



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

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

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

August 19, 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.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve the City Commission meeting minutes of August 5, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to receive the Board of Electrical Examiners and Appeals meeting minutes of July 2, 2008; the Building Code Board of Appeals meeting minutes of April 17, 2008 and May 2, 2008; the Sustainability Advisory Board meeting minutes of June 11, 2008; and the Public Health Board meeting minutes of June 16, 2008.

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve claims to 484 vendors in the amount of \$3,600,447.24 and payroll from August 3, 2008 to August 16, 2008, in the amount of \$1,754,550.12. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve the Drinking Establishment Licenses for Bambino's at the Grove, 1801 Massachusetts; Stone Creek, 3801 West 6th; Lawrence Community Theatre, 1501 New Hampshire; Biggs Bar & Grill, 2429 South Iowa; Cadillac Ranch, 2515 West 6th; Fatso's, 1016 Massachusetts; and the Retail Liquor License for University Liquor. Motion carried unanimously.



As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve the sale of surplus computer equipment on Gov Deals and approve recycling of 70 computer work stations. Motion carried unanimously. **(1)**

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to set a bid date of September 2, 2008 the 2008 Micro-surfacing Program. Motion carried unanimously. **(2)**

The City Commission reviewed the bids for Comprehensive Housing Rehabilitation for the Development Services Division. The bids were:

(1509 E 28th Terr)	
BIDDER	BID AMOUNT
T&J Holdings	\$24,405.00
Penny Const Co.	\$24,705.00
Comet Corp.	\$26,537.00
Staff Estimate	\$22,430.00
(920 Rockledge)	
Penny Construction	\$24,855.00
Comet Corp.	\$24,900.00
Staff Estimate	\$23,475.00
(1017 Rogers Pl)	
Penny Construction	\$19,400.00
T&J Holdings Inc.	\$24,050.00
Comet Corp	\$25,000.00
Staff Estimate	\$25,736.25
(1219 New York)	
Penny Construction	\$23,646.00
Comet Corp.	\$26,720.00
Staff Estimate	\$18,865.00

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to award the bid for 1509 East 28th Street Terrace to T&J. Holdings, in the amount of \$24,405; 920 Rockledge Drive to Comet Corp, in the amount of \$24,900; 1017 Rogers Place to T&J Holdings,

in the amount of \$24,050; and 1219 New York to Penny Construction, in the amount of \$23,646.

(Note: Penny Construction limited to one project) Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve Change Order No. 6, for King's Construction in the amount of \$38,533.54 for 25th Terrace, O'Connell Road to Franklin Road, Street, Storm Sewer, Waterline Improvements. Motion carried unanimously. (4)

Ordinance No. 8294, an ordinance providing for the amendment to Chapter V, Article 10 of the Lawrence City Code that requires ground fault circuit interrupter receptacles for all kitchen countertop and bathroom receptacles, 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. (5)

Ordinance No. 8313, authorizing the financing and refinancing of certain real estate property and improvements thereon for economic development purposes and authorizing the issuance of General Obligation Bonds to pay the cost thereof, in anticipation of the general obligation bond and temporary note sale on September 9, 2008, 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. (6)

Ordinance No. 8305, adopting an appropriating by fund the 2009 City of Lawrence Budget, 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)

Ordinance No. 8306, noting the necessity of appropriating/budgeting property tax revenues for 2009 in excess of that which was appropriated/budgeted for 2008, 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. (8)

Ordinance No. 8311, amending Section 17-212 of the City Code consistent with the recommendations of the TSC, 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. (9)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to adopt Resolution No. 6773, changing the name of the Lawrence Arts Commission to the Lawrence Cultural Arts Commission, adding a mission statement, and repealing Resolution No. 5966. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to adopt Resolution No. 6774, requiring the City Manager's Office to provide the Lawrence Arts Commission with public art plan information and repealing Resolution No. 5015. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to authorize staff to advertise a Request for Proposals for the Design and Construction Phase Engineering Services for the 2008-2009 Watermain Replacement Program. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to receive staff's memo regarding Public Wholesale Water Supply District No. 25 request for water service. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack**, to approve a request from Friends of the Public Library to place signs of community interest for the 2008 Fall Book Sale between 6th and 9th Streets between Massachusetts and Tennessee Streets from September 25 through October 4, 2008. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack,** to receive a request from Michael Stultz for donation of open space of approximately 46 acres to the City of Lawrence and refer the request to the Parks and Recreation Advisory Board and staff for a report and recommendation. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack,** to receive a request from developers of Bauer Farms to authorize use of the City's eminent domain authority to condemn required easements for the project. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Amyx, seconded by Hack,** to authorize the Mayor to sign two Subordination Agreements for Russell and Carol Beeson, 507 Louisiana and a Release of Mortgage for Shelley Sandburg, 810 Locust Street. Motion carried unanimously. (17)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said the Community Development Division in the Planning Development Services Department received the "Best of the Best Practices" award at a recent conference in Kansas City.

Other items in the City Manager's Report included: the annual Indoor Aquatic Center maintenance being underway; playground renovation at Clinton Park introduced reused rubber tires for surfacing under the playground; the Lawrence Police Department's School Resource Officers received a national award; the Building permit report for July; an update on projects from Public Works Crews; and the Recycling Annual Report. (18)

REGULAR AGENDA ITEMS:

Consider adopting on first reading, Ordinance No. 8293, rezoning (Z-04-09-08) approximately 155 acres from A (Agricultural) to IG (General Industrial). The property is located on the northwest corner of N. 1800 Road and E. 900 Road; I-70/K-10 Business Park. .

David Corliss, City Manager, introduced the item. He said the Commission's action was to make sure the language in the ordinance reflected their direction on this rezoning. The rezoning required a supermajority vote.

Commissioner Amyx asked if the language in the ordinance was what Mr. Schneider brought forward.

Corliss said there were three provisions that were unique to the rezoning ordinance which were:

1. The following uses shall be prohibited:
 - a. Truck Stop
 - b. Explosive Storage
 - c. Salvage Yard and
 - d. 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.

This was as opposed to any type of administrative approval of the site plan and would be placed on the City Commission's agenda for consideration.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Amyx said he thought the ordinance was fine the way it was written.

Moved by Amyx, seconded by Hack, to place on first reading, Ordinance No. 8293, rezoning (Z-04-08-08) approximately 155 acres located on the northwest corner of 1800 Road and East 900 Road; I-70/K-10 Business Park, from A to IG. Aye: Amyx, Dever, Chestnut, and Hack. Nay: Highberger. Motion carried. (19)

Consider the approval of Ordinance No. 8274, amending the requirements for obtaining a Sidewalk Dining and Hospitality License, and consider the approval of related administrative compliance and enforcement procedures.

David Corliss, City Manager, introduced the item. He said this item was an amendment to the City's existing sidewalk dining license. In response to the Commission's desire to allow for, in limited circumstances, establishments that did not meet the current food sales requirement to allow for use of the sidewalk. He said Scott Miller, Staff Attorney, put together a flowchart that responded to questions from the public.

Frank Reeb, Administrative Service Director/City Clerk, presented the staff report. He said this sidewalk dining issue was before the City Commission earlier this year and the Commission asked staff to come back with three changes to the sidewalk dining ordinance.

1. Lower the sidewalk dining food sales requirement from 70% to 55% for new establishments;
2. Removed the 55% food sales requirement for existing drinking establishments that had legal nonconforming use status from the 55% food sales requirement for downtown drinking establishments; and,
3. Provide draft language that a drinking establishment that had existing outdoor space, or the ability to add outdoor space, would not be eligible for a sidewalk dining license.

He said one other addition to the ordinance related to the expiration date of a sidewalk dining license. Currently, a license expires one year from when that license was issued. The ordinance changes that requirement that all licenses, regardless of when that license was issued, expired on November 1st. That change was added primarily for the City Clerk's Office because it would be a lot easier to track licenses and issue renewals if all those types of licenses expire at one time as opposed to throughout the year. He said the Commission had asked staff to develop compliance procedures to enforce the on-going administration of sidewalk dining licenses. He said the procedures incorporated what the Clerk's Office currently did in accepting that license, but other provisions were added. One of those provisions was that for those establishments that had alcohol in the sidewalk dining area, those establishments would not be allowed to have any glasses, cans or bottles. He said all of the provisions in the compliance procedures were based on Commission direction when this issue was before the City Commission.

David Corliss, City Manager, said the Police Department in reviewing the possible changes, placed a very high value on bars and taverns not having glass objects on the sidewalk, but did not have a concern with establishments that would have a higher food sales requirement. If allowing for establishments that already provided for that dining, he did not think the Police Department would have too much of a concern for those bars where glass and beer bottles were already allowed.

Commissioner Hack asked if the ordinance could be written in a way that the non-conforming use establishments that had sidewalk dining, that compliance procedure would apply and asked if that would cover the concerns.

Corliss said if those establishments met the food sales requirement of 55% or greater, they could have those types of dinnerware.

Scott Miller, Staff Attorney, reviewed the flow chart he prepared. He said the primary change of the ordinance was to eliminate the food sales requirement for those businesses that were legally operating as non-conforming uses downtown which were establishments that could sell alcohol without having to sell food. The other impact was to reduce the food sale requirement for all other businesses, new businesses or other non conforming uses from 70% to the 55% food sales requirement.

He said the flow chart first question was if the applicant sold food or drink for on premises consumption. Obviously, there might be other businesses who would like to use part of the sidewalk, but sidewalk hospitality was limited to businesses that were selling for on premises consumption. He said if the answer to that was yes, then the applicant needed to meet the 55% food sales requirement and if met, then the only other question was if the sidewalk was sufficiently wide. He said if the distance between the curb line and the end of the sidewalk dining was 6 feet or more, that was sufficient width under the ordinance. At that point, the applicant would be eligible for the license in question. He said it should be noted the new provision in the ordinance stated if anyone applied for a sidewalk dining license, they needed to

submit written permission from the adjoining property owners and tenants. The City Commission had to decide whether it was in the public's interest for any individual business to have a sidewalk dining or sidewalk hospitality license.

He said the complicating factor started when the 55% food sale requirement was not met. If that happened, then the next question was whether the business was exempt and whether it was a non-conforming use. If it was exempt and a non conforming use, then the answer was if the sidewalk was wide enough the applicant could apply for the license. If they were not exempt from the non-conforming use, then the application could not be granted. The only additional step was if they were not exempt from the 55% food sale requirement, the additional question asked was if they had some sort of alternative; a deck, a patio or another place on the property they could use to host this sort of function and not use the City sidewalk.

The number they picked in ordinance drafting was a 50 square foot area exclusive of any entrance or egress areas defined in the ordinance. That number was arbitrary and could be open to discussion if that was a problem. That was one staff considered to be somewhat fair and somewhat within the Commission's intent. There was at least one business, because of Commission action, was granted a sidewalk dining license and did have an alternative area. As the ordinance was currently written for that business, they would not have to fall under the alternative area analysis in order to keep their sidewalk dining license. If the City Commission wanted that changed, it could be something that was changed as well.

Vice Mayor Chestnut said regarding sufficient width, he understood the 6 feet from the end of the sidewalk dining to the curbing. He asked if site planning would take care of if someone wanted to put 18 inches of sidewalk dining in because they did not have more than that to get 6 feet to the curb. He asked how that would be handled.

Scott McCullough, Planning/Development Services Director, said the site plan was supposed to show the table design and chairs, so they did look at those.

Vice Mayor Chestnut asked about the section in the ordinance that talked about the applicant submitting a written statement from adjoining property owners. He asked if adjoining property owners were people on other side and did not know if there needed to be more clarity on that because if someone was two doors down, that person would be out of luck. He asked to be taken through the process if they had an adjoining property owner who did not consent.

Miller said there was a provision in the ordinance that required that people be seated if they were going to consume alcohol beverages. In other words, they have to be at tables to be able to consume alcoholic beverages. If there were no room for tables and had 18 inches of sidewalk dining, it would be impossible for them to be seated; therefore there would not be a problem exclusive of a site planning dining process.

He said regarding the application process, it was envisioned that if someone wanted to apply for a sidewalk dining license or hospitality, what that person had to do first was receive permission from the property owner of the property and that was important because the property owner might be stuck restoring the sidewalk to the previous condition when the tenant leaves. Once the applicant received that permission, then the adjoining property owner's tenants would sign a statement of no objection and the matter would not be set on the City Commission's agenda unless a member of the City Commission asked for that sidewalk dining license to be set on the agenda.

He said if the other property owners who were not immediately adjacent or adjoining, if they were aggrieved by the application for sidewalk dining or sidewalk hospitality license, those property owners could contact any member of the City Commission and the Commissioners could request a hearing. At the hearing, the Commission would decide based upon the public interest whether the license should be granted or not and would need to make findings of fact to support that decision. The license would then be granted or rejected for that year period of time.

Commissioner Amyx said with the saw tooth parking downtown, he asked if it was the distance of the curb line itself or to the back edge of the planter boxes by the trees.

Miller said the sidewalk needed to be unobstructed and under the Ordinance No. 8274, 6-1202.6, stated the following:

"The licensee shall submit a site plan for the proposed use of the sidewalk pursuant to Chapter 20 of the City Code that shall include elevation drawings. The proposed use shall maintain a minimum of six (6) feet width of unobstructed sidewalk between the hospitality establishment sidewalk use and the street curb or plantings, whichever is closer, for public use."

He said if there was a planter, it was measured to the planter.

Commissioner Amyx said the distance would be measured to the planter on Massachusetts Street.

Miller said the City was installing grates which would open up the sidewalk a little more.

Commissioner Amyx said if there was a problem with a sidewalk dining establishment, he asked if the City's problem would be with the property owner or business owner.

Miller said if the business was still operating, then the problem would be with the business. The only time there would be a property owner problem was when a tenant would leave, default on their lease, or shut down operation and not follow through to restore the City sidewalk to City standards before the sidewalk hospitality use was granted. At that point, the owners might have some responsibility to restore the property to its intended use. In other words, remove railings and fix the sidewalk.

Commissioner Highberger asked if this ordinance applied to only the businesses that were directly on city right-of-way and would not have an affect directly or indirectly for a bar at a strip mall for instance.

Miller said that was correct. It was only for the purposes of using the City's right-of-way and city sidewalks.

Corliss said a meeting was scheduled with Downtown Lawrence, Inc. with a number of interested parties approximately 6 weeks ago and staff answered questions and heard comments.

Mayor Dever called for public comment.

Bill Staples a resident on 7th and New Hampshire encouraged the City Commission to not support this policy change. He said in order to maintain a thriving mixed use downtown, some sense of balance needed to be preserved between the various groups who had interest in downtown. He had written to the City Commission about this issue before that bars and restaurants were not the only groups in downtown Lawrence. There were also retail stores, pedestrians, shoppers, and people that lived downtown.

Currently, there were establishments that violated City ordinances every night of the week by propping open doors and windows and even had bands playing on sidewalk dining areas. Opening up more sidewalk or outdoor space to drinking would blur the distinction between outdoor and indoor venues. He asked what the difference would be between an indoor and outdoor venue and how would they operate successfully without violating the noise ordinance. In the last few years, there had been talk about this kind of development and this would move downtown one step closer to an entertainment district rather than a mixed use district. He would argue that would be a slippery slope and lose the balance between the various constituents that had an interest in downtown. The shift in balance essentially came to increasing the bottom line of a few bar owners at the expense of the numerous people who had an interest in downtown.

Charles Novogradic, 9th and Ohio Street, said he wanted to reinforce the comments made by the previous speaker. He said during after hours in the off season the permanent rails were an impediment on what he perceived to be public right-of-way and were also an impediment to the pedestrians.

He asked the City Commission to consider expanding the ordinance to provide for impermanent or removable railings and chairs and tables that could be taken inside seasonally or in the summer when it was too hot to sit outside or during after hours.

Mayor Dever said he wanted to address the glassware issue and use of bottles with establishments that might already have a license or met the food service requirements. He said there was one establishment that used glassware, but did not conform with the 55% food sales requirement. He did not know if staff wanted to write a special rule or amend the rule to apply to everyone so it was easier to enforce. Also, the Commission needed to make some type of concession to the restaurants that actually served food outside currently.

Commissioner Hack said it was discussed that the ordinance could be written to reflect only those that were currently non-conforming that would meet the criteria for outside venues. Those establishments would be prohibited from glassware. She said to ask some of the restaurants that were meeting the 70% food sales requirement that used glassware all along and then asking those establishments to switch to plastic or paper was unfortunate for those establishments, but it was an important safety issue to make sure a safety issue did not exist in those newer sidewalk dining areas.

She said she appreciated concerns about impediments and noise, but that was what a downtown urban area was like. She said there were extenuating circumstances in terms of the use of outside for some of those venues that had difficulty with the smoking ban. She thought it made downtown more attractive and liked the idea of people on the sidewalk and moving in and out. She was in full support of this proposal with the changes proposed by Mayor. She said the bar owners downtown were conscious enough of their responsibilities and to keep downtown clean and monitored. If not, it was something the Commission needed to follow up on and make sure it was done.

Commissioner Highberger said he appreciated the concerns of those who opposed this sidewalk dining license change, but the impact might not be substantial. As far as he knew,

there were probably only half a dozen non-conforming bars that did not have outdoor seating areas that would meet the code. He thought the potential impact would be minimal. He said he had some concerns about how it might play out, but it was an agreement and not permanent granting of the use of the right-of-way and if there were problems, the City had the mechanism to take back the right-of-way. He said this was something the Commission stated they would do five years ago when passing the smoking ban was to make some accommodation for those businesses that were possibly affected by the ban and did not have any outside smoking areas.

He said as far as the glass issue, he did not want to make people drink wine out of plastic cups in fine downtown dining establishments. He would prefer to take the glass restriction away entirely because for example, the Free State Brewery had an outdoor drinking area on its porch for years and had not recalled any safety issues. He said he preferred not to prohibit glass containers.

Commissioner Amyx said regarding the curb line issue, the width of the sidewalks along Massachusetts Street was 10 feet and they were talking about an area that would be 4 feet out from the building. He asked who would monitor the amount of people in that area. He said with the large events downtown, that area would be impossible to monitor. He said if looking at changing the curb line out to the saw tooth curbing by putting in a grate, he asked if the City would be responsible for the cost of that grate and taking out the curbing under the proposed ordinance or would that fall on the business owner.

Corliss said there was no requirement for the City spending money in order for the applicant facility to obtain a license. He said what staff was doing on the grates was as the City had resources available to put them in.

Commissioner Amyx said if there was a nonconforming smoking and entertainment area, he thought the City would be taking on liability issues.

Mayor Dever asked if staff had looked to see what legal nonconforming uses had the saw tooth parking in front of their establishments.

Reeb said there were currently 26 non-conforming use status establishments. He said 14 of those establishments had the potential to meet this requirement. Some of those establishments might get kicked out for other reasons. He said it appeared there would only be 5 or 6 of those establishments, but he did not know how many of those establishments would fall out because of the planter. He said from his conversations with some of the bar owners and their conversations with their peers, it appeared to be a similar number as well.

Mayor Dever asked what he meant by kicked out.

Reeb said it was the size of the sidewalk. The size of the sidewalk on New Hampshire was less than 10 feet, for instance and thus the establishments otherwise eligible would not be able to get a sidewalk dining license.

Mayor Dever said he wanted to make sure those establishments knew the width was a critical component of the sidewalk.

Vice Mayor Chestnut said he was not present when the smoking ban was approved, but as Commissioner Highberger pointed out, this was a subject that was going to get visited at some point. He said he supported the concept of for those that met the 55% requirement to allow glass and not allow glass with those establishments that were non-conforming. He realized there had not been any instances in certain establishments, but if the City's Police Department expressed some concern, at least initially, they ought to heed their warning and it might be a subject that could be revisited at some point for an amendment.

He said when the Commission went through the consideration of the Bourgeois Pig and because apparent there was not a lot of code around sidewalk dining. The proposed ordinance did a great job of holding the licensees accountable and setting up some process and making the landlord responsible if the tenant vacated to remove the railings. He said it was important to put sidewalk dining license procedures in place. He agreed they were not talking about a significant amount of establishments and would probably get a better product out of the total the City had now.

Mayor Dever said he saw this as an opportunity for the City to establish a formal relationship with the owners or proprietors of those facilities and the City Commission as the landlord of the sidewalk. Establishing cleanliness, order and organization to people as they stood around and how they impacted the sidewalks and people trying to get by. If there were issues, the Commission would have the ability to enforce the contract and make sure those establishments comply. He thought it was important in letting more people out, that the Commission had some control of where those people were at and what the area looked like in the morning. The main concern he heard from people was the cleanliness of downtown.

He said he also had concerns about snow removal and safety with more impediments. He asked how those concerns would be handled. He said the owners and occupants were responsible for removal of snow on their sidewalks. He asked if the proposed ordinance would give the City enforcement capability.

Corliss said snow removal was the responsibility of the adjacent property owner. He said when it was snowing there was not much outdoor dining and the chairs were put away for the season. He said he had not received specific complaints about impediments. However, he had received specific complaints where the current licensees responded. When businesses were not doing well and were behind on sidewalk dining payments, staff had to work with those businesses to get caught up with those payments. In many cases property owners downtown were doing a great job of snow removal.

Mayor Dever said he would like to bring up the comments Commissioner Highberger made about glass and why law enforcement thought it might be a better idea to not allow glass. He said he wanted clarification on that issue.

Ray Urbanek, Captain, Lawrence Police Department, said he was currently in charge of the evening shift of the Police Department. He said from a police perspective, if glassware was allowed in the open areas on public property, it would be an increased risk to people downtown on Massachusetts or the adjoining streets. There were a number of incidents over the years

where people were injured by bottles from various ways. There have been people that had been hit by a bottle, thrown a bottle, broke a bottle, or picked up a broken bottle and used it as a cutting instrument. There were also a number of people that were seriously injured and required hospitalization. Businesses were also damaged as well as vehicles downtown by thrown bottles. He had bottles thrown at him and police cars causing damages. He said those were the primary reasons glassware was not allowed downtown during the Final Four.

Mayor Dever said he received an e-mail from a property owner that stated glassware in general could be glass plates and dishes and he wanted to make sure those types of things were covered.

Corliss said they had to be careful about the different distinctions, but he did not think there were any existing problems with those establishments that currently met the food sales requirement. He said the 55% food sales requirement was in the City's zoning ordinance, but this would address the sidewalk dining license. He said bars and taverns would be the appropriate area to draw the distinction for prohibiting glass and bottles in the outdoor area. It was just as likely the bottle might be coming from someone drinking on the sidewalk as it was for an establishment.

Moved by Hack, seconded by Highberger, to place on first reading, Ordinance No. 8274, amending the requirements for obtaining a Sidewalk Dining and Hospitality License, and approve related amended administrative compliance and enforcement procedures. The amendment to the procedures would allow glass, cans, bottles, for those hospitality establishments that meet the 55% food sales requirement. Aye: Dever, Chestnut, Hack and Highberger. Nay: Amyx. Motion carried. (20)

Consideration of the following airport industrial park annexation and rezoning items. This item was deferred from the May 27, 2008 City Commission meeting at the applicant's request. Because valid protest petitions have been received, a super-majority vote (4 votes) would be needed regarding the rezoning items.

- a) Consider approval of the requested annexation of approximately 144.959 acres and direct staff to draft an ordinance for A-06-05-07, for Airport Business Park No. 1, located at E 1500 Road and US Hwy 24/40.
- b) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-09-07, a request to rezone a tract of land approximately 99.31 acres, from A (Agricultural) and B-2 (General Business) Districts to IL (Limited Industrial) District with use restrictions. The property is located at the intersection of E 1500 Road and US Hwy 24/40.
- c) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-10-07, a request to rezone a tract of land approximately 43.48 acres, from A (Agricultural) and B-2 (General Business) Districts to IL (Limited Industrial) District. The property is located at the intersection of E 1500 Road and US Hwy 24/40.
- d) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-11-07, a request to rezone a tract of land approximately 26.22 acres, from A (Agricultural) & B-2 (General Business) Districts to IL-FP (Limited Industrial-Floodplain Overlay) District. The property is located at the intersection of E 1500 Road and US Hwy 24/40.
- e) Consider accepting dedication of easements and rights-of-way for PP-06-07-07, a Preliminary Plat for Airport Business Park No. 1, located at E 1500 Road & US Hwy 24/40. The Planning Commission will also consider a number of waivers from the Development Code with this request.

Paul Patterson, Planner, presented the staff report. He said the City Commission had a study session in March on this item. There were five applications: an annexation application, three rezoning applications, and a preliminary plat. The annexation was for 142.79 acres north of the interstate and bisected by Highway 24/40 and E 1500 Road.

The County's current zoning was A (Agricultural) and B-2 (General Business). This proposed area was located to the southwest of the Lawrence City Airport and north of the North Lawrence area. At the intersection there were three properties that were not part of the project. At the northeast corner there was a residential photo shop business, southeast corner was a residence and southwest corner was the Airport Motel.

The zoning request was from A and B-2 to IL, Limited Industrial. There were three components to the zoning on this property. The larger zoning request was to go to IL (Limited Industrial) with use restrictions. The applicant would like to restrict the uses of more commercial

and business type components, which would include restrictions from fast order food; fast order food, with drive-in; restaurant, quality; food and beverage; mixed media store; person convenience; repair service, consumer; and retail sales, general. In that particular area, none of those uses would be allowed.

The other component of the zoning to IL (Limited Industrial) included those uses at the northwest corner of the property area.

Also, a zoning request for IL-FP (Limited Industrial with Floodplain Overlay District) which was the 26.22 acres which meant on that overlay district, nothing could be built within that overlay district because it was within the 100 year flood plain.

He said there was a preliminary plat that was presented to the Planning Commission which had 18 lots and 5 tracts, the 5 tracts being the unbuildable portion of the flood plain. The area close to the airport runway would also be restricted from building.

He said on October 24, 2007, the Planning Commission recommended approval of the annexation by a 5 – 2 vote; 3 rezoning requests was a 6 – 1 vote; and conditioned approval of the preliminary plat on a 6 – 1 vote which was contingent upon receiving the annexation and rezonings by the City Commission subject to plat revisions 1a – 1m, including that “Prior to a building a associated with Phase A1, an agreement shall be reached between the City and property owner/applicant as to the provision, timing and financing of all road, water, sewer and storm water infrastructure for the project.”

He said there was a protest petition filed on each of the applicant's three rezoning applications. For the City Commission to move forward it required $\frac{3}{4}$ support of the entire City Commission which meant that 4 out of 5 members would have to recommend in favor of the motion.

Tim Herndon, LandPlan Engineering, said their applications and plans came to the City Commission from Planning Commission recommendation for approval. The preliminary plat had been approved by the Planning Commission and conformed with the mandates that had

been given to the applicant by this body and preceding City Commissions. They looked to the City Commission, City staff, and other concerned citizens to join in making this project a reality. They were successors in the community and needed this project and other projects like this, such as industrial and commercial, to help keep the community vibrant, independent and to equip themselves with the ability to be progressive.

For decades, the owners of the subject parcel and outlying areas had portions of their ground taken from them for the building of roads such as Highway 24/40 and I-70 for utility easements and rights-of-way. The property for the airport was taken from them and condemned for the use of the municipal airport and runway protection zone that was 12 acres that was eased and undevelopable. Other property in those environs had been taken for the purpose of urbanization. Over time, significant acreage had been systematically dedicated to the urbanization of this important area within the community. This proposal connected the City within the urban growth boundary and in the urban growth area to the airport to make it conform to the City's annexation policies. This occurred even as the need for infrastructure, as they viewed in the presence of the airport, which was the need for infrastructure that did not currently exist. This application implemented the City's existing plans and guidelines in an established urban area that was long ago characterized by taking and dedications for the purpose of urbanization in and around the airport.

He said he wanted to briefly run through the supporting documents and point out that Horizon 2020 that was recommended by this Commission and in July stated under Chapter 4 Growth Management, that land uses north of Highway 24/40 should be primarily non residential uses such as industrial, warehouse and office.

Chapter 7 of the currently approved Horizon 2020 document stated that office research uses were proposed at the intersection of Highway 24/40 and North 3rd Street. The area presented an opportunity for quality development with high visibility along the high entry corridor into Lawrence from the airport.

The new draft of the Chapter 7 provision that had not yet been adopted cited that the Lawrence Municipal Airport was a potential location for future industrial land uses. "The area around the Lawrence Municipal Airport best suited for industrial development generally lies southwest of the airport and north of I-70 and encompasses roughly 230 acres. The site had access to I-70, Highway 24/40 and the Lawrence Municipal Airport. The majority of the site lies outside the regulatory floodplain."

He said Chapter 8 under Horizon 2020, Transportation, stated "Continue to develop the Lawrence Municipal Airport for private and commercial aviation related business development in accordance with the adopted Airport Master Plan."

Another important document which was the North of North Street Plan, remained unapproved and came to the City Commission in 2000, but was placed on hold in anticipation on the North Lawrence Drainage Study being drafted and produced. It stated that both North Lawrence and the City of Lawrence were currently experiencing a shortage of large lots zoned for industrial business park uses. There was a need for industrial zoned land in an industrial zoned park within the vicinity of the airport. It stated the possibility of having access to multiple modes of transportation on highway, airport and railroad, made the area north of I-70 appealing for industrial business park development. This area was close to two major roadways, I-70 and U.S. Highway 24/40 and the airport.

He said Transportation 2025, Transportation 2030 approved on March 26, 2008 by the NPO, the future land use scenario projected office, research and industrial land uses for the northeast, northwest and southeast corners of this intersection, 24/40 and 1500 Road. Additionally, it generally echoed what T2025 that showed identical land uses in that document. There were several years of precedence of this particular site being identified as commercial, industrial, office and research, a variety of urbanized uses.

He said they were always subject to the Storm Water Management Policy of the City, the City Development Code and the Commercial Design Guidelines which this project would be subjected to.

Another important land use document and policy decision that was made relevant to this project was the expansion to the urban growth area. The urban growth area boundary, prior to its last expansion, was established in 1998 and what they had today was decided upon in 2003. That urban growth boundary was approved unanimously by the Planning Commission and approved unanimously through the County Commission and City Commission. The discussion regarding the possible northern extension of the UGA centered on the area for being a possible location for industrial use. The area in the northern extensions of the UGA had excellent access to all three major modes of transportation, highway, interstate, railroad and the airport. Additionally, the area was close to existing industrial and commercial uses. He said when annexing, they would bring the area in to conformance with the annexation policies creating a contiguous connection to the airport. The 28 acres of existing B2 zoning that was general business in the County, commercial County zoning, was being reduced to 20 acres. The commercial area was being reduced by virtue of the application. The ground was significantly encumbered by items that would prevent development from occurring. Based on the diagram from T2030, which showed the expressway and interstate, complimented the transportation plan. He said they heard a lot of concern about this property being developed on the floodplain. The floodplain management overlay district was dedicated for the purpose of setting aside that floodplain so it would not be developed.

He said the total proposal was 145 acres, 12 acres of runway protection zone that was not developable, and 26 acres of floodplain overlay district that was also not developable. They also had in the overlay district the potential to do things such as park land, open space, potential trails that could be contributed into a green belt type of development. There was also the right of way, setbacks, and easements that would prohibit development of structures which was 19%

of the overall 145 acres and within that area was almost 18,000 linear feet of sidewalk which was three miles of public pedestrian ways that would be proposed as part of this industrial development. If they compared this proposal to other existing industrial developments, there was nothing that compared pedestrian thoroughfares on those properties.

He said the total open space that was being proposed with this 145 acre development was 66 acres, which was almost 50%. They set a study area of 2000 Road to the north, I-70 to the south, 1600 Road to the east and Highway 24/59 to the west to give them a pallet in a quantifiable limit that they could call a context to this project and the airport environs. It was almost 24,000 acres and of that acreage, almost 700 acres of it was dedicated and established as being a floodplain. After that, the existing municipal airport was almost 500 acres. To that, the existing KU Endowment property, it was almost 300 acres. The Kansas Turnpike had another 42 acres and finally there was a runway protection zone that was 12 acres. This property in its surrounding environs had been heavily encumbered by urbanized dedicated rights-of-way and other development restricting elements. There was the L shaped piece of 145 acres which constituted 6% of the study area.

He said the Mayor asked him if they were going to present the project in the form that had been reviewed, reported upon, and enacted upon by the Planning Commission. He said as a result of some of the consternation that had been afoot in a recent time, they considered an alternative plan that reduced the 145 acres to about 65 acres south of Highway 24/40.

He said everyone knew the City's long range plans and wanted to show some of the excerpts that referred to the prescribed use of this ground. Part of the long range planning included increasing the number of jobs by 20,000 by the year 2020. In the most recent budget cycle, it highlighted the need for more business expansion.

He said there was a recommendation for approval by the Planning Commission for 145 acres of zoning and annexation. The ability of the City to participate in the necessary infrastructure remained uncertain. They tried to do things more recently in response to what

they heard to mitigate those concerns and bring alternatives into focus. He said they were prepared to move forward with the 65 acre project south of Highway 24/40. They needed to have the ability to get a spec building under construction and hoped to start this year. If the City Commission were to act tonight, the Commission would be voting on an annexation and rezoning. The preliminary plat would need to be redrawn. For the annexation to be approved tonight he wanted to leave all things on the table and in light of possibilities, this annexation could come to the City Commission with findings of fact based on Golden factors and standard criteria that could be used. It was in the urban growth area, complied with Horizon 2020, the zoning factors conformed with Horizon 2020, nearby property was zoned and used as agriculture, industrial, business and residential. The character of the area was a mix of rural, residential, business and industrial. Horizon 2020, Transportation 2030 and North Lawrence Drainage Study, and North of North Street Area Plan included this site or the vast majority of the site. It was suitable for the uses to which was restricted today which was A and B2 zoning. The staff report for the zonings mentioned that it would be suitable for the proposed uses and proposed zonings. There was no anticipated detrimental effect on nearby property that would not be addressed in the site plan.

He said most compelling was that it was a hardship upon the applicant and owner to deny the rezoning as it complied with all the long range plans and was in the best interest of this community that so badly needed additional industrial sites. The professional staff recommended approval and they appreciated that, but based on the 145 acre plan, the reduced scale of the project, they were asking for the Commission's guidance and help them to understand how the Commission would like them to proceed.

Commissioner Highberger asked Herndon if the applicant was asking for City participation on infrastructure improvements.

Herndon said the applicant was not asking for City participation.

Commissioner Amyx said regarding the amount of industrial zoning that existed, he asked how much of that property was developed.

Herndon said the majority of it was developed, some of it was not particularly densely developed, exterior storage and other things.

Mayor Dever asked if they wanted to rezone and annex the entire 145 acres or amending the amount of acreage to 65 acres.

Herndon said they had a 145 acre plan and worked on it for a couple of years, but what they were trying to do was meet in the middle or come up with a compromised position that would help everyone feel better about implementing the City's planning documents. If 65 acres was something they could get their minds around tonight, the 65 acres would be a way to extend the infrastructure from the south and serve the first development site to get something like a 120,000 square foot spec building online and in business by the end of 2009. He said the 65 acre proposal was Plan B.

Commissioner Amyx said under the current B2 zoning, he asked what types of uses were allowed and what kind of agriculture development could happen on that property. He asked the effect it would have downstream at 2nd and Locust. He said his main concerns had to do with utilities, expansion, and drainage into that area. He said under the current use of the property, the owner could develop the property under agriculture use which would include barns and other similar structures, but 2nd and Locust would be the recipient of where that water would drain. He also asked how much of that area could be covered under agricultural use.

Herndon said the site could undergo farming activities for the unforeseeable future. Most developers were concerned with what would happen when it was annexed and rezoned and what would happen with the taxes.

He said the runoff impact would be less notable or reduced compared to some other uses that could occur on the ground but they had to simultaneously ask themselves a question

about what would compel the most experienced farmers not to farm their property. It was because the financial prospects were not conducive to expanded farm facilities.

In terms of should this property develop in an industrial fashion, which was what they would anticipate, the North Lawrence drainage study prescribed a number of mitigation methods, a couple of those that were respective to the early phases of development were listed in the approved drainage study for the airport business park and would effectively mitigate the early development impacts. He said they were not talking about something that overnight would become 145 acres of fully developed industrial uses. They were talking about an employment center that would take 35 – 40 years to evolve. Some of the long term mitigation issue was going to run concurrent with the level of development and level of revenue that was generated from the development.

Commissioner Amyx said under the most recent storm water study that was done, there were requirements in that study that this City and County had to undertake to make North Lawrence a little bit safer from storm water run off. One of the things they had not done since that item came out was not have that community discussion on what the City's responsibilities were and how much the City would undertake. With all of that said, they were looking at a piece of property that was going to have runoff because the development was going to be on the ground and he was looking at the impact they were going to see downstream with the addition of acreage. He asked what that downstream impact was going to be. He said they were adding to the problem and the City had not taken care of their responsibility to date.

Herndon said the big picture of what could happen in the first one, two or three sites that were developed. He said with site one there were a variety of methods they could use to mitigate run off. They talked about alternatives in a conceptual sense because typically, in Lawrence, they did not provide storm water detention facilities for property that was adjacent to floodplain. They typically did not do that because of the floodplain. There were ways to provide detention and could physically provide storm water detention ponds on properties to facilitate

run off. He said that was a conversation he had not had with his project engineer to a great extent, but more to the City Public Works staff, Matt Bond, Stormwater Engineer, because they already knew if they were adjacent to a floodplain the idea was to put water into those pipes and get it to the flood plain as fast as they could, which was a standard engineering practice. He said that was an example of an alternative they could use in this case. It was also something that could be addressed at the site plan level and they would not site plan anything without zoning in place.

Commissioner Highberger asked Corliss to comment on the City's standards for approving annexation and was it discretionary with the Commission.

Corliss said the annexation policy highlighted some land use directions to proceed with annexation. Annexation was completely discretionary with the City Commission. They had as a local policy anything over 10 acres would go to the Planning Commission for recommendation, but there was no statutory requirement.

Mayor Dever said there were a lot of questions and he was trying to weigh how the City could proceed with Plan B. He said he would like to have something tangible the City Commission could look at and evaluate if the applicant was truly talking about changing the scope and size of this proposal and he would like to see that in writing with the indications that there would be no City funding or participation in improvements and there would be a reduced scope of the plan whether the plan was initial or permanent. He said he was struggling with how to approach this issue without having some structure.

Commissioner Hack said she had a broad question of urbanization and industrial development in Grant Township and if that were to proceed, she wanted to know what questions the Commission had. The questions that remained unanswered were the issue of the traffic at the intersection and who would pay for that intersection. She said she knew the applicant was not asking for the City participation and the County had not been prepared to make that financial commitment.

She said regarding the drainage issue, Herndon indicated some type of mitigation, but she had no idea what those were and would like to know about the mitigation before moving forward.

She said there was also the issue of the sewer in the area of the airport which was a critical point, but there was a much larger issue of agricultural land and if there needed to be conversations in terms of preservations of agricultural land. She said there was no project before the City Commission and there was only building 1 and 2 which they were not asking for City participation for either building. She said she still had questions about the larger issues being dealt with in terms of drainage and the intersection and the whole overriding issue of the agricultural land itself. Because of those concerns, she suggested giving staff some direction about questions to answer and then asked for a continued study with the major stakeholders to come up with a project that could be analyzed independently.

Mayor Dever said there are a lot of questions and a lot of public input received on this project. Some of that public input questioned the scope of the project. He said Herndon did a good job outlining all the supporting documents of the development of this area and the continuation of the urban growth area and the adjacent airport which was an island annexation, but there were compelling arguments. What was not discussed was if the City had done its part in mitigating the storm water control and run off and whether or not those measures were anticipated in the development of those plans and whether or not the City followed through with those improvements to make those truly buildable. He said he would like good information on what they were planning on doing with that land if it was not going to be developed and if they were going to change the plan or take it out of the plan and needed to discuss what the responsibilities were going to be if moving through with development of that area.

He said he had questions for Mr. Pine about soil and land use. There were a lot of questions that could be best served by dialogue or a meeting about how this plan could proceed

and boil it down to the facts. The Commission could vote and the public could comment accordingly.

Vice Mayor Chestnut said he would add some questions. He said he was referring to the letter from Mr. Santaularia which talked about participation on the street improvements and extension of off site public utilities, but the letter did not talk about the drainage. He said he was assuming that based on the proposals, the City would still have a responsibility for what was proposed and about \$400,000 in drainage mitigation, which had been part of the proposal for the last 10 months.

He said he would like to explore further the request as far as waiving system development charges and connection fees for the public utilities. It was included in the economic feasibility study that was put forth by the applicants. In fairness, the Commission needed to look at this and if an economic feasibility study was going to be conducted, the City had someone on staff now who could assist with that study and needed to re-rack what the assumptions were going to be and use some of the work that was going to be done, plus the work of staff to figure out some returns.

He said one thing he was concerned about was the idea of the formation of benefit districts or improvement districts. While the City was not being asked to participate, the problem could be if talking about bringing in adjacent property owners, which could be the case, they did not know if those property owners had agreements not-to-protest and if those properties did not, then the City could set forth with a number of road improvements and other improvements. If those improvements were bonded by the City even though they were supposed to be "revenue bonds", if the City did not have the adjacent property owners contributing, then the City would be carrying that cost for some period of time which was the discussion the City Commission had about Queens Road. He said the City could enter into a fairly large street improvement project where the City was bonding that improvement, but the revenue was not coming in to offset those costs.

There were a lot of moving parts that have happened in the last four to five days in a financial standpoint. He appreciated the presentation by the applicant and thought there was a very good case on the land use, but the economic impact, all of a sudden, has shifted around to a point where he was not sure of the implications. The City Commission needed to decide on what scenario they would pick and what assumptions there would be for City participation, would the City be doing benefit districts or not, who were the adjacent property owners, and was there a realistic chance in getting everyone to participate and could that be barrier to stop a lot of road development because there were a bunch of people who did not participate. There were a lot of financial questions and he was not comfortable moving forward.

Commissioner Highberger said most of his questions have been addressed. He said they were looking at a green field industrial site with prime agricultural soil and a brown field site of 467 acres, and was contiguous to this community and the Commission needed to focus on the industrial and economic efforts.

Commissioner Amyx said he had a conversation with the City Manager about the existing capacity of the City's sanitary sewer plant. He said with projects already approved, some of that capacity was already spent that was left in that plant. If they were going to look at the Farmland site or other sites that were large water users, the Commission had to take into consideration how much consumption was left to deal with a new project. He did not want to pit this project against other projects, but it was what the Commission was looking at with this project. He said if the City was looking at a build out of Farmland with medium size water users, he asked what effect it would have on existing capacity, based on the commitments already made to other projects. He said if they were going to continue to operate with the current infrastructure at that plant, the Commission needed to be careful with the types of project they approved. He said the City was not even close in building a plant right now; but the City had the land.

Corliss said the City had the land, land use approvals, and regulatory approvals.

Vice Mayor Chestnut said to some extent the Commission was making an erroneous assumption that some of the zoning would be heavy water and sewer use. He said the applicant was asking for IL zoning, but until they understood what might come forth which was the same with the other annexation that was zoned IG, they would not know what happened. At that point, it was not going to be provided with any City services by annexation credence. He agreed the Commission had time to react. He said it would probably be driven by residential if residential building permits started to get up to 400 – 500 a year, maybe in contrast to what it was four to five years ago, it was going to make their mentality in moving forward with raising rates and make it different. He thought they had time to react, but considering the land use on this project, it might not be something that would be put into play for three, four, or five years, but the applicant was asking the Commission to make that decision.

Commissioner Amyx said was the Commission telling the applicant that they wanted to look at other options prior to consideration of annexation or was the Commission looking at asking additional questions on the 144 acres and waiting on the applicant's answers before considering the annexation request and rezoning.

Mayor Dever said he would like this body to evaluate and either deny or permit annexation and rezoning based on the land use planned for that area and the area that was planned to be developed. If there was truly a concession and Plan B was what was suitable and okay with the applicant, then the Commission needed to evaluate that plan on its own merits. If the applicant truly wanted to move forward with 145 acres in the original plan that was approved by the Planning Commission and conformed with the variety of Transportation 2020, 2025 and 2030, and the County rules, then the Commission should receive public comment and accept or deny the applicant's request. He said they should look at the package the Commission would approve or deny, let the public comment and evaluate that package under merits and make a decision. He said the Commission received a much larger opportunity and if

there was a concession or desire to make this project smaller, he wanted to discuss that plan, the impact on things like stormwater and soil.

Commissioner Amyx said the Commission did not have all the information available.

Mayor Dever said he would ask for City Manager recommendation on how to request the information and create a dialogue between the applicant and this body so they could receive the documentation and decide on the fate of this project based on the amended plan.

Corliss said the City Commission had a Planning Commission recommendation from last October. There was a successful protest petition against the rezoning items. The annexation was contingent upon the rezoning. If the applicant scaled back their rezoning request at this point, the protest petition still stayed. The City Commission had the opportunity to approve what was submitted this evening, but it seemed there was a consensus that there were questions and the City Commission was not ready to proceed. The City Commission could approve the plan by a super majority vote, even with a reduced request required a super majority vote, then refer the plan back to the Planning Commission, by majority vote and give the Planning Commission direction and comments that would be helpful for their consideration. If the City Commission believed they needed additional study of this plan then in addition to staff and applicants, there were a number of stakeholders he believed would be appreciative for the opportunity to be part of that dialogue. One of the items that was not mentioned so far was the issue of farmland preservation. There were a number of issues out there that would be available for additional study and if projects like this could proceed it would also be helpful in the City Commission's deliberations to give direction to the Planning staff about development in unincorporated areas in Douglas County such as Grant Township. He said there were a number of plans for that area that talked about urbanization. One comment was should urbanization proceed without significant stormwater improvements and another comment was should urbanization proceed at all given the Farmland preservation values. He said the City had a development policy that

spoke to the necessity of City water, sanitary sewer, and streets and had a fairly well worn path on how to get those necessities in.

He said it was important to recognize that Rick Bryant whose passion was advancement of the City's airport would like to see that airport utilized and developed and they needed infrastructure consultants at that location as well. The airport was independent of this project, but it was connected in geographical ways and perhaps infrastructure ways.

He said if the City Commission still had substantial questions about this project, particularly because the project had been modified by the applicant in recent days, it would be helpful for deferment of the consideration and establish some type of group or charging staff to convene some group with public discussion on the project. He said it was appropriate, given the fact the City Commission had a Planning Commission recommendation from last October, that the City Commission act on that recommendation at some point and provided staff direction about possible future requests.

Mayor Dever said it was important to not delay substantially given the fact they have received this recommendation in the past and that the City Commission owed it to the landowner and applicant to at least evaluate the project on its merits and move forward in either accepting or denying the project. He said with the change, he found it substantial enough to merit input from the public once the City Commission saw those changes and then the financial aspects given the budget for next year. If there was going to be activity at that location, they needed to have the capability to be involved and the drainage and responsibilities of the City.

Vice Mayor Chestnut said from an economic development standpoint, they were going to talk about TIF and TDD policy and they had a tax abatement policy. This was a situation where the City would have some kind of investment, which was probably going to be storm water of \$400,000, but he was acting on the premise they needed to have that vetted out. He said there were a lot of assumptions where the letter did not match the economic impact study. Right now, it was a much clouded picture as to what was in and what was out.

Herndon said it was also important for the City to understand that from the early days of this project, they had extensive dialogue with Planning staff about how much property to bring to the City Commission in the form of a plan. One option was a 10 acre parcel to put 120,000 square foot spec building on. A train of thought that staff and professionals like he shared, the idea was to bring as much as they could and bring something that was more forecasting in nature and holistic to allow them to project and plan. He said it was important for the applicant to know whether the size of the project was important to the Commission's consideration. He said they needed to know if a 65 acre plan or 10 acre plan was more digestible or where they wanted to go as a first step to implement those documents they had spent 10 years in putting together.

Craig Sundell, Citizens for Common Sense and Accountability, said the City had a lot of people present at the meeting who came for a very specific purpose. He said City Manager Corliss made it very clear the City Commission had the ability to approve this annexation or not. To continue this again would be a disservice to both the applicant and to the people who took the time to come to the meeting. Again, the City Commission had the ability to make a decision now.

Commissioner Hack said the City Commission had the ability to make a decision, but if they did not have all the information, they were not serving the public, staff, applicant and fellow Commissioners.

Mayor Dever said every document the City Commission was provided was germane to a 145 acre parcel of land, subsections and subdivided, specific zoning, specific to certain areas and it was important the City Commission voted on documents that were particular to the project. While the City Commission could make a determination, he was not sure it would be appropriate. He did not know if there was enough time from when the applicant provided the concession or Plan B to today's date and posted the items on the agenda. He said the

applicant requested if the size of this project mattered or if it was a bigger question or picture. He said it was appropriate if feeling comfortable to discuss it or could render an opinion later.

Commissioner Hack said from her perspective the size of the project was not so much the issue as the other issues she identified earlier. She said the cost benefit analysis change brought forward the issues of drainage, the intersection, agriculture land and if it was the highest and best use. She said those were all questions regardless of whether the plan was for 10 acres, 60 acres or 150 acres.

Commissioner Amyx said the Commission had a recommendation for a 145 acres project. He said if the City Commission was going to do something different, he suggested dealing with this recommendation first. If the project had been changed, the City Commission should table this issue until such time the item went back to the Planning Commission.

Commissioner Highberger said he heard what the applicant proposed was approved by the Planning Commission and if that was what the applicant wanted to proceed with, he was willing to do that. If not, the project needed to go back through the planning process if there was a substantial change.

Vice Mayor Chestnut said the option of the smaller proposal, he asked if the bulk of B-2 zoning resided in that smaller proposal.

Mayor Dever said more than half of the B-2 zoning existed in the south half of the parcel and was already allowable for this type of land use.

Herndon said generally yes.

Vice Mayor Chestnut asked about the amount of acreage in rezoning a smaller project to an industrial use that already could not be used for that purpose.

Herndon said in the revised rezoning request, they were talking about 5 – 6 acres that would allow commercial retail use to occur south of 24/40. He said that would remain on the table. It was 5 acres of proposed ground that could be commercial retail versus what it was today of probably 14 acres, south of 24/40.

Vice Mayor Chestnut asked in that tract what went from A to IL.

Herndon said 100% of the 60 acres would go from A to IL in the reduced proposal.

Vice Mayor Chestnut said if they looked at 66 acres and there was B-2 County zoning on a part of that 66 acres, he asked how much acreage were they asking to go from industrial use that could not already be used for industrial.

Herndon said the existing B-2 zoning sustains retail and commercial uses would be reduced to an area of commercial uses and all the rest would be limited industrial.

Mayor Dever asked if Herndon would like the City Commission to consider the item 3 as it stood and accept public comment or should the City Commission defer this matter and revise the information. He said Commissioner Highberger indicated it might need to go back to the Planning Commission. He asked if the item needed to go back to the Planning Commission if the project was downsized.

Corliss said the City Commission had the ability to overrule the Planning Commission's recommendation on zoning. He said because of the protest petition, they must approve it with 4 votes and if they changed the acreage, it was essentially a different project and it might be appropriate to look at it. He said they could reduce the size of the acreage in the annexation request and zoning request by a supermajority vote.

Commissioner Highberger said if there was a substantially changed plan introduced it would have to go back to the Planning Commission.

Corliss said he agreed it was a substantial plan, but the annexation was dependent on this body. The City Commission would not be rezoning property that had not been noticed, they were just reducing the size of the rezoning request, which the City Commission could do by overruling the Planning Commission's recommendation on the larger request, and do a smaller request. He said he was not saying it was not wise to send it back to the Planning Commission, but did not see the legal impediment to overruling the Planning Commission's recommendation on the size of the rezoning request.

Commissioner Amyx said the only difference was if the City Commission heard the request on the 140 acres on the annexation and rezoning and there was a substantial change, which would be the 65 or 66 acres, it would automatically go to the Planning Commission.

Corliss said he did not believe so. If the applicant wanted to submit a new application they could go to the Planning Commission, but the City Commission had the ability to overrule the Planning Commission's recommendation by a supermajority vote and in that the City Commission could reduce the size of how much they wanted to rezone. The City Commission could not enlarge the area, but the area could be reduced.

Jane Eldredge, attorney for the applicant, said the effort to reduce the size of the project was an effort to meet some of the objections that had been voiced about the project. There was not a substantial change other than the reduction of size and some of the funding requirements and partnerships discussed. The City Commission raised some questions that had remained unanswered, so the applicant requested that the City Commission take the opportunity to answer all of their questions and then they could bring back the 145 or 65, but the Commission should get the information they needed first. She thought it was a disservice if they did not have all the information they needed before they made a decision on this, regardless of the size. She said if the size did not matter, they needed to answer the questions. They were happy to do that and would appreciate all the direction the City Commission could give to the applicant and staff so they could get this project worked out.

Mayor Dever said for him, the size of the project did matter. He said he did not want to render an opinion if there was some input that might help with the legal ramifications on this project.

Ron Schneider, counsel for CRP, said he appreciated the discussion tonight and knew the City Commission was facing a lot of issues. It was his request, on behalf of his clients, to deny the request and start over because the Commission was suggesting that there had to be a total re-evaluation. In the alternative, he asked the City Commission to give them and the entire

community adequate time. They were at a disadvantage at this. He said this was a quasi judicial body and there should not be private discussion going on with the applicant in good faith because he knew the City Commission was trying to come up with a good solution.

Mayor Dever said he disclosed that conversation with the applicant because it was necessary for good judgment.

Schneider said if the City Commission wanted to have public debate and communication, as he read the law, it was supposed to be at the Planning Commission level. He said in some cities, as this City did, they encouraged public debate and conversation at the City Commission level. He said it was not the City Commission's intention or the applicant's intention to give last minute notice. The applicant had all their cards figured out because they were working in advance and had the opportunity to modify and change this plan. This had been a moving target for about a year. He said as a matter of fair play and due process, they should have at least 30 days advanced notice to learn more of what the actual application was and what they were seeking. He said as Commissioner Chestnut pointed out, economic analysis would be a key component of this plan and they were going to have their economic analysis so the City should have at least 30 days to have the City's economists and experts review it and respond.

Commissioner Amyx said he suggested proceeding with tabling the matter until such time the City Commission received answers to questions such as the amount of land, economic figures, storm water issues and anything relevant to consider. They also needed to make a determination once that plan came back and if this item was different than the plan before the City Commission, the plan must go back to Planning Commission.

Vice Mayor Chestnut said the one objection he had with Commissioner Amyx's comments was that Schneider had an important point about considering information. The City Commission had to take some perspective of the applicant in the fact that the applicant had been bouncing around trying to figure out what the City's direction was for a while and the

applicant had the responsibility to present the project as they felt was fit and appropriate for the land use. He also thought the applicant was trying to work into consideration revolving criteria that had developed. It was clear, what had recently came up in the recent Chapter 7 proposal was a lot more consideration for prime farm land which he thought was an important consideration. He was concerned this would become a very protracted process. He said if the City Commission referred the plan back to the Planning Commission, he asked what they were asking them to rule on and asked if it was land use or economic concerns. From his standpoint most of the time in the reports received from the Planning Commission, they were dealing with land use issues. They were talking about the golden rule of Horizon 2020. He said they might need discussion in this body about whether or not they agreed or disagreed with the land use. It was pretty clear what had changed had not been that part of it but the economic factors have shifted around. He did not know if they referred it back to the Planning Commission and have staff work on economic analysis, but did not know what else they would get back from them.

Commissioner Hack said it appeared according to Herndon's presentation the preference was the 143 acres which was the original project that went to the Planning Commission. She said if that was the preference and went through a lot of the questions, if they could table the issue and direct staff to work with interested stakeholders to come up with answers to those questions, then it could come back to the City Commission with those questions answered. If it came back to the City Commission with the 67 acres, then it was substantially different and at that point she thought it was a different project. Right now, if the preference was the original project, it would seem to her to have the questions answered and the economics of it was an issue. Drainage and usage were all other things they had to wrestle with. If they could get those questions answered on the original project, then the City Commission would be better prepared to make their decision.

Moved by Amyx, seconded by Hack, to table indefinitely annexation of approximately 144.959 acres (A-06-05-07) for the Airport Business Park No. 1, located at East 1500 Road and

US Hwy 24/40 and directed staff to answer the questions presented during the meeting and bring the matters back as expeditiously as possible. Motion carried unanimously. (21)

Moved by Amyx, seconded by Hack, to table indefinitely the rezoning (Z-06-09-07) request of approximately 99.31 acres, from A (Agricultural) and B-2 (General Business District) to IL (Limited Industrial District) and directed staff to answer the questions presented during the meeting and bring the matters back as expeditiously as possible. Motion carried unanimously.

(22)

Moved by Amyx, seconded by Hack, to table indefinitely the rezoning (Z-06-10-07) request of approximately 43.48 acres from A (Agricultural) and B-2 (General Business District) to IL (Limited Industrial District) and directed staff to answer the questions presented during the meeting and bring the matters back as expeditiously as possible. Motion carried unanimously.

(23)

Moved by Amyx, seconded by Hack, to table indefinitely the rezoning (Z-06-11-07) request of approximately 26.22 acres from A (Agricultural) and B-2 (General Business District) to IL-FP (Limited Industrial-Floodplain Overlay District) and directed staff to answer the questions presented during the meeting and bring the matters back as expeditiously as possible. Motion carried unanimously.

(24)

Moved by Amyx, seconded by Hack, to table indefinitely the dedication of easements and rights-of-way for a Preliminary Plat (PP-06-07-07) for Airport Business Park No. 1, located at East 1500 Road and US Hwy 24/40 and directed staff to answer the questions presented during the meeting and bring the matters back as expeditiously as possible. Motion carried unanimously.

(25)

The City Commission recessed for five minutes at 9:03 p.m.

Consider adoption of Resolution No. 6789 establishing a Tax Increment Financing District (TIF) policy and Resolution No. 6790, establishing a Transportation Development District (TDD) policy.

Diane Stoddard, Assistant City Manager, presented the staff report. She said TIF and TDD were both economic development tools that enabled a development, in some way, to pay for certain types of expenses from the development itself. The City Commission last considered this item at the meeting in April. After that meeting and after receiving some comment from the City Commission at that time on those drafts, staff did a news release requesting additional comments from the public, information was posted on the City's website, staff sent letters as well as to the economic development partners, and met with the Public Incentive Review Committee amongst others.

She said staff provided a summary of the comments and a couple of those comment emphasized the issue of redevelopment in both policies and the use of tools for that purpose, emphasizing the transparency of the process and balancing that with the need, in some cases, for a developer and applicant to keep some issues confidential. There was also an emphasis on the public process and encouraging public participation. Another emphasis was the flexibility of the City Commission related to the use of those tools in several of the aspects. She said staff recommended acceptance of those policies.

Mayor Dever called for public comment.

Kirk McClure, Lawrence, said he supported the policies. He thought it was a well put together piece of work, but he wanted to emphasize two points. He said TIF and TDD were tools and as with any tool it could be used well or could be used badly. He often told his students that when they reached into their tool box and you grab a saw when trying to drive a nail, you were making a big mistake. There was no way a policy of this type could be written to prevent all misuse of it. That meant they needed to have very skilled staff on how to use those tools to protect the City in its own best interest. There were a lot of people out there that would attempt to misuse those tools. They had seen this in the past and the current tax abatement policy was written in an effort to make it automatic and sadly that was what it had become and led them into an awful lot of mistakes. They did not want this policy to become that way and did

not think it could be. It had the all important "but for" clause written into it that made it necessary. Unfortunately, transparency was an enormously important part of the process. In the last TIF they saw go through, they all had to breathe real hard, swallow hard, and say they hoped the consultant who kept the information under wraps was correct. He said he supported that particular proposal and received a lot of e-mails saying the analysis was wrong. All it got down to was if they knew enough to subsidize that project. The recipients of those deals always say they were not being subsidized, but it was subsidy. They were taking tax dollars and redirecting it to benefit those projects, meaning the other tax payers must pick up the service cost that would happen with those projects and the future costs those projects would not be contributing. While he thought this was a good thing, this community was far behind other communities in the skills with which the City had their staff review those economic development proposals. The City needed to have highly skilled staff, circumspect City Commissioners who look at it and make sure those things were done for the true benefit of the community as a whole. Not just that it was legal and made a project feasible and sustainable.

Vice Mayor Chestnut said he agreed with Professor McClure about the work because he thought it was great work and agreed it was a tool. The one thing they were trying to address was the development of some sort of economic modeling and other things inside the City. It was something they recognized as a shortfall. He said he had some massive 22 megabyte file in his e-mail that he needed to review that had a lot of cost benefit analysis assumptions. He thought all the City Commissioners took that seriously but part of the difficulty was to get your arms around process. He thought that was what they were trying to do. He said they needed to be confident in that to the best of their ability acting in public interest and providing a path the applicant could pursue in a fairly consistent manner and know what the expectations were. It delivered both sides of that. They were clear about their expectations and clear about some of the favorability of the idea of heavy investment by the applicant would be more favorable. The financing by the applicant would be more favorable. They lined up some of the things that made

it fairly clear about what their expectations were. His intent was to create a process that was understandable that someone could expect a reasonable decision, not a sure outcome but a reasonable decision and outcome in a reasonable timeframe.

Commissioner Hack thanked Stoddard and the rest of the staff for getting to this point. She thought they had a pretty good technical staff to do some thorough analysis and felt more comfortable they were going to get good data to back up any decision the City Commission made.

Commissioner Amyx also thanked staff and also Professor McClure and others who helped chime in on making a policy that was designed for the City of Lawrence. They also were able to take all the information staff dealt with on a regular basis and helped design this policy. He said staff met with Gary Anderson, the City's bond counsel, and knew there were issues that needed to be incorporate. The City had a policy that could stand the test to make sure they followed A-Z and expect great outcomes.

Commissioner Highberger said he liked the idea from the Sustainability Advisory Board about using the policies to incentivize LEED certifying the buildings. He did not think they needed to write in any more detail, but was something to consider.

David Corliss, City Manager, said the City had a pending TDD request from Bauer Farms and staff was using the policy to analyze that budget.

Mayor Dever said this was great work and hoped they had a lot of opportunities to meter and utilize those tools to determine whether things were viable and in the City's best interest. It was good to have more information to make good decisions because the City Commission were clearly not professionals in this realm and were taxed to making decisions. It was good to have input from people and documentation and information to make the best decision possible.

Moved by Hack, seconded by Chestnut, to adopt Resolution No. 6789, establishing a Tax Increment Financing District (TIF) policy. Motion carried unanimously. **(26)**

Moved by Hack, seconded by Chestnut, to adopt Resolution No. 6790, establishing a Transportation Development District (TDD) policy. Motion carried unanimously. (27)

Consider establishing 2009 rates for water and sewage disposal, system development charges for water utility and wastewater utility connections, wholesale water rates, and solid waste service rates.

David Corliss, City Manager, introduced the items. He said those were the rates that were applied for financial support for the 2009 budget. He thought staff did a good job in outlining the impact of those rates. He said previously, staff provided notification to the City's wholesale water customers regarding those rates. The Vice Mayor asked for a rate comparison in which staff put together. Obviously, some entities had not finalized their 2009 rates.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Amyx said if everyone looked at the amount of work and improvements on City facilities, the increase facing this City was probably reasonable. He said the City was in control of water usage and rates. He said he did not water his lawn and therefore, he would not see much of an increase in his water rate as someone who watered their lawn every day of the week.

Corliss said correct. The more volume of water used, the higher a person's bill would be.

Commissioner Amyx asked if his water usage did not change from the previous year, what would be the increase he would be able to see on the water side.

Corliss said it would be essentially 10% on the water side.

Mike Lawless, Assistant Utilities Director, said it would increase 45 cents on the fixed charge and on the rates it would increase by 26 cents on the per volume charge. If someone used the same 4,000 gallons, it would be \$1.04 plus the 45 cents.

Moved by Chestnut, seconded by Highberger, to place on first reading Ordinance No. 8307, establishing water and sewage disposal rates for 2009. Motion carried unanimously. (28)

Moved by Chestnut, seconded by Highberger, to place on first reading Ordinance No. 8308, establishing system development charges for water utility and wastewater utility connections for 2009. Motion carried unanimously. (29)

Moved by Chestnut, seconded by Highberger, to approve the wholesale water rate for 2009. Motion carried unanimously. (30)

Moved by Chestnut, seconded by Highberger, to place on first reading Ordinance No. 8284, establishing solid waste service rates for 2009. Motion carried unanimously. (31)

PUBLIC COMMENT:

Jean Cardine, Lawrence, said late in June 2008 after taking a class at the Lawrence Arts Center, she stepped forward to inform the Lawrence Arts Center about an incident that occurred on April 16th in one of the classes she attended. That incident had a highly sexual nature to it. She was looking to see what policy the Lawrence Arts Center had in place to closely look at that incident and deal with it. What she found was there was no policy in place to deal with that issue.

She said as she continued to ask the Lawrence Arts Center and spoke with their Interim Director June Jones about the incident, she tried to tell the Arts Center what would best resolve it for her. In her understanding of the laws around this kind of thing, that was usually what you do; you ask the patron how this could best be resolved for her and she let June Jones know on June 25th what would work best for her. She knew this teacher personally and worked with him for quite a while. She said she wanted to pass the matter by that individual and did not think the person had intended to be offensive. She said there seemed to be no policy to deal with the incident. She said June Jones, with a lot of manipulation, convinced her she should write up a report about the incident. She said Jones did that in a way that had a lot of retaliatory nature to it, meaning she was being told as she wrote down the information that she was going to be shown a great deal of respect on how it would be investigated, and that was far from what happened.

She said what happened instead was without acknowledging to her she was told that she was not allowed to speak to any of the other managers at the Arts Center, even though she had other management issues she was trying to work through with them. Also, very unfortunately because she had not gotten copies of what she had given to Jones, when she returned to give Jones copies of what she had put in writing the day before, she was embarrassed by June Jones at the front desk and was told she was a security risk. She said she could hardly place the copies of her letters in front of her because it was in public and in front of the receptionist and was told by Jones, that she was a security risk. She had spoken with the Lawrence Human Relations Department that morning, which was Friday June 27th before delivering the letters because she was already uncomfortable with the nature of how it was proceeding.

She said after this experience around 11:30 a.m. on that day, she further spoke with Paul Winn, City Humans Relations, to let him know that this was going far from the direction of correcting the civil rights violation and now she was being investigated as a security risk. It was retaliatory and did not look like the investigation would be looked at. She asked Winn to take on the investigation of this issue because she believed the Lawrence Human Relations did have a policy in place and knew how to deal with this kind of issue. She said Winn said he could not take that on because the Lawrence Arts Center had a policy to deal with this issue. She had a lot of trouble seeing that. She also asked Winn about other options because it appeared the direction had gone retaliatory and the Lawrence Humans Relations would not take on the research of the incident and Winn let her know that he did not know what her options were.

She said in the process of living a very quiet life, which she had done for 55 years, she had become a security risk and looked like the Lawrence Human Relations did not know how to help, but was pretending to help. This all stemmed from bringing forward a single incident that she just wanted to talk through with that teacher. What was going on was two reports were in the process of being made. June Jones insisted on continuing to write a report to deliver to her.

She also heard through the Lawrence Human Relations Department through their leader Toni Wheeler, who also cut communications off towards her, she was writing a report she wanted to delivery.

She said today she asked the City Manager David Corliss that she did not want those reports delivered to her. She said she claimed to understand the law around sexual harassment by experiences she had at the Lawrence Arts Center in 2000 and did not find those experiences pleasant in the process, but paid a lot of legal dollars to learn civil rights law and what good policy looked like. She hoped in that process she had helped the Lawrence Arts Center create good policy. Good policy meant that you privately investigate an incident and did not in public in front of everyone start attacking someone when you were pretending you were going to investigate an incident. She said Winn should know that and should have assisted her in the proper investigation immediately. He did not do that and did not inform her of how else she could have this looked at this accurately and legally. She wanted those reports stopped and the City Commission to take it seriously that the Lawrence Arts Center and Lawrence Human Relations Department were confused on civil rights and public accommodations. She left all of her documentation of it with Toni Wheeler, Director of Human Relations.

She said she was offended and not hiring a lawyer and spending the money she did in 2000 because no one learned anything when she did that. She was embarrassed for the City and someone who lived a quiet, honest, helpful life had to go through this. She hoped the City Commission took this seriously and hoped no reports came to her. She hoped they looked closely at the policies of the Lawrence Arts Center so it protected patrons. She hoped they looked closely at the policies of the Lawrence Human Relations Department so it protected people with public accommodations also.

Corliss said if the Commission wished to discuss the matter, he thought it was best to discuss the matter in a legal setting.

Nancy Thelman said she wanted to make a brief comment and request regarding a regular agenda item and all the discussion around the intent to take action on the Airport Business Park. She said she could speak for herself and maybe on behalf of the members who were present that they were disappointed not to have been able to do at this public meeting what they came to do, which was to offer information and their thoughts on that application. She understood the City Commission's hesitation to deal with it given that it was in such a state of disarray when it came to the City Commission. She said she had a few requests.

She said it sounded like the City Commission was going to create a process by which to ask and answer the question that would help clarify what kind of project came to the Commission or whether a project would go to the Planning Commission regarding the Pine Family Farm. She would like to know how that process would be established. She asked who would define the rules of the process and who were the stakeholders that would be included in that process, whether it would be a public process or a private process. She said process was a big part and they had worked so hard to get a good process. If they could know how that process was going to be set up and who got to be part of it was something she wanted to know.

She also requested that one of the questions the City Commission sought an answer for, they heard how heavily the applicant relied on the designation of an Urban Growth Area for justification of this urban development, she requested a serious study of how the urban growth area came to be and how the designation was brought into motion and the process that put it on the map. She asked the City Commission to study the Planning Commission notes from 2003 regarding the addition of the urban growth area to the North Lawrence and Grant Township communities.

She also asked the City Commission to recall that there was a meeting quite a while ago where the City Commission tabled their decision on revised Chapter 7, the Industrial Chapter, waiting until the City Commission could read thorough minutes from the Planning Commission from May 21st. There was an enormous conversation about the value of prime agricultural soils

and whether they should be in the general location criteria and how they should be dealt with. She said that whole area was crucial to the conversation about the Airport Business Park. It was in limbo because Chapter 7 was in limbo. She had looked for Chapter 7 to come back to the City Commission so it would either be voted on or sent back to Planning, and it had not been acted on. She said a resolved Chapter 7 with language regarding prime agricultural soils that had some clout would be a good tool.

She said she also asked if it would be helpful to have a sector plan in place since it was being referred to by the applicant. She said she knew it had been worked on, but should an area or sector plan be in place for North Lawrence and Grant Township as development pressure in the area was enormous and the confusion if whether the land could tolerate development was a huge question and put the City Commission in a difficult circumstance when the question was out there and the documents seemed at odds with reality.

Natalia Louther, Douglas County resident, said she lived between North Street and I-70 and had a 12 acre farm she had been developing as a farm for over 12 years. One of the things she had sent e-mails about was sharing the information the Planning Commission put in a rezoning analysis in response to her rezoning request in 1997. Today, the exact opposite of what Mr. Pine was requesting to do. She said she had petitioned to have more land that at time was zoned industrial, rezoned as agricultural. She said she did that to send a message to everyone out there that she intended to keep that land in agricultural production. The County Commission and Planning staff, at that time, felt the best use of her land, which was very close to the land they were talking about in the Airport Industrial Park development, they felt the best use was as agricultural land and that was what would be best for the community and neighbors in that area. She thought it was important to look at the history of the area and what decisions had been made in the past. She asked why the County Commission would rezone her land as agricultural and say that was a good thing if they were going to turn around and say that

agricultural land was a bad thing in that area and they wanted to make it industrial and be industrial.

She said she wanted to address a few things that were brought up at this meeting. She did not have much time to follow this issue even though it was of critical importance to her. She had to take a full day off of work without pay to be able to go to each of these meetings or any other meeting. That was a hardship because the City Commission voted not to fund her job next year as a City Transit bus driver. She needed all those paid days that she could get.

She said the applicant brought the attention to how their application complied with Horizon 2020 and Transportation 2025, which incidentally showed the T bus that, might not exist in 2009. She said that was a graphic demonstration that those were just ideas and not reality. What really happened was something else. What had changed in the 11 years since her land was rezoned because it was not the land or the neighborhood. One of the things that had changed was that they had a growing awareness that the community was increasingly becoming affected to come out of denial about things like global warming. There was a world food crisis out there and it was starting to affect everyone. Fuel prices were skyrocketing which was going to affect heating bills, all utilities, transportation. The economy they had now was going to change in ways they could not predict because those outside forces they had no control over were going to affect how business was done. If they started looking at all of those global trends that were suddenly coming into their awareness in a tangible way, the solution of those keep going back to agriculture and how they could grow their fuel alternatives and grow more food locally. She said if they took the very best agricultural soil and pave it over and submit the soil to the transportation industry or warehouses to the old way of doing business, they were not going to have that resource left for the new way of doing business. They were going to lose their alternatives and a chance to support them.

Craig Sundell, Lawrence, said he was a Lawrence resident since 1995 and had a Master's from the University of Kansas in Systematics and Ecology from 2002. He was in a

PAC called Citizens for Commonsense and Accountability. He said he was also the Executive Director of Santé Ana Institute that was in Lawrence and Peru. Lawrence was a unique place. He asked what the character of the community was going to be in the next 20 – 30 years. He said the groups he worked for were pro growth and development, but were opposed to property taxes. They sought solutions by looking at the local unique character of Lawrence recognizing its limitations and defining opportunities. He said half of all the taxable property in this county and city was the University of Kansas or other non taxable entities. He was strongly opposed to increases in property taxes, particularly for senior citizens. He commended the City Commission for reducing by a small amount the mill levy, but at the same point in time looking to put sales taxes on the ballot. They sought solutions by looking at the local unique character of Lawrence and recognizing its limitations and defining opportunities. They did not need wrong headed policy and needed to recognize that things change. The fact that having half of the taxable property with the University of Kansas was it put a strain on property owners, many of whom were senior citizens and retirees. They commended the Commission for recognizing this and opting for a sales tax increase at a small reduction of the property tax levy. They should look and attract more of the human capital. He asked the City Commission to stop spending \$100,000 in property tax abatements for every \$35,000 job created. He said do not give property tax abatement because at the end of 10 years those businesses leave.

He said North Lawrence in this situation was the wrong place for industrial development given the alternatives. For one, it was in a flood plain. They had about 20 – 30 acres on a hilltop surrounded by a floodplain. As a member of Kansans for Accountability and Common Sense, if they voted yes for this, they should put a personal bond up so they would pay the insurance for the companies that move in there because they could not get insurance in a flood plain. The best area for growth was East and Southeast Lawrence in the existing business park site and the Farmland site. They also supported the 31st Street route for the South Lawrence

Trafficway. He thought if people wanted to file suit on them, then they should let them but ultimately that was the way it was going to go.

He said they were planning a major tourist destination point that would be adversely affected by industrial developments in this specific area. It needed to be a family friendly tourist project that was planned in the area near that site that included a couple of museums. It was logical given the unique situation of Lawrence. They could not put those museums on KU because there was no room. The parking was not available for Downtown Lawrence. He said it needed to be a family friendly area. He had been on the inside of what was going on with the Sternburg Museum. They were close to the East Lawrence exit within a mile. This was something that was important. When he saw things about no fast food restaurants it did not bother him, but would like to see quality restaurants in that area. He would like to see opportunities for people in North Lawrence to have better jobs. It was not something that was going to adversely affect the floodplain.

FUTURE AGENDA ITEMS:

- 08/26/08
- Adopt on second and final reading, Ordinance No. 8307, establishing water and sewer rates, Ordinance No. 8308, establishing system development charges, and Ordinance No. 8309, establishing solid waste rates.
 - Receive performance audit on financial indicators.
 - Approve the following items related to City Project No. 18-CP7-507(S), 31st Street, Haskell Avenue to O'Connell Road, street, storm sewer, and waterline improvements:
 - a) Authorize Mayor to sign the Cooperation Agreement with Douglas County concerning the development of concept phase plans for the extension of 31st Street. *Agreement will be posted on 08/15/08.*
 - b) Approve City participation of \$10,000 to be paid by funds in the public works street maintenance budget.
 - c) Authorize Mayor to execute Supplemental Agreement No. 1 with the Kansas Department of Transportation for the extension of 31st Street.
- 09/09/08
- Oread Inn distance restriction waiver public hearing.
- 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 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.

- K-10 and Farmer's Turnpike 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.
- 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) **Please note: This item will be reheard by the Planning Commission to consider additional language to make other articles consistent with the proposed text.**

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)

- Consider the 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)

Moved by Chestnut, seconded by Amyx, to adjourn at 10:25 p.m. Motion carried unanimously.

APPROVED:

Michael Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF AUGUST 19, 2008

1. E Gov Sale – Surplus computer equip & 70 computer work stations.
2. Bid Date Set – 2008 Micro-Surfacing Program, Sept 2, 2008.
3. Bid – Comprehensive Housing Rehab – 1509 E 28th Terr/T&J Holdings for \$24,405; 920 Rockledge/Comet Corp for \$24,900; 1017 Rogers Pl/T&J Holdings for \$24,050; 1219 New York/Penny Constr for \$23,646.
4. Change Order – King's Constr for \$38,533.54, 25th Terr, O'Connell to Franklin project.
5. Ordinance No. 8294 – 2nd Read, Chapter 5, Article 10, ground fault circuit interrupter for kitchen countertop & bathroom receptacles.
6. Ordinance No. 8313 – 2nd Read, GOB financing and refinancing real estate.
7. Ordinance No. 8305 – 2nd Read, 2009 City of Lawrence Budget.
8. Ordinance No. 8306 – 2nd Read, Property tax revenues for 2009.
9. Ordinance No. 8311 – 2nd Read, Amend 17-212.
10. Resolution No. 6773 – Name change Lawrence Arts Commission to Lawrence Cultural Arts Commission.
11. Resolution No. 6774 – Provide public art plan info.
12. RFP – 2008-2009 Watermain Replacement Program.
13. Public Wholesale Water Supply District No. 25.
14. Signs of Community Interest – Fall book sale Lawrence Public Library.
15. Donate Open Space – Michael Stultz.
16. Eminent Domain – Bauer Farm Project.
17. Subordination Agreement – 507 Louisiana & Mortgage Release – 810 Locust.
18. City Manager's Report.
19. Ordinance No. 8293 – 1st Read, rezone (Z-04-08-08) 155 acres, NW corner of 1800 & E 900 Rds.
20. Ordinance No. 8274 – 1st Read, Amend Sidewalk Dining & Hospitality License.
21. Annex (A-06-05-07) – 144.959 acres, Airport Business Park No. 2, E 1500 Rd US Hwy 24/40.
22. Rezone (Z-06-09-07) – 99.31 acres, A & B-2 to IL, Airport Business Park.

23. Rezone (Z-06-10-07) – 43.48 acres, A & B-2 to IL, Airport Business Park.
24. Rezone (Z-06-11-07) – 26.22 acres, A & B-2 to IL-FP, Airport Business Park.
25. Prelim Plat (PP-06-07-07) Airport Business Park 1.
26. Resolution No. 6789 – Tax Increment Financing Policy. (TIF)
27. Resolution No. 6790 – Transportation Development District Policy (TDD)
28. Ordinance No. 8307 – 1st Read, Water & Sewer disposal rates 2009.
29. Ordinance No. 8308 – 1st Read, System Development Charges-Water & Wastewater 2009.
30. Wholesale water rate 2009.
31. Ordinance No. 8284 – 1st Read, Solid Waste Rates 2009.