major changes needed to be made to build on that property because the waterway needed to be in a different place. There were about 5 acres that could be built upon and small lots in the southwest corner. There were about 16 acres along the west end that was unplatted that could be built on. There were approximately 34 acres on the west edge that was owned by Douglas County as part of East Hills. It had the exact opposite problem the 87 acres did; it was too high. It could be used as a benefit because they could take the dirt from that to help start making the changes that would need to be made which would give them two usable sites.

She said regarding prospects, in 2002 there were 70 inquiries. An inquiry was a call from a company, a consultant, the Kansas Department of Commerce, or Kansas City Area Development Council. She said those numbers fluctuated throughout the years. She said over 35% of the time, each year the Chamber was eliminated because there was no site or no building available. She said a community issue was anything the community might have a hand in, such as lack of incentives, lack of I-70 access, or not close enough to Kansas City, which was something they could not do anything about, but was a community issue they had to deal with. The only thing left out was if the project was cancelled or if the company was for some reason delayed, they did not count those projects.

She said they had one site of 87 acres. Out of those requests for over 51 acres, which throughout the last 5 years they received more and more calls for acreages over 51 acres and they had one site, but it was not ready to go, zoned right, and had access to K-10. She said the I-70 site would provide this City with something it did not have which was acreage on I-70.

The Chamber talked with Westar, Aquila and Kaw Valley and those utility companies were all willing to work with the Chamber because they saw that development brought customers, growth and was good for the community and state.

She said 20 years ago East Hills was brought into the City for industrial uses, but nothing since then. She said the City had to compete with what was going on with growth and development in the surrounding areas. They were competing with surrounding areas that were bringing in industrial sites every year. They needed to take the first step to add industrial to take the next step to get infrastructure and what it would take to get a company on that property that would bring jobs to the community and helped the City tax base.

Kurt Von Achen spoke in support of the proposed rezoning. He said Beth Johnson illustrated a lot of the problems, but he wanted to emphasize that even if they had industrial land, it only allowed them to compete. Lawrence was not the only greatest place on the face of the earth and there were other nice communities in this competition and people very satisfied

with going to other communities. Lawrence had a crisis. The City allowed the residential development to go on and continue on and residential properties did not raise the taxes that were needed to provide the services the residents insisted upon. This was a crisis and the only way out of it was to get industrial and commercial property in town that would pay the City decent taxes. He said zoning for industrial property only got tougher. It was going to be tougher the next time than it was tonight and if they did this, it was not the end of it. The 155 acres would not give the City all that was needed and would not solve the City's crisis.

He said he was co-chair of the 2020 Land Use Task Force and when they did that work, they had no idea of the bypass or interchange on the turnpike. The interchange and bypass had changed the game. It was a different game and if Horizon 2020 had not been updated to reflect that, it was a shame. Horizon 2020 was a plan and when they were working on it, they knew it was an outline, a plan to get some place and was not cast in stone. It was something that was supposed to be flexible and a plan that could be amended. He said they could not rest on Horizon 2020. He said he had been on the East Hills Board since it started and never sold a 5 acre lot. Everyone that came to East Hills wanted a larger lot. He said he wanted to refer to another item which was the New Century Park. It had water and sewer, steam at one time, and a fire station. It was the Olathe Naval Air Station and that infrastructure was put in for the Navy for all of those years. One would not buy a piece of property in that industrial park and the best they could do was lease it for 99 years. Another principal business was the Johnson County Jail. He encouraged the City Commission to do something about the inequity and unbalanced tax base. He encouraged the City Commission to do industrial zoning.

Chuck Warner, Chamber of Commerce, spoke in support of the proposed rezoning. He said one of the things not discussed was this would be a great opportunity for a large employer because large employers tended to bring money into the community. They would be bringing jobs that would bring money into the community from outside the community. There were a number of employers like that around Lawrence and that money came in and was really

important. Jobs were what this City needed and would help in the long run. He encouraged the City Commission to support the rezoning.

Joe Farb, Douglas County resident, spoke in opposition to the proposed rezoning. He said they realized that it was a good site and probably would eventually be developed. He said he would like a little bit of protection. He knew this City needed jobs and needed to raise revenue, but giving the developer unlimited freedom to put in anything the developer wanted on this property did not sound fair and did not seem good for the community. He said two weeks ago a vote decided the Planning Commission would give the property owner 2 – 3 months to work with the City and come up with a good sector plan; something that would be beneficial to everyone. He was asking the City Commission to give the property owners a little bit of time to work with the City. There were a lot of great minds and people who had great ideas for this property that could be developed and developed tastefully with a limited amount of air, water and noise pollution. He said as Johnson was pointing out the properties that were and were not available, he was not sure how that property could be put up on the website when there was no water, infrastructure or sewer. He could not see what the rush was to approve this IG zoning. If indeed, at a later time, someone wanted to possibly come in as IG zoning and would not be that intrusive, he was sure the people would be more than willing to work with the City, but this was not the time to do it. They needed time and needed to work on the sector plan. He said it was brought to his attention that Commissioner Hack was a member of the Chamber of Commerce and was pro development. He would ask due to a conflict of interest that she not vote on this issue. He said it would appear this issue would be a conflict of interest. He respectfully asked the City Commission to delay granting this IG zoning and if the Commission did grant any zoning tonight it should be IBP.

Jane Eldredge, attorney for the applicant, said she would like to make a few comments in response to public comment. She said the only IBP they had of any size now was at 15th and Wakarusa, which was basically an office type of zoning. There was plenty of that office type of

zoning right now and had office buildings they would like to get filled. There were larger industrial districts with their limitations. The reason IG was appropriate was because it was the only zoning district that was solely limited to industrial. IL was a mix of some industrial and some commercial. There was plenty of commercial right now that could be used, but there was no industrial. She said when people complain about the applicant doing anything within the law, well people could build houses within the law, could shop within the law, and could conduct themselves in private and public within the law. She said that was all they were asking was to follow the rules and follow the law to be able to develop this property in a way that was consistent with the law, with federal and state regulations and local land development code regulations which were brand new, spent years developing and were designed to provide buffers. She said there were 10 residences within that industrial area, with large lots that were set back. She said the Planning Commission and Planning staff had considered that IG zoning was the appropriate zoning. In the Planning staff report, all the Golden factors were set out and the findings were available and asked the City Commission to adopt those findings as recommended by the Planning Commission. It was important not to confuse the zoning with the sector plan because those were two separate issues and had been separated from the beginning. The planning staff had been engaged in the sector plan which included 4,000 acres, which most of those acres were outside the City limits. This was a far reaching plan in the event there was urbanization. This was 155 acres. The Planning Commission had been clear that this was an appropriate industrial zoning considered on a separate tract. It was important the sector plan continued and included those 155 acres of industrial zoning. The reason to move forward was because when people came to Lawrence they needed to have commitments in 3 – 6 months. She said zoning took at least a year and this zoning had been worked on for almost that amount of time. No one was going to wait a year to get a zoning answer before they could start working on a site plan and before they could work out the utilities. She said they showed the City Commission during the annexation time the kind of fire suppression and on-site sewer

storage there would be, but they did not know what the water capacity was and would work with the Rural Water District No. 6, when that information was available.

She said they had not tried to present something when they did not know what they could do; that was not a problem for the City to solve and was a problem the applicant would have to solve. They believed it would be solvable when they knew what that water usage. They would urge the City Commission to move forward and approve that zoning tonight and get some new industrial on the books.

Mayor Dever asked Corliss to address the conflict of interest question.

Corliss said it was his understanding that Commissioner Hack had disclosed in a Statement of Substantial Interest, her employment with the Lawrence Chamber of Commerce and indicated in a conversation that she had nothing to do with the developer. The item of discussion was a rezoning of property and there was a list of submission on the zoning request and the individuals that own property in that area and Commissioner Hack had no financial interest in the development property. Under state law, she had done the first part which was disclosing financial and substantial interests regarding everything, including employment in the Chamber of Commerce. She had to abstain from voting on a contract if there was substantial interest, but in this case this was not a contract, but a rezoning. It was something she did not have a substantial interest in. He said next week the Commission would be discussing the City budget and they would be considering allocating some City funding for the Chamber of Commerce and she should abstain from voting on the Chamber's portion of the budget. In this case, it was not a contract, but a rezoning and something Commissioner Hack or her employer did not have any substantial interest in. He said it was his understanding that state law did not require Commissioner Hack to abstain from voting.

Mayor Dever asked the other Commissioners to disclose any ex parte communications.

Commissioner Highberger said at some point in the past he had spoken to Schneider.

Vice Mayor Chestnut said he had a meeting with the neighbors out on the adjacent subject property as well as a meeting with the applicant.

Mayor Dever said he met with both the applicant and the attorney for some of the land owners.

Commissioner Hack said she did not return Schneider's phone call and did not meet with Schneider or Eldredge.

Commissioner Amyx said he met with Steve and Duane Schwada, Schneider, Ross, and Haynes. He said he also received a number of e-mails.

Commissioner Amyx asked Corliss to describe the procedure if a positive action was taken and what happened next.

Corliss said if there were four affirmative votes to approve the recommendation of the Planning Commission, then the City Commission's direction was to direct staff to prepare the necessary rezoning ordinance. It was his understanding that there might be some discussion at the City Commission level on the conditions of the rezoning and they could discuss the legality of that issue. Staff would place it back on a regular agenda because there was a protest petition on the rezoning ordinance and would have a first reading, followed by a second reading the next week. He said staff would schedule the publication of the annexation ordinance on one day in the newspaper and ask that the annexation be published on another day to make sure there was not any mix up getting the rezoning published before the annexation ordinance. The applicant indicated their request for annexation was conditioned upon the rezoning. He said staff would work with the local newspaper to make sure the annexation and rezoning were logged.

He said he disagreed with Schneider in his legal interpretation regarding the rezoning request. It was very routine for communities to hear rezoning requests for a property that was not within the City. The City Commission could not adopt a rezoning ordinance on a property that was not within the City, but clearly together the property could be annexed and then

rezoned. He said he could not find a court case to speak to that, but there were a lot of legal issues and staff thought it was appropriate to look at rezoning outside the City with the understanding that this body could not adopt rezoning ordinance outside the City unless it pertained to property located within the City.

Commissioner Amyx asked about the unresolved issues about providing water. He asked what happened from the City's side because the City had taken a step to annex that property along with conditions placed on the annexation ordinance. He said if Rural Water District No. 6 chose not to provide water or legally did not need to, he asked where that left the City and what would happen to that piece of property under the conditions of the approval of the annexation ordinance.

Corliss said the City did not own that property and it was the property owner's responsibility to work that out. The City had a development policy that spoke to how City services were extended. He said from looking at the Utility budget and the various demands, the City did not have the funds in place to date to extend City water lines to that property. It was the property owner's responsibility to pay for the extension of that waterline. The property owner indicated they looked at that issue and staff had discussion with the property owner about compliance with the City's Fire Code and water requirements. The Rural Water District was correct in that they did not have the water pressure to provide fire suppression which was why the property owner was looking at alternative means of providing fire suppression with a water tank.

Commissioner Amyx said if IG zoning was approved on this site, site planning would be approved administratively.

McCullough said the way the code set out procedurally, at the next stages of development with the base zoning district without a planned development overlay, site planning was done administratively with appeal procedures built in as the site plans came forth.

Mayor Dever asked staff to describe conditional zoning.

Corliss said conditional zoning had been discussed for several years. Before the adoption of the most recent development code, they did not have City Code authority to condition conventional zoning, but had City Code authority to condition planned unit developments. With the new code, there was code authority for conditional zoning. He said there was a legal question of whether or not state law allowed for conditional zoning. There was a Kansas Supreme Court case with Water District 1 which was Johnson County versus Kansas City, Kansas where in that case Kansas City, Kansas placed a number of conditions on a water district so that it was located in Kansas City, Kansas and that was upheld by the Kansas Supreme Court. Kansas appellate courts had upheld conditional zoning. It was litigated somewhat in a recent land use case that went to the Kansas Court of Appeals and that property owner argued they could not condition zoning although the district court and the court of appeals did not accept that property owner's argument. It was done by this City Commission and probably almost every rezoning and Johnson County municipalities where they had a number of site restrictions in the rezoning ordinance. Staff had a strong confidence level that if the City Commission placed reasonable conditions on a rezoning ordinance that a Kansas Court was going to find that was within legal authority. Reasonable conditions have to do with the use of the land and the review of it would be within the code authority and the Kansas Court's abilities to recognize that.

Mayor Dever said Schneider had indicated some questions as to whether or not the City Commission had the legal opportunity and he did not want to ignore that statement nor take it lightly.

Corliss said he was not taking Schneider's comments lightly, but was indicating as staff looked at this issue and counseled by some of the City's municipal attorney peers, but also some of the better minds in land use law in the area and they advised that Kansas courts had allowed for conditional zoning. There were other communities that had that type of practice.

There was now explicit code authority that was built into the most recent development code to allow that. In the absence of a court saying “no” that could not be done, staff felt they could.

Vice Mayor Chestnut said he appreciated everyone’s efforts and comments. He said regarding the pictures that were shown of the area, those pictures did not reflect how much neighborhood there really was at that location. There was a lot of development that was not shown.

He said there had been a lot of discussion about timing. He said Chapter 7 of Horizon 2020 was initiated back in September 2004 and had gone through a number of iterations. The introduction of this property had been out there for at least a year. He did not get a sense that everyone was comfortable with how long things take or how short they should take. Many people think that it took way too long or was too brief. On the merits, this was probably the best piece of industrial ground in this region.

He said regarding IG or IL zoning, one thing he asked staff to do was to provide the acreage and there was a little less than 2,000 acres zoned industrial and of that amount, 62 acres were zoned IL and it was one or two pieces of ground which was not very much. IG represented 76% of all industrial zoning. IBP represented 13%, which was more office applicable and smaller pieces of ground. With that information presented, he had a lot of sensitivity to the property owners in what might be the uncertainty. It had been spoken that they wanted maximum flexibility, but also presented uncertainty for the adjacent neighbors, which was one reason why this was going to be a stipulation upon supporting the rezoning request and would stipulate that this would not go through administrative review. He thought it was appropriate given the fact that there was a valid protest petition and did not know what needed to be done or how that might be structured, but thought it was appropriate to go through the steps. One of the biggest reasons was when Eldredge asked staff about 40 different employers and their zoning categories of IG or IL, and only received answers back on about 10 or 12 of those employers. That told him there was some lack of clarity of what IL and IG really meant.

The fact was that it was new code and from the standpoint that was zoned IG or IL was converted from the old code and was somewhat uncharted water. Given that fact of what had been expressed by the neighbors, he agreed that there was a lot of uncertainty and he wanted the zoning that gave them the best opportunity for marketability, but wanted to exercise the greatest control in taking this through the process. The only way to do that was to approve this with the contingency that the plat and preliminary development plan came to the City Commission as a regular agenda item rather than be administratively reviewed. This was the public forum that people would come and have comment on. He thought this issue would end up at the City Commission level anyway with an appeal process and would rather give some comfort level that there was going to be plenty of public comment about this issue.

There was also a lot of discussion about why the City should act now. The community was moving toward a place where the next year or year after that 70% of the assessed value of Douglas County would be supported by residential paying 11.25% of assessed value. The Commission was disproportionately asking the residential home owners of the City and County to support the services. He thought it was a need that was immediate and felt like they could include a whole lot of process and was very interested in learning about what the Planning Commission approved and hopefully the group that had been formed would also engage the applicant as well as the Chamber of Commerce about including them in the process because that was most likely the land that was going to be developed to help and encourage them to do this. He was discouraged by the fact that at least at one point there was an attempt to meet the neighbors, but that did not happen. The way this issue would work was to get an outcome of the majority would be in support of.

There was a comment about the great things in the community and agreed with leveraging and building on the City's strengths. There was initiative and discussion about the incubator and leveraging the technology of the University. The Commission wanted to create a spectrum of jobs that met the needs of everyone in the community. That was not always going

to be PhD level jobs. It might be, but could not say it would be and was one of the reasons he believed flexibility was needed.

Another thing that needed to be clarified was Schneider spoke about federal and state regulation. Local regulation was what was going to drive this situation. The City's development code had significant industrial guidelines and with annexation and moving forward in the City, there was a lot more control and ability with the industrial guidelines to do this inside the City than the County. There was going to be a lot of process as far as set backs and improvements. There was no proposal, prospect or an applicant, but he felt it was critical to start now. Unfortunately, some of the comments that had been made did not preclude anyone from participating in the process and if Commission granted a zoning at this point, that it would stop a lot of input. There was a lot of comment that if there was a zoning, it would halt everything and he was perplexed with that idea. Public input was something the City Commission always encouraged and there was plenty of opportunity with that whole sector plan to have a great deal of input. He hoped the people who wanted to participate would also look at the subject property and say it was a great opportunity to develop the type of outcome this City wanted and talking about in broader terms.

He said he was in support, but there needed to be discussion that it was only predicated upon the fact that it needed to go through City Commission approval at those stages versus administrative, based on the fact staff had a hard time distinguishing between IL and IG. There was enough uncertainty with the adjacent neighbors and the neighbors would be involved in the process, but could be more involved if it was at the City Commission level.

Commissioner Hack said the potential industrial use for this area had been going on for about 4 ½ years. She said she did not think this issue had been addressed in haste because there been a lot of thought and input. She said her concern was that when a decision was made that did not go along with a particular viewpoint; the assumption was that viewpoint had not been listened to or heard which was not the case.

She said she understood the angst of the neighbors and why she supported the Vice Mayor's suggestion of bringing the issue back to the City Commission and there were ways to do that in order for all parties to come out ahead. She said a rezoning of this particular area did not preclude any type of conversation on a sector plan, but a conversation on a sector plan had to include all the stakeholders. There was a multitude of players at the table and could not just be one group. She said regarding the IG zoning district, the thing that appealed to her was that it was limited solely to industrial and if that was appropriate for that area and designated as such, that it was flexible in terms of zoning, but it was also restrictive. She could pretty much guarantee that there would be a large crowd present if that area was going to be a commercial venture and would hear the same sort of concerns when expanding retail or commercial. It was not what that area was designed for and believed IG zoning was best. It all came down to the issue of jobs. The City continued to rely too much on the residential. If this was zoned industrial and all a sudden a wonderful employer came to this community providing a number of jobs that did not mean the property taxes on residences would go down, but meant it might not go up to that it needed to, to provide the level of services the community wanted and deserved. It was the issue of jobs and not about personal gain, but about jobs for the community. She appreciated the comments and all the work staff had done on this issue.

Commissioner Highberger said he felt the need to point out that the only reason this issue was before the City Commission was because there was not a supermajority on the County Commission to approve industrial zoning. He said he agreed with Schneider in that the project was defining the planning rather than the planning defining the project. He said realized the City's planning documents were not promises. He said this area was outside the urban growth area, but was adjacent. He said it was outside the area the Commission signaled to their constituents this City intended to grow by the year 2025.

He said he understood the development policy and also understood their practice. He was fairly certain this piece of property would end up costing the taxpayers of the City a

substantial amount of money in the future. He said his concern was the City seemed to be willing to invest large amounts of money in greenfield developments, but backing away from investment on the brownfield side that was on the edge of this community. He said he understood the need for industrial space for future growth, but the focus on the City's efforts and spending should be on the Farmland site. The City needed to work aggressively on that site, even if it required investment.

He said if this site was successful, the biggest beneficiary to this project would be the Perry-Lecompton School District. If this site was actually effective in drawing jobs and brought people to Lawrence and those children attended the Lawrence School District, this would negatively impact the Lawrence School District because they were not going to get the local option dollars.

He said he did not support moving ahead with the industrial zoning at this time, but at the very least the Commission should defer this item until the completion of the sector plan. The City ordinances state there should be a sector plan before moving forward with zoning. He said he would strongly recommend that even if the ultimate outcome was industrial zoning, they should wait for the process to take care of itself and make sure the sector plan was completed.

Commissioner Amyx said he had the opportunity to visit with several people throughout this process and some of the things that have happened have come from the comments they heard from the public hearings. He said Schneider brought up a point of the Commission's responsibility and actions on the items they were considering. He said regarding the staff report and findings of fact that were presented that dealt with the Golden case and the responsibilities the Commission had to consider, he went through those responsibilities several times and realized the recommendation was still the same, which was IG zoning. He wanted the zoning to be conditioned so the City was in control of the outcome of that property. He said there would always be adjoining property owners that were going to disagree with a use in any of those districts.

He said the conflict dealing with water and sewer was not the City's responsibility in this particular case because the request was going to come from the Rural Water District to supply water to the site and water for fire suppression. He said the City Commission needed some time to consider this issue because of issues such as the ultimate cost to the community. If safeguards were placed in the zoning application or consideration of the annexation, those safeguards would be in place, but the City did not have the funds or the ability to extend utilities to that site at this time. The issue of the input on the outcome of the land, dealt with the issues of site planning and how that process was going to happen. The Commission had worked safeguards into the development code to make sure property owners were protected. Those safeguards were to the benefit the developer as well as property owners. He said he could support the IG zoning, but as a safeguard, everything regarding this particular property needed to come back to the City Commission. He said he would like further input on the water issue. He did not want to get in a situation of running lines prematurely because it would not be done. He said he would like language included that would take care of that matter.

Corliss said staff would look to see about repeating the language that was in the annexation ordinance. He said he would make it clear the Utility Department did not have the resources to extend water and sanitary sewer lines to that location.

Commissioner Amyx said he supported jobs for this community, but with the limited resources of this City, the City was not in the position to extend utilities at public cost to this property until the natural progression happened of development in that area.

Vice Mayor Chestnut said he agreed and when they had discussed that annexation, staff and the applicant negotiated the language to address that specific issue that talked about the City of Lawrence reasonably determined that water and sanitary sewer was not required to serve uses on the property.

Mayor Dever said he wanted to touch on the neighbors and neighborhood. It was disappointing the Commission had to make those types of decisions that influenced people's

homes, lives and futures. He knew it was disappointing to hear and know there might be an opportunity that there was going to be a plant in your backyard. This was a serious area because he was familiar with that area and was an important part of the topography and geography of Douglas County and the history of Douglas County. He said when the Kansas Turnpike Authority opted to put in the western exchange at that location, that should have been the first indication to the land owners in that area that the future of that land was going to be in question, but he was not present at the time. When he came back, the first thing he thought was that there was going to be development in that area. The geography of those interchanges dictated that there would be development at that location and ultimately it occurred. Some of the biggest employers were within a quarter mile of those sections and if looking to the history in the past, they saw that was going to happen. The Commission was not determining the future of this land and the developer was not telling the Commission what would happen at that property. The unique location of the conflict of two roadways at a major intersection, I-70 and K-10, there would be a lot of traffic. Unfortunately that was when this decision was made. What they were faced with right now was whether or not the site conditions on that piece of land were adequate and whether or not they would ruin the rural character of the neighborhood and whether or not the Commission could control what went in at that location for the neighbors.

He said the City was in a competition to prove that Douglas County and Lawrence, Kansas was a place they wanted to grow. He said with fuel prices, they needed to have jobs that were local and this should create a sense of urgency for everyone. The City had a competitive advantage beyond the fact the City had great people and good economy. There were also those two roadways which gave a competitive advantage. He said they did not have anything like this ready to go and would agree and concur with Commissioner Highberger, the City also needed Farmland or another site on K-10 that was ready to go because the City needed a portfolio of products to offer people for development. He said they needed the land for the companies that wanted to stay in this community and land for companies that wanted to

relocate here. He said one issue when talking about the future using the worst case scenario was smoke stacks, noxious fumes and odors which could be a possibility. He said they needed to look and see if this was a person coming to the community with no track record and never did anything for the community and did not care about the community and did not know. He thought the opposite was true here because this was an applicant who owned the property and had a history of providing ample jobs for the community over the last 30 years. He questioned anyone who said otherwise because there were several employers who would not be in this community if it was not for their determination to build property and put people in places where they could work. One of the biggest industrial parks at one time with neighbors abutting and adjacent and looking right into the backyard was a park that was developed by this exact same developer. They could look to that and see there were coexisting land uses that were with neighbors who were immediately adjacent 50 feet with some of the buildings in some cases. He said this was a developer who had a track record and history and wanted to point that out. It was possible something really bad could go in at that location if zoned IG, but it was also possible that something really great could go in at that location. If they did not take that chance, they were going to sit around and talk about it and never have a future.

The land the City had available was either not ready, not for sale or did not have proper access and the City needed to plan for the next 20 years. The people that made those decisions on the East Hills Business Park 20 years ago and the City had not done anything since. It was time that discussion took place.

He said one thing that bothered him was the sector plan and the discussions of having a sector plan in place. There was no sense of urgency and did not have anyone ready to go in at that location and because he knew that and did not feel like it was an impending change to the land and it was only three months away, it might take them that long to discuss what would go at that location. He did not know the harm in moving forward with zoning, which he believed was most appropriate and would challenge anyone to look at the intersection of I-70 and K-10

and look north and tell him that was not an appropriate place for industrial land. He said 78% of the industrial zoned land was zoned IG in the community. He asked why it was so horrible about continuing a trend in the community of close to 80% of industrial land being that land use. He did not understand the fear factor. He understands that being in a neighborhood was hard but it was difficult for him to see the horrible idea of it being zoned IG.

The infrastructure that would be needed by the large employer would need to be paid by the large employer and the City was not committing to anything. He said and staff would put language in place to protect the City. Ultimately, the build out of that area would help the City's tax base but until they take that step forward, the City was not in a position of having change in this community.

Commissioner Amyx asked Corliss if the issue of the utilities would remain in the annexation ordinance and if it was adequate to cover the City Commission in not extending utilities.

Corliss said the annexation ordinance contained the language that made it clear. He said if the development needed City services, it could not be developed without City water or sanitary sewer service and staff would not allow a building permit to be issued until those things had been worked out.

Moved by Hack, seconded by Chestnut, to approve the rezoning (Z-04-09-08) request of approximately 155 acres from A (Agricultural) to IG (General Industrial), property located on the Northwest corner of North 1800 Road and East 900 Road, subject to the following conditions, and authorized staff to draft an ordinance for placement on a future agenda:

1. The following uses shall be prohibited:
 - Truck Stop
 - Explosive Storage
 - Salvage Yard and
 - Slaughter house
2. Building permits may be issued for the property described in Section Two if the City of Lawrence reasonably determines that either City water or City sanitary sewer service is

not required to serve the use or uses on the property, the uses being those that can be served by rural water or on-site sanitary sewer management systems (including, but not limited to sewage storage tanks).

3. Any Site Plan for the property described in Section Two shall be approved by the Governing Body applying the criteria required in the Development Code.

Aye: Amyx, Chestnut, Dever and Hack. Nay: Highberger. Motion carried. (15)

The City Commission recessed at 10:15 for a ten minute break.

Consider authorizing the publication of the Notice of Special Question Election for City sales tax election.

David Corliss, City Manager, introduced the item. He said the City Commission established Tuesday, August 12th as the public hearing date for the adoption of the 2009 City Budget and as a result, the City Commission would establish the maximum expenditures levels and mill levy for the different City funds.

He said he was recommending the voters in November be asked to vote on the sales tax referendum to support the City's public transit system and provide additional funds for streets, stormwater, other structural work and fire apparatus replacement. It was important to recognize that if voters approved the referenda in November that would be for those particular items, but that did not mean the City Commission could not spend more money on fire apparatus or streets. The same was also true for public transit, although in 2009, public transit was the only revenue source.

He said there were questions about transition. If the voters approved the sales tax referenda in November, the City Commission would then have the ordinances that actually levied those sales taxes. Staff would then certify those ordinances to the Kansas Department of Revenue and staff believed that could be done in time for the sales tax to take effect in April 2009 which meant the City would not be receiving those revenues until June 2009. He said there would be a transitional period where the City would need to fund, not so much the

infrastructure items as the transit items. The City had the ability to internally fund a half year of the City's obligation and did not think that amount would be substantial.

He said staff did not think that would be a substantial cut. If the Commission proceeded with the resolutions, staff had a draft letter of intent with the University of Kansas. Staff would talk to the university about amending that letter to better reflect the City's funding levels with the University of Kansas and make it clearer in the draft that the merger would be dependent upon the success of obtaining these sales tax monies.

He said there had also been the question of if the sales tax referendum did not pass in November. Obviously, staff would continue to maintain the public streets because that was a high priority of this Commission and other Commissions. The citizen survey indicated it was an area of major concern. They would have reduced ability to maintain streets if they did not have the sales tax and would continue to be challenged to maintain the City's streets.

They would have an important allocation of resource issues regarding Oregon Trail. He said it was a great project and the City was proceeding with acquiring property now to protect the City's sanitary sewer line in that corridor. If the City did not have enough resources for its streets, it did not make sense to go ahead and proceed with the Burroughs Creek Trail. He said they were fortunate to get a Department of Transportation grant to help fund that. They were going to be substantially behind their streets needs.

The issue of fire apparatus was another important issue when they would have to choose between street maintenance and fire apparatus in the debt budget to fund those things. A number of peer communities in the region had additional sales tax for infrastructure.

Regarding transit, there would be a substantial challenge. The City did not have a continuing funding source for transit. This community continued to have transit issues for a number of years. The City would have a funding source that would continue if the sales tax passed. They would have funds set aside to buy buses that they could use as one time money in 2009. Staff had set aside time in August to meet with a number of private transit providers to

talk about contingencies and did not want to make it sound like Plan B, if the sales tax for transit passed, it would not be above the current service level. If the sales tax passed, they would be providing \$1 million in new funding beyond what this year's effort was for transit. There was a substantial step up in investment for transit.

Commissioner Amyx said the big question was what happened if the sales tax for transit passed. He wanted to see both of those issues pass, but wanted to see those issues pass as one issue. He said the City was asking the public to vote for a .5 increase in sales tax and these were the items the sales tax would be paying for such as streets, stormwater, fire equipment, sidewalks and a transportation system. The paratransit part of this issue was a very important part of the passage of a sales tax. He said he would suggest putting out a strong message in a positive way to sell to the public.

Mayor Dever said based on Commissioner Amyx's comments, he had been doing some prodding and poking into what other municipalities had done recently in the last 12 – 18 months. He said he tried to find cities that combined their taxes versus separating those taxes. The majority of the cities he found had separate line item issues. One city that caught his attention was Flagstaff, Arizona which was similar in demographics. It was a little bit larger with the county being at 120,000 people, but close to Lawrence. Flagstaff passed five separate measures for transit. They had one recertification of the existing sales tax for 10 more years and added four more items so it was five separate individual votes in May of this year. He said 60 – 78% of the population approved 60% with the five items. He said the year before, the ballot measure failed because they did not explain the ballot well enough which was something this City needed to learn. Most of the places identified with a specific issue and more complicated specific items and thought it was possible to be successful. He did not think it was horrible to try to separate the two because it empowered the people who wanted public transportation to vote and voice their opinion. It was not such a bad thing as people had made it out to be.

Commissioner Amyx said he appreciated the Mayor's work, but thought they were trying to compare those other communities to Lawrence, Kansas. He said he wanted everyone on board for the same vote. He said his personal opinion was that he thought it was important for the community to understand the question and what would be paid. He said Corliss recommended an audit committee to make sure the expenditures were exactly laid out the way the question was laid out to the public. He said he would work hard to make sure the transit issue passed.

Commissioner Hack said she wanted to clarify that on August 12th a public hearing would take place for the 2009 budget and mill levy would be set. She said she received several e-mails indicating people were willing to pay additional property tax, but that horse had left the barn because the upper limits had already been set. She said she wanted to make sure everyone had that information.

Corliss said that was correct.

Commissioner Highberger said he agreed with Commissioner Amyx. He would like to see a situation where they could put something in front of the public and pull together to get both of those issues passed. He was afraid if the issues were separated, it would turn into a divisive issue and decrease the possibility of both passing. He would agree with Commissioner Amyx that both components needed to receive approval.

Mayor Dever called for public comment.

Carrie Lindsey, League of Women Voters, said the League of Women Voters supported the "T" as a permanent part of infrastructure. It was time they looked at transit as a basic City service. She said given the sales tax passes for transit, it should at least be fully funded. She said having one initiative was better than having two in terms of getting it out to the public in a way that was not divisive and would not put people against each other.

Tom Worker Braddock said he was the former Chair on the KU on Wheels Board. He said he had no ties with KU currently. He was part of the procurement committee on the KU

side that looked over the two vendors and dug into the pricing to see what it would take to fund transit for the next five years. The current 0.2% sales tax that was being discussed would not be enough to fund the future operations and capital replacement for the next five years. He said some of the assumptions discussed were that by merging the two systems of KU and the T, they would not be able to achieve economies of scale. Both systems worked off of if the KU system and the T system were merged. In a sense, it was already assumed there would be economies of efficiency. With just the .2% sales tax, it would not be enough to fully fund the system as it was now. He asked where else would that budget shortfall come from. The T would have to cut service levels. He asked what would happen if this passed and they needed to replace the busses and the .2% sales tax did not give them enough money to replace those busses.

Mayor Dever asked if Braddock was assuming the current level of service with the same amount of money to be spent for the current system. He said when Braddock drafted that proposal the proposal was based on a certain level of service. He said he presumed that they would not keep the same service and it would not necessarily have gigantic economies of scale, nor would they realize those economies, but they would re-tool the system and route it based on ridership and the best use of their resources. He said they needed to consider the fact there were other options for funding just like the cities he had mentioned where those cities received the majority or consent of the population and further created referendums which would allow them to attain hybrid vehicles, increase the scope of the system, and encouraged the development and build out of the system. He said a person had to start somewhere and could not take one giant bite of the apple and sometimes small bites were needed.

Dana McCoy, spoke in support of raising the portion of the proposed sales tax from 0.2 to 0.25. She asked if raising it .05 more would make much of a difference to the City Commission and if not then why not.

Vice Mayor Chestnut said he took spending tax payers dollars very seriously and .05% was around \$600,000. He said there were a lot of things he would address later relative to the assumptions that were made in the .2% scenario, which he thought were somewhat flawed to produce that shortfall. He also thought that if they continued to keep the infrastructure number at .3% and they increase it to .25, they were starting to creep up to the top end of sales tax levy across their peer communities. There was a lot of sensitivity from going to 7.3% to 7.8%, which was what they proposed, to 7.85%. Every increment they take up, they suffered serious consideration from retailers around the community. He thought their base question was important which he would address in later comments that were relative to the assumption of point 2. He asked if it was a reality as far as making this work and he thought it was, but there were other moving parts. He took seriously raising any taxes and would try to hold the line on what the request was.

McCoy said she was certain that it was based on ridership and knew that if any changes were to be made at all to lessen the area covered, which they would have to do if underfunded, they would be choosing where people could and could not go. She asked how that would be addressed and plans they had for that if that was the case. She was a citizen of Lawrence and loved the City. She worked for the T and would lose her job and would definitely have to move somewhere else. She wanted to believe the City Commission wanted what was best for the whole of the City. If in any way they could give a little bit more of a fighting chance, it would make her stay here. She hoped that they could keep the paratransit at its full working level no matter what happened. There was a lot of need for that service.

Njeri Shomari, spoke in support of keeping the paratransit aspect of the T. She saw it as a public health need in this community, not just personal for herself but because she was on it every day she saw more than they would ever see just as she would never see what the City Commission worked on behind the scenes. She wanted to know what would be the public health benefit to the community if people could not get their medical needs met. She did not

know how the community would benefit if the health of the community would deteriorate if there was not affordable, successful, and available transportation. She did not know how the community would benefit when the health costs increase because treatments and therapies were delayed or forgone because of this. She was speaking to the City Commission on community benefit and public health issues, not only for her own personal need because she realized this was beyond her. It affected all of them. She respectfully submitted that she did not see any community benefit in failing to adequately fund the T bus which provided the paratransit service at the highest level possible. She thanked the City Commission for giving her this opportunity to speak.

Phil Minkin, urged the Commission to raise the transit system portion of the sales tax initiative to 0.25 and combine the two sales tax questions. At just .2%, the T would not be adequately funded for the future and there would not be funds available to replace the old busses. With rising gas prices, mortgage and bank crisis, and an indefinite economic and job forecast, people would be cutting back in spending. He read in the paper that Vice Mayor Chestnut and the City Manager think that the T administrator's figures were too conservative in predicting the future lack of funding. The City budget only predicted .5 growth in sales tax collection and collections had been dropping because of the weak economy. The 2% was only enough to allow the City Commission to feel like they had done something, but not enough to allow the T to survive. He said it was much like seeing a man drowning 30 feet from shore and throwing a 20 foot rope and saying you would meet him halfway. Those without cars or not able to drive would miss doctors appointments and other appointments. Those with disabilities would lose a central part of their independence. If gas prices continued to rise, even those now who did not use the T would need that option. As far as combining the two issues, it was really about fairness. When they start providing cafeteria style options on spending and would put everything on the ballot that way, they would have options on funding the Chamber, Eagle Bend, tax abatements, and other expenditures that were important but not popular. Both these

taxes were important to the community and should be one comprehensive approach to transportation, not a popularity contest.

Kirk McClure, speaking on behalf of Grassroots Action, suggested raising the transit system portion of the sales tax initiative to 0.25 and combine the two sales tax questions. He said They all know the sales tax rate had been adjusted for the T from .15 and was currently at .2. Staff study showed that would not be adequate and .25 or possibly higher would be necessary. There were a lot of moving parts in this and one of the moving parts that worried him the most was the sensitivity to the changes in the base of the sales tax that had been fluctuating more over time. They were looking now for over 10 years of funding and were trying to find a stable source of funding for public transportation over 10 years. If in fact they left it at a number of .2, on a highly fluctuating base, they made the likelihood of failure much higher. It was not a good thing to do to put the T in a situation where it was vulnerable. If the adequate services have inadequate funding, they would face a substantial challenge, meaning that there was not any money. On the special services, they all knew they were necessary. They did not have a fall back. They had a few existing social services in town, but they heard at multiple meetings that Independence, Inc. or Senior Services could not pick that up. They were having a substantial challenge, which was to say not to set it up to fail but set it at a level that would make these things feasible. .25 seemed to be the minimum of that.

McClure said the second issue was to determine to have two votes or one. What they knew was if they joined them together, they would create a sturdier coalition of people. If they merged those supporters together, they had a higher chance of passage. They would also have a situation that was a little unfair. The roads have a fall back. If Chuck Soules did not get the extra money to build the roads, he still had a budget. If this did not pass, the busses did not have a fall back. They should put the busses in a situation where they were less vulnerable and argue whether they would or would not include infrastructure that would go into the sales tax. They needed fairness here and provided a lot of the roads for those people who had cars. They

were not providing a whole lot of services for people who did not have cars. They were looking at a time of increasing demand for those types of services. He said that was part of what was causing the fluctuation of the sales tax base. They were looking at the \$4.00 gallon of gas now and could be facing an \$8.00 gallon in the time frame of this sales tax. He asked if they would be prepared for that if they were looking at the tax rate. He said Grassroots Action was proposing they raise the rates of the T and recommend they would have a great chance of passage if they created a strong coalition to put the two of them together in a single vote.

Sam Schlageck, Lawrence, said he was a driver for the T and drove the #8 route which ran through campus down to 31st and Iowa. He wanted to touch on the fact they were dealing with very poor equipment right now, especially on the fixed route side. He said not a day went by where one of the big fixed route busses broke down and was sent home to the shop. Many times busses were left on route with leaks. It was not uncommon to see a nice puddle of antifreeze at the 31st and Iowa cutout. The .2% sales tax did not include new equipment replacement and were in need of new equipment. He said a couple of weeks ago his bus broke down right as he was about to cross Iowa Street and were a large population of foreign students riding his bus. There were about 15 – 20 people on his bus, many students, and it was embarrassing and looked bad to the City when they had people who came here to go to school and their public transportation system did not work. When their bus broke down and they had people from places with great public transportation, it looked embarrassing to their culture and society that they could not fund a bus system.

Dennis Constance, Grassroots Action, suggested raising the transit system portion of the sales tax initiative to 0.25 and combining the two sales tax questions. As a group, they debated a lot on how to respond to the situation because they were not crazy about sales taxes. That was the hand they had been dealt and having been dealt that, they believed that it was important to support the T because it was an essential service to the community. He said the T had won two federal awards honoring transit systems with the fastest growing local ridership.

The T's annual number of passengers passed 400,000 a year, three years faster than in Johnson County. 55.5% of the T's annual funds, which was about \$3.3 million in 2007, came from the state and federal government. Failing to fund the T would cause Lawrence to forfeit nearly \$2 million in annual matching funds. Public transit in Lawrence used just 1.1% of the City's total budget. The City's Parks and Recreation budget exceeded the T's budget by nearly 6:1. The T's T Lift paratransit system for the disabled provided 57,497 one way rides in 2007. People who needed dialysis to survive took over 101 one way rides to get treatment. The T's contract with MV Transportation employed 63 people, making MV the City's 23rd largest employer. 70% of the T's contract dollars paid for wages, benefits and other personnel costs. 12% of the T's passengers were over 55 and one of every 25 passengers was over 65. Senior citizens were among the fastest growing segments in the Lawrence population. Fares provided 8.6% of the T's total budget which was similar to other cities proportion. The long discussed merger of the T and KU's bus system would take place only if the T remained viable. The City's proposed .2% sales tax for the T would only pay for operating costs, not for vehicle replacements. He said having expressed some reasons for support of the T, he wanted to follow up with a question. He asked how Lawrence would be better off without the T. He asked that because there was a real danger if they found themselves in that position. Either very soon or simply soon they would find themselves in that position. If the sales tax crafted tonight failed in November, it would be the former. If it passed but was inadequate, it would be the latter. Either way, the consequences were profound. Over 400,000 trips a year would not occur or putter out. He had heard the City Commission say that the T was important. He thought their answer would be that it would not be better off without the T. If that was the case, they needed to take realistic action tonight to keep it running. They were going to ask the voters to do their part and asked the City Commission to do their part. He asked the City Commission to give them a choice that would work and acknowledge that roads, public hiking and biking trails, water pumps, busses, fire trucks were all infrastructure and put it as one ballot question. It would build

a stronger coalition. Also, they needed to commit at least .25% to keep the T running and healthy enough to respond to the increase demand and hard times were most likely going to generate. Giving the ups and downs of people's spending habits, .3% would be even better in case there was a sag in revenue. He asked the City Commission to help them capitalize the T.

Kathleen Wilkinson, Lawrence, spoke in support of the transit system. She said she was an employee of KU and a non traditional student of KU. She was also a survivor of 15 years of domestic violence and a single mother of two incredible young adults who had been sitting here since 6:30 tonight. In 1994, her family along with approximately 50 other families left their homes for a phenomenal program that was being offered for children with Autism. She left from Colorado Springs and it was important and you do what you need to do for your children. Anthony, through the phenomenal program through the City of Lawrence had become a nearly 21 year old adult. He worked 2 part time jobs; one of his jobs was a volunteer at Lawrence Memorial Hospital. He also worked for pay at the Lawrence Public Schools in the Diagnostic Center where they do scanning and office work. He just certified himself in the Word program through Microsoft. Her point was that it was because of the system in Lawrence and the way the City ran. She knew if her house caught on fire she could call the Fire Department and they would take care of it. She knew if her house got robbed she could call the Police Department and they would come and help her. She had always hoped that if she needed a ride to work, she could depend on the fact that there was a bus right there. Her son Anthony relied five days a week on the City bus and because the fact that he was high functioning and a two year program for high functioning young adults out of high school, called Community Transition, part of their curriculum was to teach them the bus routes in Lawrence so they could become independent and successful in their life. At 21, her son was able to read a bus route map, figure out from what step to what step he went to his job and knew what route to take home. She lived in a place that was adjacent to a bus route for that very reason. She urged the City Commission to take whatever steps that were needed to make sure they did not lose this option. It was

important for the general community and those with special needs because it would allow them to continue to be successful and productive in their life as they get older.

Bob Mikesic, Assistant Director of Independence, Inc., spoke in support of the transit system. He said they supported combining the measures into one because it increased the chances of meeting all the needs in the community. He also wanted to briefly explain their transportation system because it would be inadequate to serve as a safety or back up plan if the T and T Lift did not continue to operate at the current level or better. They had four vehicles and one that served as a back up when maintenance needed to be done with one of the four. There were two served people throughout Douglas County because the primary funding source for all transportation came from Douglas County. They were serving the general public, not just people with disabilities. Many people in those rides were from Baldwin City and Eudora who came to Lawrence to work, shop or go to medical appointments. One gave people rides to medical appointments in Topeka and Kansas City in the greater area and all the facilities there. The one bus that served people in Lawrence did not duplicate what the T lift provided, but provided transportation to people who needed a higher level of assistance. The T Lift provided a service that was what was required under the Americans with Disabilities Act, which meant they could go up to the door threshold but could not go inside. Their drivers would carry groceries in and assist people in what they need. With their system, customers had to call a week in advance, which was with the current system providing most of the transportation. There was no way they could come close to providing a safety net for people if the existing system was diminished or went away.

John Hoopes, Lawrence, said he would like to speak for a variety of people, including those not present. The people who arrived by T had to leave at 8 because the T does not run past that hour. He was sure there would have been many more had it been earlier in the evening. He thought the most compelling argument for the T was compassion. They were a compassionate community and were judged that way from the outside. They had heard a

number of arguments as to how the T was a compassionate system, but it was also important to think of the T as part of Lawrence as a whole and the number of different things that had been discussed. One of the things the T did was make the community a stronger community to present to potential investors, businesses coming in from outside, and individuals looking for lower salaried employees and higher levels of mobility and a community that was well integrated. It was important to combine infrastructure with transportation. The two must be considered together, speaking from the perspective of someone who had lived west of Kasold for the past 20 years. He said it was important to remember that the T served the west side of town in very significant ways and some of the most important development that was happening now was at 6th and Wakarusa. The T was not being marketed as effectively as it could be. One of the things he thought the sales tax could accomplish, if marketed in the right way, was to present Lawrence as a compassionate community and point out that buying local supported the T, when the sales tax was combined with that. He thought the .25 was an appropriate level, and perhaps even higher. It was interesting when people talked about measuring the T's service by ridership. There were a lot of sidewalks west of Kasold but would be silly to try to judge the utility of sidewalks by walkership. Having the sidewalks was really important and made for a community that was seen from the inside and outside as being a whole system; one that worked well.

He said he would also like to speak as a taxpayer and a parent. He had a child that would be entering high school, another that would be moving up to junior high, and thought the T served another constituency they hardly heard from at all, which were those kids who were not yet car owners or drivers, but old enough to be able to avail themselves of the Lawrence Arts Center, the museums and shopping around town. If they market the T correctly, they could free up parents. He said he had driven many times from the west side to downtown and back again, taking his children various places when they could get there by the T. He said to put things in perspective, when the T was conceived and implemented, gas prices were less than

\$2.00 a gallon. SUVs were selling like hotcakes and hybrids were still on the drawing table. The T was begun as part of a long term vision and that vision still had a long ways to be realized. The T would help with developers in recruiting the labor they need and certifying to bind the community together in an integrated fashion. He said the T promoted community because people who ride the T talk to each other. It created a venue that bound the community together and promoted activism that helped in the long run. It was one that would help promote local businesses and the two points that were most important were to combine infrastructure with transport and keep those as a single issue and to fund the T at the maximum level possible because ridership was just as important as walkership.

Vashti Winterburg, Lawrence, spoke in support of raising the transit. She said she favored making the sales tax initiative .25% and making it a combined issue on the ballot. Part of the reason for feeling they needed more funding than what was being allocated this evening was that under the present plan, because the sales tax would not kick in until June, they would be funding the bus system for 6 months. The plan was when they got the sales tax money; they would make the bus system repay what they invested for 6 months. There was not enough money to begin with and were starting behind 6 months. She said they should make this a system that was worth having. Two weeks ago she was struck by the fact that they were honoring the disabled and here they were with the bus system that disabled people depended upon and needed. She said tonight they were honoring Japan and they had great bus systems. They voted seven years ago to have a bus system and here they were dinking around. They could finance a new bus system and should do that.

Mary Rosenthal, Lawrence, said she seconded every opinion she just heard in this discussion and believed they had just about said it all. She supported very strongly to raising the sales tax initiative to .25% to support the bus system and to put it all in one vote.

Hilda Enoch, Lawrence, said they had fought this fight and won the fight, which was for all the people in Lawrence to be part of the community and have the same opportunities that

some of them take for granted. Lawrence was a diverse community and made them very proud to be part of it. She said if they could have seen the crowd of people present before and what they wanted to tell the City Commission. She said it was important that they not go backwards, especially in this time of energy crisis and have committed to inviting retirees to come back to the community and have come back sold on the idea they had public transportation. She asked the City Commission not to take this away from the community that fought long and hard for it.

Gwen Klingenberg, Lawrence, said they had already this discussion. When they supported T2030, what they heard was longer service hours and decreased times between busses were needed. The goals and objectives of T2030 were those that were developed for Horizon 2020. She said the City Commission promised to develop a long term funding strategy for capital improvements of the money that was from the federal government for the busses that was only going to replace about 12 and had over 30 busses. All the busses were bought at the same time which meant all the busses had to be replaced at the same time. When they were talking about what they had planned and some considerations and cuts they would have to do, they needed to tell the public what they were before the City Commission voted and needed to know what the City Commission had planned before they voted. They knew the .2% was not enough and needed the .25%. The issues needed to be combined because it was a community together and needed to take care of everything from streets to busses.

Saunny Scott, Lawrence, said she came to the City Commission meeting on the T lift with two other people who both needed to leave. She was aware of how many people the late hour had interfered with. She had two children who used the bus system regularly. She had a daughter that used the T lift and a son that did not drive. He got to work on the T and had to find a ride home because he worked past 8. One of the things in the proposal for 2020 was that the busses needed to run later. They should not look at just keeping it alive, but start to expand it. It was one of the things more people had requested; later hours so people could get back and forth to work, go to dinner, go to a play, go to a movie, or even come to the City

Commission meeting and hoped to get home. She thought it was important to look at it as not just keeping the T, but expanding the T so it met community needs.

Erica Sheer, Lawrence, echoed what everyone else had said. The most important thing here today was the discussion about combining the two. Separating them out sent a clear message that it was not an essential service when it clearly was.

Commissioner Highberger said he basically agreed with all of the points raised. He said he had serious concerns about the adequacy of .2% to fund the T over the long term. He said the City's Public Transit Administrator had indicated his concern about the adequacy of that funding level. Even if it was sufficient to fund the current level of service, it made no provision for capital improvement, bus replacement, maintenance facility or transfer facility. He said if they moved ahead with the .2%, they were dooming the system to failure or mediocrity. No one knew what gas prices were going to be next year or 10 years from now. This might be the City's last opportunity to take the system to the next level so it could be something that people ride by choice, not just a social service. Energy was not going to get less expensive and if the City adopted the Smart Code, transit was going to be a viable option. He said the Commission should take the opportunity to raise the amount for transit to 0.3% which would give flexibility for the future because no one knew what would happen in the future. He said he would strongly hope that if they could not raise the percentage for the T to .3%, then at least .25%

Vice Mayor Chestnut said he thought it was important to recognize that he did not think there was one Commissioner present or in the past that did not want to have a public transit system. One of the things he tried to point out was that it was the appropriate funding mechanism because it allowed a long term source. He thought it was meeting the need of T2030 in that it was providing a 10 year funding source that was steady and provided a level of funding that would not be adjusted by Commissions, which was what happened in property tax over the last five years.

He said to put things into perspective, the property tax levied this year was close to \$1 million and the sales tax in a four year collection was about \$2.6 million. They were talking about a 250% increase in the funding by transit which was pretty significant. The assumptions that were made, one thing he found interesting about the analysis was any level, .15, .2, .25, .3, there was never an increase of more than 5% in the fare and bus pass revenue which assumed they would have the same level of ridership five years from now. He did not find that to be acceptable. If they were pursuing a combination with KU, they believed there was optimization that could be had and did not have the confidence to put in some level of increase in ridership. He did not know where that left them, but it was contributing to the deficit because they were assuming very little increase in revenue from fares.

He said the City was presently in a situation, based on 2006 ridership, the City was down in their fixed route system 15 – 17% and had seen that study decline since the end of 2006. Fare increases had contributed to that decline and there were other factors contributing, but one of the things that recognized was the existing route system was not being effective. There were comments about level of service and he agreed, but he questioned the cost and was one of the reasons he did not support a combined resolution because the way that this was written, there was no guarantee the transit system did not gobble up the majority of all of this money that ended up in Resolution 6781 over time, because of the demand that whatever they had in design of the transit system had seemed to need.

He said there was an increase of sales tax of 2% and agreed there had been challenging times. The City was up 4% year to date on sales tax from last year and over time recognized the City's sales tax had grown over a 10 – 12 year continuum at a higher rate than 2%. The City had no idea what the federal funding situation was going to be like.

One issue discussed was the fleet. He said from his knowledge, the majority of the busses that had been acquired had earmarks from federal funds and they were assuming that would not continue. The comment about the maintenance quite honestly, if they were at

\$600,000 in the City's reserve fund for equipment, he asked why the City had not deployed some other busses on the street. He said the City had a due diligence to put a more effective system on the street and there had been a lot of focus on paratransit and that was valid. There was no doubt that was the service that needed to be maintained by combination of forces within the City. He said he pushed for a year to develop a contingency plan if the fixed route system was not maintained. He said this started in 2003 and 2004 when the City consistently did not levy enough tax and basically deficit spent in that fund over a very long period of time. Now, the City was not left with a lot of options and did not like the options they were faced with. He said he was not sure if .2%, based on the analysis, it would start to go into deficit year 5 or 6, but he could not look into a crystal ball. If they were talking about .25% or .3%, it would definitely get spent and asked where this would end.

He said they had to bet on a combination with KU that would produce a more effective system with a higher level of service over a period of time with funding growing from 5 to 6 to 7% a year with the hope being enhanced by increased ridership. The City increased the funding level and did all the scenarios that were done by Cliff Galante, Transit Administrator, but in no scenario did he increase the ridership fares, which either meant he did not have the confidence that they were going to grow and was not sure why that was the case. He challenged a number of the assumptions.

He said there had been a lot of discussion about where the economy was going to go, where gas prices were going to go, and gas prices had gone up 80% over the last year and yet the fixed route numbers continued to decline. It seemed to run contrary. Obviously, the system as it was designed now was not effectively meeting the needs of the community.

He said he had grave concerns about a one ballot issue because he did not think they could present to the voters of this community that transit would not become the vast majority of spending that came out of that fund. He knew the way the ballot was written, but until they went on the back side with the sales tax audit, if there were demands that came from the transit

system, it was going to get funded at the expense of the other infrastructure issues that they put in front of the voters to say they were going to deliver with that package.

He agreed with the Mayor that he could not prognosticate probably 30,000 – 40,000 voters in the City of Lawrence and what they were going to think about a sales tax initiative with one ballot or two ballots. He said he has had a lot of people say they wanted to have the ability to voice their opinion as much as possible. He said no one could say that one ballot or two ballots would have any greater or less chance of passing.

He said he also had a concern about the way the resolution was written combined because they had public infrastructure needs that were big investments that were one time and had an operating fund. He did not think those mixed well out of the same pot of money because his concern was when they had significant investments like North Lawrence stormwater was the City might need to garner a significant amount of that .3% in one year to fund that project. If it was combined and the transit system continued to take more and more of that funding, it would make it difficult for them to make commitments to big projects. He saw those issues competing against one another if it was one resolution which was why he could not support one resolution.

Mayor Dever said in the event there was a single vote for one lump sum sales tax, he asked what statutory control the City had on how those funds were spent. If collecting 0.5 percent sales tax and had the intent for spending on infrastructure projects, he asked what control the municipality had in how those funds were spent and could an exact percentage of that fund be apportioned.

Corliss said yes. The resolution was written so that .3% would be for the infrastructure equipment and .2% would be for the transit system. The City would receive one check and that check would be allocated. The City Commission had the opportunity to monitor those funds as well as a committee that could help monitor those funds. Those funds would go into a transit account and a separate account for infrastructure and equipment. In some cases, if the City was fortunate the sales tax passed, on the infrastructure side, the City Commission might want

to debt finance. He said for example, the North Lawrence pump station project was estimated at \$5 million and if wanting to do that project, the City would need to debt finance it and pay for that project over time. He did not disagree with comments that there would be demands for additional resources because that was known.

Vice Mayor Chestnut said the City would receive one check and split it between two funds, but statutorily those two funds could be shifted between.

Corliss said there was a resolution that stated the City was going to allocate 0.2 of one percent sales tax for the transit system and the City Commission had a requirement to allocate that amount along with 0.3 for the other items. He said that would be the law as to how to use those funds. He said the City could go an additional step with the audit committee to look at the revenue and where it needed to go such as transit or infrastructure.

Commissioner Hack asked if that amount was split on an annual basis.

Corliss said if the City received a monthly check that money would be allocated.

Mayor Dever said there had been other sales taxes that were created in a more vague fashion, but funding within those taxes were more fungible or seemed to cross over barriers.

Corliss said there were three sales taxes the City received. He said for instance, in the mid 1990's County sales tax was used for something like firefighter personnel salaries and staff could show how that money was used.

He said the City also used sales tax money to establish the Housing Trust Fund and it was discussed using some of that money for street maintenance. He said the City was also retiring the debt from a number of those recreational and health facilities. He said a comment was made earlier about if the City wanted other general governmental purposes.

Mayor Dever asked if that could not be changed unless there was a vote.

Corliss said this did not enact sales tax, but puts the vote before the public. If the City Commission wanted to change the purpose, the ordinance needed to be repealed that had that

tax and then ask the voters to approve the different sales tax. He said the wise procedure would be to keep the money in place and ask the voters for a replacement sales tax.

Commissioner Amyx said he relied on the Vice Mayor's comments and his analysis of the breakdown on how the City's investment should be with the transit system. He said he might disagree on whether to have a one or two ballot question because the resolution that called for one, the language was specific on how that money would be spent. He said the comment about raising the sales tax to 0.25 or 0.3 the City was going to be asking people who were having a hard enough time paying for things, to raise their sales tax higher. He said the infrastructure side could be shrunk down, but there were also cost going through the roof. He said even if the infrastructure side went down, streets still had a budget.

He said there was something to be said about legacy and there would be a legacy that would be determined by the decision that was made tonight.

Commissioner Highberger said it was mentioned about the importance of taxpayer money and raising taxes was something no one wanted to do. He said he was not convinced the difference between a 0.1 percent in the sales tax would be critical and made that much of a difference in purchasing decisions. He said he was not convinced about the numbers regarding the bus because he understood that they were saying a fare increase would work out to 20 percent decrease in ridership immediately. He said he also understood that last weeks numbers were up 7 or 8 percent over the previous year.

Vice Mayor Chestnut said the number of rides in April on fixed route, this year was 31,392 and last year was 33,346, May - 31,778 and last year 35,102, June – 33,757, and last year 35, 495. Those numbers came from the Transit's website.

Corliss said in July the ridership went up compared to the last year.

Vice Mayor Chestnut said those number compared to 2007, the 2007 number were lower than the 2007 numbers in every month, but one. He said some of the decline was due to

fare increase. One of the big issues was when K.U. instituted the Park and Ride program, that program had a substantial change in the fixed route.

Commissioner Hack said the issue of ridership and the increasing and declining numbers was not what the Commission was charged with at this time. The question was whether or not the City Commission believed in two separate initiatives and whether the 2% or 3% split was appropriate. She said it was important to remember what the City Manager stated that this was not approval of the sales tax, but the floor and did not restrict spending. She said should there be commitment on the part of a future Commission to increase the mill levy to that point and they heard that might have some merit along those lines, it did not say it precluded this.

She believed the .2% or .3% split was appropriate and the Public Works had a budget that did not cover any of the projects listed in terms of stormwater, recreational path for Brook creek Neighborhood or fire equipment. She said there was no equipment reserve at all and the City was in dire straights which was an important point to remember. She said the most compelling statement Vice Mayor Chestnut made was that those were two different types of projects and were an on-going maintenance of a service which was the transit and projects that would need to be tackled by the City's Public Works Department. She said she did not see those joined together. She said a lot of the comments were about putting those questions together on one ballot for fear of divisiveness or fear that something would fail. She said they had to look at those two issues and those issues would stand alone or not stand alone on their own merits. She said she would not be pushed to put the two issues on the same ballot out of fear that one issue would be defeated and one issue would not. She said having two separate votes was the best to go.

Mayor Dever asked where the presumption of by combining the two issues together it would increase the likelihood of success came from because as someone who had done a lot of research, he determined that most communities did not do that. He asked why was everyone

so afraid of transit failing when in reality in combining those two issues they would be alienating more people than they were going to gain by trying to put it together. He said he was not fearful the transit issue would not pass.

He said speaking of legacy, he cared about the City's transportation system, but what he wanted to do was try and solidify its future, not pass transit off. The previous Commission opted to cut the mill levy and take expenditures on the bus, not this Commission. He said he raised the mill levy last year in order to keep the funding at the same level. He said anyone who questioned the ability of this City Commission in continuing this system, was false.

He said he was on the fence about this issue, but frankly the City Commission was empowering the citizens of this community by allowing those citizens to vote on this issue. He said this was a caring community and a group of people who cared about the future of this City and about the people who needed things and believed the citizens would vote for the sales tax separately. He said by burying it with infrastructure, they would be hiding the question and not acknowledging the fact the City needed a transit system in this community. He did not understand the concept of wanting to bring those two votes together, but his goal was to approve the system which was in need of major improvement. He said the City would have a more sustainable system by getting consensus from the community and asked the citizens for additional dollars clarifying once and for all this community was in need of a public transportation system. He said he had researched ballot issues the last two years and 70% of standalone ballot initiatives had passed in other major cities in the United States.

He said this was a big decision and frankly it startled him that people would spend this much time at a City Commission meeting and not care about the community. The people who had gotten together on several occasions to try and save the transit system were the type of people they needed to tap into, to help sell this concept. He said the reason why he asked about the funding mechanism was to allow them to firm up how things were spent. If they truly could guarantee there would be no misunderstanding about how that money would be spent,

that would be the only way he could even consider it. He said they could create a system that was better and more viable in the long run if the two issues were put to a separate vote.

Commissioner Highberger said he would like the Commission to take a look at what was packaged together in the .3% sales tax, which was the Burroughs Creek Rail Trail and the 5th and Maple Pump Station in North Lawrence and asked what those projects had to do with street maintenance which was absolutely nothing. The reason those project were in that package was to make the package more appealing to people in East Lawrence and North Lawrence which was smart politics. He said it was similarly smart politics to add the bus into it and make the package more appealing to more people which were practiced across this country.

Mayor Dever said that Commissioner Highberger was proposing the only reason the Burroughs Creek Trail was in the package was to sell the sales tax.

Commissioner Highberger said he thought that was the primary reason Burrough's Creek Trail was in that package.

Mayor Dever said what about the fact that project had been on the waiting list for years.

Commissioner Highberger said there were a lot of things that had been on the waiting list for years. He said it was a smart idea and supported keeping that project in that package because: 1) it was a good project; and, 2) that project would help sell the vote. He said it was the same with the 5th and Maple Pump Station. He said it was not about fear, but just making it work. He said they also received an opinion from staff that if the sales tax were combined, they could write it and manage it so the funds were kept separate and applied to what those funds were supposed to be applied to.

Mayor Dever said there were several people that commented the transit issue would not pass if the question was separated.

Vice Mayor Chestnut said they were all coming to the same conclusion for different reasons. As far as separate or together and the ability for it to pass, he had no comment. He said there would be a general election with 30,000 voters in the City of Lawrence and if getting

50% turnout, there was no way he could guess what a fraction of those people were thinking. He said the reason he thought it should be separate ballot questions was because federally funded and combined in a couple of years, the transit system ran at \$16 or \$17 thousand dollars a day. He said that was a consistent flow of funds that had to go out. Something like stormwater was 6 million dollars at a clip which was a completely different situation. He said when looking at infrastructure, they were going to need to look at entirely different situation. He said he did not see it as mixing. He said from the research the Mayor did, he agreed that transit was typically a ballot on its own, but he was not there to guess. He said it made more sense the way it was set up. He said as far as Burroughs Creek and stormwater in North Lawrence, those were one shot deals which was the difference. Those were places where the City had gone woefully behind in infrastructure investment and what they were telling the public was the City needed to catch up. He said the impact of this in the long term was depending upon where transit and infrastructure went, but when the sunset did come, he asked how they would deal with that. He said the fact was that now they had all of those projects all over the place including the transit system, he asked if they would split the resolutions at that point. It came down to those were two very separate issues, an operating fund they were transferring out of the general budget and wanted it to be funded from a separate revenue source and then looking at this whole set of project that had been on the books for years and the City cannot seem to get to those projects. He said he was not playing politics because he did not know what would pass.

Commissioner Amyx said he would only support the one ballot question, but he would do whatever he could to get both of those issues passed.

Commissioner Highberger said Commissioner Hack stated they could not campaign for those things, but that was incorrect. He said it was clear they could spend some of the money to publicize the vote, but could not spend money to convince people to vote one way or the other, but as individuals, they could.

Commissioner Hack said that was what she meant. She said they could not form a "City Commission Pass the "T" and Infrastructure Committee and use City money to hire consultants, but separate Commissioner's could go door to door.

Corliss said the City had equipment reserve money, but it was the safety net for when a fire truck did not work.

Vice Mayor Chestnut said he agreed this was a watershed event as far as making some decisions about moving forward. However, Commissioner Amyx made a comment about a legacy, but it was fair to comment the fact the City Commission was backed up into a corner. The fact was at the end of 2005 there was 2 million dollars in the transit reserve and at the end of 2008 was probably less than 100 thousand which was unfortunate. The Commission's options would have been different had that not have happened.

Commissioner Highberger said the Commission at one time was faced with a very large reserve and they could have kept the mill levy for the transportation the same year as before and piled that reserve up, but made the decision to lower it and spend reserves. He did not think that decision put the City Commission in their current situation. The last couple of years they spent property tax money on the bus system. He said he would not accept the fact that previous Commission's put the current Commission in this situation.

Corliss said the City was being asked to spend an additional million dollars because of increased gas prices and increased maintenance costs. He said that was the major issue facing the City and in order to operate it the City needed substantially more revenue than what the City was putting into the system right now.

Moved by Highberger, seconded by Amyx, to approve Resolution No. 6781, submitting to the qualified electors, levying .5% retailers' sales tax for the purposes of improving and maintaining streets, sidewalks, and certain stormwater facilities, constructing and maintaining recreational trails and paths, purchasing and replacing fire apparatus and related fire equipment, operating the City Public Transit System, including purchasing and maintaining

busses and other transit vehicles, transit facilities and equipment and for such other related City infrastructure projects, fire equipment purchases and transit operating costs. Aye: Highberger and Amyx. Nay: Chestnut, Dever, and Hack. Motion failed. (16)

Moved by Hack, seconded by Chestnut, to adopt Resolution 6779 and to approve Resolution 6780 and to authorize the publication of the Notice of Special Election that provides a separate ballot question for each sales tax proposition in substantially the form of the notice. Aye: Chestnut, Dever and Hack. Nay: Amyx and Highberger. Motion carried. (17)

PUBLIC COMMENT: None

FUTURE AGENDA ITEMS:

- 08/12/08
- Receive presentation regarding Peak Oil from the Sustainability Action Network (requested by Sustainability Advisory Board).
 - Public hearing on 2009 Budget, first reading of budget ordinance.
 - Consider draft findings of fact that there is no feasible and prudent alternative to granting a demolition permit for the structure located at 1232 Louisiana Street, and whether “all possible planning to minimize harm” has been accomplished for the listed property. In addition, initiation the rezoning of property at 1232 Louisiana to the RM-32 zoning district.
 - Consider approval of Text Amendment TA-04-03-08, to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. Initiated by City Commission April 29, 2008. Adopt on first reading, Ordinance No. 8300, an ordinance providing for the amendments to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. (PC Item 4; approved 7-2 on 7/21/08)

ACTION: Approve TA-04-03-08 to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards, and adopt on first reading Ordinance No. 8300, if appropriate.

- 08/19/08
- Consideration of airport industrial park annexation and rezoning items.
 - Second reading of budget ordinance
 - Consider adopting revised sidewalk dining ordinance and compliance procedures. Staff will meet with interested stakeholders prior to placement of this item on a City Commission agenda.

- TIF & TDD policies
 - Discussion on City options concerning former Farmland property
 - 09/16/08 · Receive presentation of results of Recycling Survey.
 - 10/28/08 · Employee Service Awards.
 - TBD · Receive staff memo regarding green burials.
 - Consider a request for a marked crosswalk together with pedestrian refuge islands on Louisiana Street adjacent to Dakota Street (Considered by the City Commission and referred back to the Traffic Safety Commission on 05/06/08).
 - Consider request for changes to the definition of “street vendor” in city code to allow art services and provide for the granting of a street vendor license for said services.
 - Consider city laws regarding the keeping of live fowl and domesticated hedgehogs in the city limits.
 - This item was deferred from June 3, 2008. Consider approval of Z-02-07D-08, a request to rezone a tract of land approximately 5.669 acres from UR (Urban Reserve) to CO (Office Commercial). The property is located north of 6th Street between Stoneridge Drive and Queens Road. (PC Item 6D; approved 7-0 on 4/21/08)
- ACTION: Approve Z-02-07D-08, a request to rezone approximately 5.669 acres from UR (Urban Reserve) to CO (Office Commercial), and authorize staff to draft ordinance for placement on a future agenda, if appropriate.
- This item deferred from June 10, 2008. Consider approving CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, [Ordinance No. 8283](#), for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (PC Item 11; approved 7-2 on 5/21/08)
- ACTION: Approve CPA-2004-02, amending Horizon 2020, Chapter 7, and adopt on first reading ordinance 8283, if appropriate.
- Consider the following items related to Lawrence SmartCode:
 - a) Consider approval of CPA-2007-6, a Comprehensive Plan Amendment to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence. (PC Item 13; approved 8-0 on 5/21/08)

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

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

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

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

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

- Farmer's Turnpike sector plan.
- Consider approving Text Amendment, TA-03-01-08, to amend Article 4 of the Development Code relating to uses permitted in the GPI District. Initiated by Planning Commission on 3/24/08. (PC Item 4; approved 8-0 on 6/23/08)

ACTION: Approve TA-03-01-08, if appropriate.

- Draft Rural Water District #5 contract – awaiting finalization with RWD and City. [Draft Agreement](#)
- Consider Z-05-12A-08, a request to rezone a tract of land approximately 3.324 acres from RSO (Single-Dwelling Residential-Office) to CN-2 (Neighborhood Shopping Center), located on the SW corner of Clinton Pkwy and Crossgate Drive. Submitted by Mission River LLC, for Inverness Park Limited Partnership, property owner of record. Adopt on first reading, Ordinance No. 8303, rezoning approximately 3.324 acres (Z-05-12A-08) from RSO (Single-Dwelling Residential-Office) to CN-2 (Neighborhood Shopping Center), located on the SW corner of Clinton Pkwy and Crossgate Drive. (PC Item 3A; approved 5-4 on 7/21/08)

ACTION: Approve Z-05-12A-08, a request to rezone approximately 3.324

acres from RSO (Single-Dwelling Residential-Office) to CN-2 (Neighborhood Shopping Center), located on the SW corner of Clinton Pkwy and Crossgate Drive, and adopt on first reading Ordinance No. 8303, if appropriate.

- Consider approval of CPA-2008-10, a Comprehensive Plan Amendment for Horizon 2020 Chapter 6, Commercial Land Use, to include the SW corner of Clinton Pkwy and Crossgate Drive as a potential location for a new Neighborhood Commercial Center. Adopt on first reading, Ordinance No. 8299, for Comprehensive Plan Amendment (CPA-2008-10) for Horizon 2020 Chapter 6, Commercial Land Use, to include the SW corner of Clinton Pkwy and Crossgate Drive as a potential location for a new Neighborhood Commercial Center. (PC Item 2; approved 5-4 on 7/21/08)

ACTION: Approve CPA-2008-10, a Comprehensive Plan Amendment for Horizon 2020 Chapter 6, Commercial Land Use, to include the SW corner of Clinton Pkwy and Crossgate Drive as a potential location for a new Neighborhood Commercial Center, and adopt on first reading Ordinance No. 8299, if appropriate.

- Consider approval of Text Amendment TA-12-27-07, to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands. Adopt on first reading, Ordinance No. 8304, an ordinance providing for the amendments to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands. (PC Item 18; approved 7-1-1 on 7/23/08)

ACTION: Approve TA-12-27-07 to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands, and adopt on first reading Ordinance No. 8304, if appropriate.

- Consent Agenda Item: Approve Text Amendment TA-06-10-08, to Section 20-806(d)(1), Subdivision Regulations, to clarify the number of RDPs that may be created based on the classification of the bounding roads. Initiated by County Commission June 23, 2008. (PC Item 16A; approved 9-0 on 7/23/08)
- Consent Agenda Item: Approve Text Amendment TA-12-26-07, to Section 20-806(b)(3) and 20-806(d), County Zoning Regulations, to clarify that a parent parcel may be divided to create 1 residential development parcel, and is not required to create 2 or 3. Initiated by the Planning Commission November, 26 2007. (PC Item 16B; approved 9-0 on 7/23/08)
- Consent Agenda Item: Approve Text Amendment TA-06-11-08, to Section 20-804, 805 and 806 to include requirement that RDPs must comply with the lot requirements in Article 18, County Zoning Regulations. Initiated by County Commission June 23, 2008. (PC Item 17; approved 9-0 on 7/23/08)

- Consent Agenda Item: Approve Text Amendment TA-05-09-08, to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations) that require the submittal of a certificate that all taxes or special assessments due and payable for properties included in Certificates of Survey or Minor Subdivision requests have been paid. Initiated by County Commission April 14, 2008. (PC Item 6; approved 9-0 on 7/21/08)
 - Consent Agenda Item: Approve Text Amendment TA-05-08-08, to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations) that define "Easement, Cross Access", clarify the process for creating such easements, and provide minimum construction standards for access drives within such easements. Initiated by County Commission April 14, 2008. (PC Item 5; approved 9-0 on 7/21/08)
- 08/12/08
- Consider resolutions changing the name and mission statement of the Lawrence Arts Commission.
 - Receive presentation regarding Peak Oil from the Sustainability Action Network (requested by Sustainability Advisory Board).
 - Public hearing on 2009 Budget, first reading of budget ordinance.
 - Consider draft findings of fact that there is no feasible and prudent alternative to granting a demolition permit for the structure located at 1232 Louisiana Street, and whether "all possible planning to minimize harm" has been accomplished for the listed property. In addition, initiation the rezoning of property at 1232 Louisiana to the RM-32 zoning district.
 - Consider approval of Text Amendment TA-04-03-08, to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. Initiated by City Commission April 29, 2008. Adopt on first reading, Ordinance No. 8300, an ordinance providing for the amendments to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. (PC Item 4; approved 7-2 on 7/21/08)
- ACTION: Approve TA-04-03-08 to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards, and adopt on first reading Ordinance No. 8300, if appropriate.
- 08/19/08
- Consideration of airport industrial park annexation and rezoning items.
 - Second reading of budget ordinance
 - Consider adopting revised sidewalk dining ordinance and compliance procedures. Staff will meet with interested stakeholders prior to placement of

this item on a City Commission agenda.

- TIF & TDD policies
- Discussion on City options concerning former Farmland property

COMMISSION ITEMS: None

Moved by Amyx, seconded by Highberger, to adjourn at 12:30 a.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF AUGUST 5, 2008

1. Change Order No. 1 – KLINK Resurfacing to Asphalt Improvement Co. for \$19,895.67.
2. Bid – Pumps & motors, Utilities Dept to Letts, Van Kirk \$38,062; Douglas Pump \$64,632; JCI \$18,355; & Fairbanks Morse \$5,355.
3. Purchase Order - Microsoft software maintenance, to Software House Int'l for \$42,701
4. Bid opening date - Electrical service upgrade Central Maintenance Garage, Aug 19.
5. PHI Investigative Consultants for Practical Homicide Investigation Seminar for \$19,076.27.
6. Purchase of 408 residential trash & recycling carts.
7. Ordinance No. 8312 – 1st Read, joint Resolution/Ordinance, charges for ambulance services.
8. Ordinance No. 8295 – 2nd & Final Read, 20 MPH speed limit on Crescent Rd between Engel Rd & Naismith Dr.
9. Maintenance Agreement between City & owners of Bauer Farm, Free State Holdings, Free State Group & Bauer Farms Residential.
10. Dedication of easements & ROW for PF-05-04-08, Final Plat for Bauer Farm First Plat, 4700 W 6th St.
11. Public Wholesale Water Supply District No. 25.
12. Variance - Bruce & Kristen Barlow from 19-214B.
13. Lawrence Freenet second quarter report.
14. City Manager's Report.
15. Rezone (Z-04-09-08) - 155 acres, A to IG located on NW corner N 1800 & E 900 Rd.
16. Resolution No 6781 - .5% retails' sales tax – one ballot question (motion failed)
17. Resolution No. 6779 & Resolution 6780 – separate ballot question.