



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

September 9, 2008

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

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Dever proclaimed the month of September 2008 as "National Preparedness Month."

Commissioner Amyx pulled Ordinance 8316 from the consent agenda regarding the "Get Down" event for a separate vote.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City Commission meeting minutes of August 26, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Human Relations Commission meeting minutes of May 21, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 484 vendors in the amount of \$1,578,694.04. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment Licenses for Slow Ride Roadhouse, 1350 North 3rd; and the Cereal Malt Beverage License to Biemer's BBQ, 2120 West 9th (Contingent Upon Departmental Approvals). Motion carried unanimously.



The City Commission reviewed the bids for 2008 Microsurfacing Program for the Public Works Department. The bids were:

BIDDER	BID AMOUNT
Ballou Construction Co., Inc.	\$548,252.70
Vance Bros., Inc.	\$612,316.87

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to Ballou Construction Co., Inc., in the amount of \$548,252.70 for the 2008 Microsurfacing Program. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize the City Manager to renew contract with Marsh McBirney – Hach for data delivery services associated with the wastewater collection system long-term flow monitoring program in the amount of \$214,800. Motion carried unanimously. (2)

Ordinance No. 8298, rezoning approximately 9.27 acres from RS7 (Single Dwelling Residential) to RS7-PD (Single-Dwelling Residential Planned Development Overlay) for property located along the west side of Iowa Street between Stratford Road and approximately 200 feet south of University Drive, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack Highberger. Nay: None. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to 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. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to 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. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve text amendment (TA-06-11-08) to Section 20-804, 805, 806 of the Subdivision Regulations to include requirement that RDPs must comply with the lot requirements in Article 18. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to 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. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve text amendment (TA-12-26-07) to Section 20-806(b)(3) and 20-806(d), Subdivision 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. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve as signs of community interest, a request from Lawrence Home Builders Association to place directional signs in various rights-of-way from September 27 – October 5, 2008 for Fall Parade of Homes. Motion carried unanimously. (9)

Commissioner Amyx pulled Ordinance 8316 from the consent agenda for a separate vote. Ordinance No. 8316, authorizing the temporary sale, possession and consumption of alcoholic beverages in the 800 block of New Hampshire Street, including City Parking Lot 8 and Lot 4 on Friday, October 3, 2008 between the hours of 4:00 – 11:00 p.m. and Saturday, October

4, 2008 between the hours of 12:00 – 11:p.m. for the Get Downtown event, was then read a second time. **It was moved by Hack, seconded by Chestnut**, to adopt the ordinance. Aye: Dever, Chestnut, Hack, Highberger. Nay: Amyx. Motion carried. (10)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said one priority of staff was to be available to respond to questions and inquiries regarding the three sales tax initiatives on the November 4th ballot. Staff put together educational materials and those materials would be included as a utility bill insert. Staff was also available to make presentations in the community. He said he was at the North Lawrence improvement Association potluck and they had good questions and a lot of interest from the public.

Scott McCullough, Planning and Development Services Director, said staff prepared a memo regarding projects that were completed, in the process, and scheduled major projects.

Other items in the City Manager's Report included: Scott Miller, Staff Attorney, prepared an article regarding TASERS which was recently published in the Kansas Governmental Journal; and, the Utilities Department revised its internal Emergency Response Plan

Mayor Dever said they appreciated staff working in-house on those items which was a tremendous savings. (11)

REGULAR AGENDA ITEMS:

Conduct bond and note sale.

Ed Mullins, Finance Department Director, presented the staff report. He said a note and bond sale was conducted and because of the peculiar markets, staff did not receive as many bids as they have in the past. Five bids were received for General Obligation Bonds and two bids for Temporary Notes which were very good bids. The City sold approximately \$11.9 million in General Obligation Bonds with a 12 year life for issues in year 2000 which included \$3.7 million for the refinancing of two existing issues and were able to experience a net savings of approximately \$440,000. In addition, \$10.6 million were issued in Temporary Notes and would

be due approximately a year from now, for projects that were under construction and were not yet completed. He said hopefully in the next year, those projects could be bonded.

He said the winning bid for the General Obligation Bonds was Wachovia with a true interest cost of 3.44% over a 12 year period and the winning bid for Temporary Notes was UMB Bank with a net interest rate of 2.15%.

He said in addition to adopting the two resolutions, staff asked that the City Commission declare an emergency and adopt on first and second reading Ordinance 8322 which enabled the underwriters to sell those bonds tomorrow.

Corliss asked Mullins to explain how those rates compared with previous debt issuances and if there were any alteration or change in the City's debt rating.

Mullins said the City's debt rating for General Obligation Bonds was AA2 and was subject to change because Moody's Rating would be using a global rating which would put the public and private sector issuers on the same scale. He said he was assuming the City would go up to AAA rating or at least AA1 because comparative to the private sector, the City's default rates were considerably less.

In terms of other rates, the City was somewhat better than a year ago this time. The interest rates were slightly down because the economy was down. He did not know exactly what the rates were a year ago but 3.44% was still good.

Commissioner Highberger said he read the new rating system would be phased in and asked when the City would fall under that rating system.

Mullins said Moody's rating was currently under going that change and Moody's anticipated the rating change by the end of the year.

Mayor Dever asked what type of variation occurred when the rating went up. He asked if it would substantially change the interest rate.

Mullins said nothing really changed, but the grading scale. The City was going to an easier rating and was still the same credit. In theory, if looking at the City's rates, the City was where AAA might be anyhow.

Vice Mayor Chestnut said based on the bids received and what was known about short term rates on investments with temporary note money, he asked if Mullins saw any issue in trying to make this fairly cost neutral as far as basis points.

Mullins said the rates the City would pay were approximately 2.15% and the rates invested were 2.5%.

Mayor Dever called for public comment. There was no public comment.

Commissioner Amyx said there was discussion as to whether or not to proceed with the Carnegie Library Building within the next year and thought that discussion should take place sometime before the first of the year. If the City was going to proceed with that project that was fine, but if deciding not to proceed at least the City would be earning money to take care of its obligation.

Corliss said this was an existing issuance. If the City decided not to proceed with the project because of other priorities or no resources to attend to current priorities, the City would be able to move the money over to another project by adopting a resolution. He said staff understood that according to debt law that debt could not be issued again for this project. He said this debt issuance did not commit the City to the Library project. In fact, staff thought it would be more expensive. He said after looking at all the capital priorities, the City Commission might want to have discussion as to whether or not to fund the Library building at this time or wait for a better time.

The City Commission reviewed the bids for General Obligation Temporary Notes, Series 2008-I. The bids were:

BIDDER	Net Interest Cost (\$)	True Interest Rate (%)
UMB Bank N.A.	\$239,169.33	2.1531%
Janney Montgomery Scott, LLC	\$249,095.31	2.2426%

Moved by Chestnut, seconded by Hack, to award the bid to UMB Bank N.A., for the Net Interest Cost of \$239,169.33 and a True Interest Rate of 2.1531%. Aye: Amyx, Dever, Chestnut, and Hack. Nay: None. Motion carried unanimously. **(12)**

The City Commission reviewed the bids for General Obligation Bonds, Series 2008-A. The bids were:

BIDDER	True Interest Cost (\$)	Net Interest Rate (%)
Wachovia Securities LLC	\$3,084,396.78	3.4410%
BMO Capital Markets GKST Inc.	\$3,120,215.22	3.4622%
Piper Jaffray & Co.	\$3,276,919.04	3.4733%
UBS Securities LLC	\$3,244,982.64	3.6069%

Moved by Amyx, seconded by Hack, to award the bid to Wachovia Securities LLC for a True Interest Cost of \$3,084,396.78 and the Net Interest Rate of 3.4410%. Aye: Amyx, Dever, Chestnut, and Hack. Nay: None. Motion carried unanimously. **(13)**

Moved by Amyx, seconded by Hack, to adopt Resolution No. 6796, authorizing and directing the issuance, sale and delivery of \$10,635,000 principal amount of general obligation notes temporary notes, series 2008-I, of the City of Lawrence, Kansas, providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due, making certain covenants and agreement to provide for payment and security thereof; and authorizing certain other documents and actions connected therewith. Aye: Amyx, Dever, Chestnut, and Hack. Nay: None. Motion carried unanimously. **(14)**

Moved by Amyx, seconded by Chestnut, to declare an emergency and adopt on first and second reading, Ordinance No. 8322 authorizing and providing for the issuance of \$11,985,000 principal amount of general obligation bonds, Series 2008-A, of the City of Lawrence, Kansas; providing for the levy and collection of annual tax for the purpose of paying the principal of and interest on said bonds as they become due; authorizing certain other documents and action in connection therewith; and making certain covenants with respect thereto. Aye: Amyx, Dever, Chestnut, and Hack. Nay: None. Motion carried unanimously.(15)

Moved by Amyx, seconded by Chestnut, to adopt Resolution No. 6797, authorizing and directing the sale and delivery of \$11,985,000 principal amount of general obligation bond refunding and improvement bonds Series 2008-A, of the City of Lawrence, Kansas, previously authorized by Ordinance No. 8322 of the issuer; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith. Aye: Amyx, Dever, Chestnut and Hack. Nay: None. Motion carried unanimously. (16)

Conduct a public hearing on a request by Oread Inn, LLC, for a waiver of the restriction of the sale and serving of alcoholic liquor within 400 feet of a school or church pursuant to section 4-113(a) of the Code of the City of Lawrence, Kansas regarding a proposed Hotel/Caterer License at 1200 Oread Avenue.

Mayor Dever called a public hearing on a request by Oread Inn, LLC, for a waiver of the restriction of the sale and serving of alcoholic liquor within 400 feet of a school or church pursuant to section 4-113(a) of the Code of the City of Lawrence, Kansas regarding a proposed Hotel/Caterer License at 1200 Oread Avenue.

Frank Reeb, City Clerk/Director of Administrative Services, said the applicant had started the process to obtain a state license from Alcohol Beverage Control in order to sell alcoholic beverages on the hotel premises. The reason for this public hearing was because the proposed primary public entrance of the hotel would be within 400 feet of the Ecumenical

Christian Ministries Building located at 1204 Oread Avenue. The applicant was requesting the City waive the distance restriction found in City Code.

He said in the agenda materials was included a letter from Paul Minor, President of the ECM Board, which noted the Ecumenical Christian Ministries did not object to the sale of alcoholic beverages on the hotel premises. In addition, staff had not received any written or telephone comments from any members of the public on this item.

The license requested by the Oread was typical of what they would find at a hotel. If the license was approved and granted, it would allow the hotel to serve alcoholic beverages in a restaurant on the licensed premises, in the lounge area, mini bars in individual rooms, or in a convention hall or ball room on the licensed premises. It was similar to the type of license seen at the Eldridge or Holidome. He said in the event the City Commission approved the waiver request, as required in City Code, the Commission would also need to make a finding that the proximity of the sale of alcoholic beverages, at the hotel, was not adverse to the public welfare or safety.

Paul Werner, architect for the applicant, said all along it was anticipated that a liquor license went along with a hotel. He said they had met with ECM early on about this issue and ECM stated it would not be a problem which was shown in the letter.

Mayor Dever called for public comment. There was no public comment.

It was then moved by Hack, seconded by Highberger, to close the public hearing. Motion carried unanimously.

Commissioner Amyx asked if staff had heard anything from the University of Kansas about this request.

Reeb said staff did not hear anything from the University. In that section of the code that described this process, a school was specifically defined as a public or parochial K-12, so the University did not receive a letter like that sent to the Ecumenical Christian Ministries.

Moved by Highberger, seconded by Hack, to find that the proximity of the Oread Inn is not adverse to public welfare and/or safety, and approve the distance restriction waiver request. Motion carried unanimously. (17)

Consider adopting Ordinance No. 8323, amending Chapter VI, Article 13 and enacting Chapter VI, Article 13 Section 6-1302.1 of the Code of the City of Lawrence, Kansas, 2008 edition, and amendments thereto, concerning rental licensing requirements of dwelling units in RS zoning districts to establish a revised renewal schedule, repeal section 6-1306 related to occupancy of rental units, and other minor changes that bring it current with recently adopted codes.

Brian Jimenez, Code Enforcement Manager, presented the staff report. He said there were currently between 1,800 – 2,000 rental licenses due annually. He said at the time of application, the applicant was issued a license for one year. Over half of their department's licensing was due in November, December and January. He said that amount of licensing was manageable until the contractor licensing program was implemented in the summer of 2006. Those licenses were due at the end of the year and staff typically processed several thousand licenses within that three month period. It had become challenging for staff to sufficiently process the paperwork and mailings at that time.

He said the 4 proposed amendments included:

- Create a renewal schedule for permits based on an owner's last name to streamline the renewal process for landlords and to concentrate renewals to more efficient times of the year for staff;
- Repeal section 6-1306 related to occupancy of rental units. Some landlords/owners have misinterpreted this section of the rental licensing ordinance to grant an exception to the definition of "family" as defined in the Land Development Code;
- Identify group home and adult day care as being exempt from the licensing requirements to reflect similar exemptions provided under the old zoning code; and,
- Provide house cleaning type text revisions to incorporate codes that have been adopted since the ordinance's original adoption and to reflect the creation of the Planning and Development Services Department which were:
 1. Neighborhood Resource is now identified as Planning and Development Services;
 2. Use Group 7 is deleted as this use group was omitted in the new Development Code;
 3. Zoning code is replaced with the Development Code; and

4. Uniform Housing Code is replaced with the Property Maintenance Code.

He said staff would like to add code language that owner/occupied dwelling units in single family zoned districts would be exempt from licensing regulations which had been the City's policy, but in the current code that language was not spelled out and staff thought it would be a good addition to the code.

He said the renewal schedule offered three benefits:

1. Evenly distributes the renewals over a nine month period, eliminating December, January and February due to workload;
2. Make payment process friendlier to the property owner;
3. Utilize the same payment schedule if the City adopts an ordinance making rental licensing and inspections for all properties 50 years old or older;

He said people often misinterpret Chapter VI, Article 306 to be an exemption to the occupancy regulations identified in Chapter 20-202(g) of the Development Code.

He said one other revision was to clarify in the code to refer to the Development Code for the definition of "family."

Commissioner Highberger said he had a question about Chapter VI, Article 1306. He asked if a limit of four unrelated people in a dwelling unit in a single family district applied.

David Corliss, City Manager, said it would apply. The difficulty was when staff wrote this language, two thoughts were included in the paragraph, but should not have. Staff was trying to alert the people that were going to need to register their single-family rentals that they had to comply with the zoning code. Staff also put in to the provision that it did not apply to owner occupied dwellings as far as the rental registration requirement. What happened was that people were reading this together to say that if it was owner/occupied, they did not need to register and did not need to meet the family definition, but that thinking was not accurate. He said the cleanest way would be to strike that provision and include the language that reiterated the status quo that if it was owner/occupied there was no requirement they needed to get a rental registration license. Staff's thought was if a person owned the structure and was living in

that structure, the owner occupied was much more likely to take care of that property and be aware of safety issues than if simply renting the property. The City did not require single family homes owned by single family individuals to have inspections because they knew they were living there and would be cognizant of the issues. They were concerned about the rentals, which was why the City had that law in the first place.

Jimenez said he sent out e-mails and contacted numerous people in the rental community. He also sent letters to Lawrence Association of Neighborhoods, Lawrence Landlords, Inc., Oread Neighborhood, and Centennial Neighborhood.

Commissioner Highberger said under the proposed changes, staff was trying to make it clear that rental registration was not required for owner/occupied, but the intent was to still have the family definition apply.

Jimenez said yes. In Chapter 6 Article 1306, staff added that language to refer to the Development Code to eliminate any confusion.

Corliss said it always applied because it was a separate law. The key to the family definition was if there were three individuals in a single family zoned district in a dwelling unit, the City did not care how they were related. If there were more than three people in single family districts, then those people had to be related by blood, marriage or adoption.

Jimenez said that was a consistent policy since he started working for his department.

Corliss said stating the law was a lot easier than enforcing the law, but staff wanted to get the law in better practice with what they were actually doing and help with some of the registration challenges. He said during the 2009 budget discussions and adoption, they talked about expanding the rental registration law and would have that on a City commission agenda in October for additional consideration. That was the consideration of expanding the rental registration law to structures that were 50 years of age or older.

Mayor Dever called for public comment.

James Dunn, Lawrence, said Jimenez sent an e-mail last week outlining this discussion, but asked if 6-1305 was being considered at this time.

Corliss said yes.

Dunn said Chapter 6 Article 1305 would have a great impact on housing providers. He said when Contractor Licensing went into effect staff provided a number of informational programs to people that were in the contracting industry to explain how this operated. He said if there were grounds for revocation and probation of rental licensing permits, many providers needed to have a clear understanding on what that meant. The proposed code language talked about the noise ordinance, environmental code, development code, disorderly house nuisance and property maintenance code. He said he was not sure all the housing providers in the city were familiar with those codes and before someone came out to close those houses, everyone needed to be on the same page. He encouraged the City Commission to ask staff to provide informational programs before implementation.

He said the disorderly house nuisance had been in effect for a while and wanted to share some of his experiences. He said he received two letters on June 10th regarding disturbing the peace from the Neighborhood Resources Officers notifying him there had been some issues with disturbing the peace and notices to appear in court for some of his tenants. The event occurred on October 3rd, 2007, so there was a huge gap of time from when the event happened and when he received notice. By the time he received the notice, in one case the tenants were already gone and in the other case, the tenants had given notice and planned to leave in July. It seemed if the City was going to put places on probation and pull licenses, that gap needed to be narrowed. In those cases, the City would be closing the house down on someone who did not even live at that location anymore. There was a lot of concern and was not sure the housing providers in this community were aware of this transpiring.

Commissioner Highberger said the changes proposed were for updating and there was no substantive change.

Dunn said he understood, but the part that was different was City staff was going to start closing places down quickly, pulling licenses, and going on probation.

Corliss said staff should discuss how they used the Disorderly House Nuisance Ordinance. Staff had achieved some level of success, particularly with the Disorderly House Nuisance Ordinance. Staff had conferences with landlords, City legal staff and the Police Department where the City sought their assistance in situations where people were not conducive to good neighbor ordinances. He said he appreciated Dunn's comments about the timeliness of his situations. In many cases, it took awhile for a complaint to be filed, prosecuted and adjudicated. He understood there would be situations where the landlord was not being notified that evening of the incident, but he also knew of situations where the landlord was notified that evening or fairly close to that situation because of concerns from the police department and others.

Jimenez said a couple of years ago the Disorderly House Nuisance Ordinance was revamped. In January 2007, the Neighborhood Resources Officers met with the Police Department regarding the nuisance ordinance and since then, it had been very effective. It took time for Code Enforcement to complete that process, which looked at properties that fit the criteria about an abatement conference, which was two diversions or convictions within one calendar year or 3 incidents that occurred in one night, one day, or one response.

He said the process was that a spread sheet would be received by staff from Municipal Court for those properties on the verge or already at that level. At that time, a conference would be scheduled with legal staff in attendance along with the Neighborhood Resources Officers. That conference was a fact finding mission and an informational type conference to inform property owners of the regulations. He said they did not want to shut a house down, but gave staff teeth that if things did not improve, there were things staff could implement. He said staff could look at imposing sanctions. For instance, if a house had a reoccurring theme of congregating outside a backyard at 2 a.m. on a Friday or Saturday morning, staff might ask that

no guest be outside at 2 a.m. because that issue was what was getting them in trouble. It was an agreement that would be signed. Staff did not have anyone come back as a result of a violation after a City staff requested. He said staff had scheduled approximately 20-30 conferences over the past two years.

He said in reference to 6-1305, nothing was new except replacing text language based on code changes and those were provisions staff could utilize if they had a house that was in violation. Overall, the house nuisance ordinance had been successful.

Corliss said Dunn made a good point that a number of landlords did not know about those code provisions and staff could look for opportunities to further educate those landlords. A number of those code violations would go first to the property owner; environmental code, development code, and property maintenance code. Staff was not likely to cite the tenant in those situations, but staff might cite the tenant with a noise complaint or littering. He thought the comments about trying to get the word out were appropriate.

Mayor Dever said a matrix might be helpful or any substantive changes between 1997 deletions and the 2008 additions cited. He said if there were any major changes, it would be helpful for staff to point those changes out. He said overall the City Commission seemed comfortable with the changes.

Commissioner Amyx said the new language clarified the definition of family and owner/occupied section which made more sense to a lot of people. If the City had an owner/occupant who chose to rent bedrooms in a house, there might be an exemption, but it was not exempt from the development code. He thought it took care of the problem.

Mayor Dever said with rental properties and the payment schedule, it might be an issue having to pay it all at once, but he did not think it was a big issue.

Commissioner Highberger said he appreciated Dunn's comments and thought staff could follow through with training or information to help people understand their responsibilities. He supported the changes.

Vice Mayor Chestnut said one point that Dunn brought out was that there probably had not been a lot of change in the responsibilities, but had an ever rotating group of property owners as well. It was an ongoing educational process. Property owners did not like to have surprises, especially those who were really trying to do what was right and might not be aware of their responsibilities. It was good to be vigilant and do the best they could.

Moved by Hack, seconded by Chestnut, to adopt on first reading, Ordinance No. 8323, amending Chapter VI, Article 13 and enacting Chapter VI, Article 13 Section 6-1302.1 of the Code of the City of Lawrence, Kansas, 2008 edition, and amendments thereto, concerning rental licensing requirements of dwelling units in RS zoning districts to establish a revised renewal schedule, repeal section 6-1306 related to occupancy of rental units, and other minor changes that bring it current with recently adopted codes. Motion carried unanimously. (18)

Consider a request for a marked crosswalk together with pedestrian refuge islands on Louisiana Street adjacent to Dakota Street.

David Woosley, Traffic Engineer, presented the staff report. He said the Traffic Safety Commission first heard this request back in March. The request came from the Park Hill Neighborhood Association. Their recommendation was to mark a crosswalk at this location, but only in conjunction with a pedestrian refuge island. The recommendation was forwarded to the City Commission and at the May City Commission meeting the question of bicyclists came up. Traffic Safety did not discuss bicyclists, so staff then took the issue to the Bicycle Advisory Committee which met on June 17th and unanimously supported the crosswalk together with the pedestrian refuge islands. That committee then sent the issue back to the Traffic Safety Commission and on August 4th the Traffic Safety Commission reheard that request. This time it was a split vote with one person opposed to the request, but everyone else voted in favor of marking the crosswalk and installing pedestrian refuge islands.

Mayor Dever called for public comment.

Judith Robinson, Vice President of the Park Hill Neighborhood Association, urged the City Commission to approve the request to install the marked crosswalk. She said she and her husband utilized that crosswalk. She said they had to wait a long time to cross that intersection which was not too bad, but she also ran across the intersection because of the traffic that came through. She said she would hate to think that someone with three small children was trying to cross the intersection. There was a lot of traffic in that area and the traffic would increase.

Carol Bowen, Lawrence, said she lived in the Park Hill Neighborhood. She said she had a video of an interview with their association president who talked about their perspectives. There was also an interview with the Chair of the Bicycle Advisory Committee who talked about the bicyclists. It was the background that was interesting. In the background was a pedestrian trying to get through the traffic. That was the vision she wanted the Commission to keep in mind when trying to figure out what to do about this intersection. A number of times she saw disconnect between what the City did and what the City planned.

She said Transportation 2030 had a chapter on a pedestrian plan and a paragraph about Commercial Centers which read:

“These areas tend to be located along arterials and aggregated at various locations along the corridor, particularly where major arterials intersect. In the past, these locations have been more of the strip commercial and “L” shaped neighborhood shopping center style developments, which provide relatively poor pedestrian environments. Future goals include improving the directness and safety of the pedestrian network to, from, and within these locations.”

There were pedestrians from her neighborhood and pedestrians come across from Breezedale which was north of Haskell. Haskell students used this street instead of 23rd because the sidewalk on 23rd was too close to the street. She said school children also go back and forth.

She said she was at a Traffic Safety Commission meeting and one of the Traffic Safety Commissioners said he checked out that neighborhood and thought those people should not be walking along that area because there were no sidewalks. A lot of people thought pedestrians were in the way.

Michael Pomes, Secretary of the Park Hill Neighborhood Association, said just to the north of the crosswalk were entrances to The Malls and Checkers which was a place where there was a lot of vehicle traffic and it was not easy for pedestrians to get across. He said there was also the apartment development at 31st and Ousdahl which would add traffic coming up Louisiana and they were looking for a solution to slow down traffic making it safer for pedestrians to cross.

Commissioner Highberger said he was ready to approve this request the last time it was discussed and he was glad the concerns of the bicycle community were addressed. He said he did not think a pedestrian should ever need to run across a street. If something could be done to prevent pedestrians from running across that street it should be done.

Vice Mayor Chestnut said he agreed. As a former student of South Junior High, he danced across that street to go to TG&Y. He said working on the design needed to continue because it was known in some parts of the community as "axle grinders" and had the tendency to hit at axle level. He said his only concern was the bicycle issue, but that issue seemed to be on board.

Commissioner Hack said she also heard in the last discussion regarding this request about bicyclists concerns. Louisiana was an interesting street because of its size and for the amount of traffic it had to carry by virtue of the schools at that location and anything that could be done would be helpful. She said she was also ready to approve the request last time, but now the Commission was armed with more information this time.

Commissioner Amyx said he did not really have a problem approving this request, but one concern was the length of time it took to return this issue back to the City Commission.

He said the recommendation was near Dakota Street, and asked if staff knew what area on Dakota Street.

Woosley said it would be just a little bit north of the intersection. If it was right in the middle of the intersection, it would be difficult for a truck to make a turn out of Dakota and go north on Louisiana. He was guessing around 50 feet and would depend on design and the terrain in that area. It would be between the intersection and first driveway to the north. He said staff wanted to make sure that single unit trucks, delivery trucks, UPS trucks, that were frequently in the neighborhood could make that turn without a problem.

Mayor Dever said there was plenty of public advice, specifically from the Bicycle Advisory Committee. There were other pedestrian refuges that seemed to be functioning well. He asked Woosley how the other refuges were holding up.

Woosley said better than they were in the beginning. Since there were several others in town people were becoming more aware and watching out. Those pedestrian refuges were working out a little bit better.

Moved by Hack, seconded by Amyx, to approve the request for a marked crosswalk together with pedestrian refuge islands on Louisiana Street adjacent to Dakota Street. Motion carried unanimously. (19)

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

Amy Brown, Planner, presented the staff report. She said this chapter of Horizon 2020 had a lengthy history. The amendment was originally initiated in 2004, approved by all three governing bodies. The ordinance/resolution was approved by the City Commission and ultimately denied by the Board of County Commissioners in October 2007. The complete detail of this history was in the staff report.

She said general direction from the City Commission and Board of County Commissioners in 2007 was to make the chapter as a whole, more positive and also make the chapter as a whole, more flexible. Staff worked with and received input from the Planning Commission, its Industrial Design Sub Committee, and the Chamber of Commerce in order to revise those location criteria. Staff also received comments from the Chamber of Commerce, League of Women Voters, and other members of the public throughout this process since October 2007.

She said a brief outline of the chapter started with introduction and strategies. The main body of the chapter was split up into two sections; industrial land use and employment related land use, followed by goals and policies, and maps at the end.

Major changes to the chapter before October 2007 included separating industrial and employment land use into two distinct categories, adding a work/live campus type center to both industrial and employment related land use, giving consideration to the environment, diversified economy and fiscally stable government when making land use decisions. Referencing the work of the ECO² process and updating numerous goals and policies were other changes.

Major changes to the chapter from October 2007 and forward included clarifying locational criteria that should be used for locating industrial and employment related land use sites, adding a list of non exclusive sites designated for industrial and employment related land use, which could be found on Map 7-2. She said the general locational criteria had feasible access to federal and state transportation networks, be of adequate parcel size, generally over 40 acres, outside the regulatory flood plain, and minimal average slopes. She said Map 7-2 listed those sites that met those general locational criteria.

Along the way, one of the major issues identified was surrounding the issue of prime agricultural farmland. The draft before the City Commission stated what high quality agricultural land use was and its importance to the regional economy and that it should be valued. Originally, when the item was presented to the Planning Commission at their March meeting, it

was included as general location criteria that sites should lay outside of prime agricultural farmland. The Planning Commission gave explicit direction at that meeting that they wanted that issue studied and sent to the industrial design subcommittee, which then decided that should be removed from the general location criteria. They decided that the paragraph to be written should generally state what prime agricultural farmland was and should be protected and valued. It was the language presented back to the Planning Commission at their May 21st meeting and was seen in the draft before the City Commission.

She said no changes have been made to that draft since the Planning Commission made the plan amendment. The draft entitled Exhibit 1, PC Approved Chapter 7 May 2008 Edition, was the draft they recommended at their meeting and the draft the City Commission was considering. The recommended action was to approve the Comprehensive Plan amendment and its associated ordinance.

Mayor Dever called for public comment.

Nancy Thelman, Douglas County resident, spoke on behalf of Citizens for Responsible Planning. A year and a half ago, a diverse group of citizens concerned about protecting prime agricultural soils began paying attention to the Chapter 7 revision process. At that point, back in July 2007, the revised chapter was put forward for adoption by the City Commission, but the action failed because the chapter was thought by some to be too negative in its planning language and too restrictive with its planning map. This commission opted not to adopt that version of Chapter 7 and instead sent it back to Planning for more work.

Since then, the industrial chapter had been reorganized and language changed to reflect concerns mentioned above. In general, this new chapter was thought to be more positive and had many more potential industrial sites represented on its map. What this revised chapter did not reflect was any measurable signal that those many months of public discussions on protecting prime agricultural soils had been heard. This new version of Chapter 7 came to the City Commission with little guidance and no protection when it came to soil. Now, completely

removed from the general locational criteria, prime soils rate of a vaguely worded agricultural text laid out in the Chapter made a value statement about agricultural land, but gave no firm direction. Thus, they had no protection of their river bottom soils, which were the very best agricultural soils in the world and as commerce would have it, ripe for industrialization. Development pressure was ever increasing on this irreplaceable natural resource and with this document they did nothing to relieve that pressure. If anything with industrial snowflakes on the map and text pointing directly at the best growing soil in the county and calling it best suited for industry, Chapter 7 actually called for industrialization on the very soil it described as not only finite, but also important to the regional economy. Here was the sum total of planning guidance a developer received from this new chapter on issues whether or not to set his or her site on prime soil.

The preservation of high quality agricultural land, which has been recognized as a finite resource that was important to the regional economy, was an important value to the community, except for the suggestion that agricultural or business industries should be encouraged to locate on that type of land. In this context, it made no difference that class 1 or class 2 soils were mentioned, specifically since there was no language to protect them. If prime agricultural land was, as this document said, important to the community for its potential impact on our regional economy, she asked where the protections for this irreplaceable land were. There were no locational criteria to protect it and no maps to identify it. There was also no text supporting the notion that because it was valuable, it was worth protecting. There was nothing to show there was any intention of protecting prime soil, which was a public concern that was consistently presented and one which would only grow more vocal over time as issues of sustainability set in.

She said after so much hard work by all over such a long time, this new chapter 7 was a disappointing result. Not only because it was much weaker on its language of prime soil than

the original chapter 7, but because it arrived at this weakened state, even after lengthy public dialogue on the issue that focused on facts and trusted in the outcome of a good public process.

Against all that, stood the work of one committee, the Industrial Design Sub Committee, which she believed played a very large role in shaping and reshaping the document the City Commission was being asked to adopt tonight. Even the City's PowerPoint stated specifically that the sentiment of the Industrial Design Sub Committee was the language about prime agricultural land should be removed from the general location criteria and instead, be mentioned later in the chapter with descriptive language, but not with protective language. This sentiment to exclude meaningful agricultural language from the text only made sense given the make up of the committee, who were all proponents of the proposed industrial project north of Lawrence, which if successful, would be built entirely upon class 1 prime agricultural soil.

She said without a single voice on the four person subcommittee to advocate for protection of prime agricultural soil and despite discussion pointing towards the Commission's desire to have such language, without a clear sense of the original purpose of the sub committee, which was after all to be about industrial design and not industrial siting and was not supposed to take action and without any accountability for their meetings or discussion, or actions since no records of the meetings were kept, it seemed the revised Chapter 7 was shaped largely by a subcommittee of four, which left an otherwise good public process now flawed.

She respectfully requested the City Commission send Chapter 7 back to the Planning Commission to revisit the issue of language which would finally protect their most prime agricultural soils.

Charles Novogradac, Lawrence resident and Douglas County farmer, said his first concern was the preservation of prime agricultural lands and in particular the agricultural flood plain which was the best farm soils of Douglas County and some of the rarest soils of the State of Kansas which he called, Lawrence's Fertile Crescent. He said he traveled widely and lived

overseas. He said he had owned farms, planted trees in many different places, but had never put a shovel into ground more friable, farmable, or fertile than the soils in this bottom land. He said those were predominantly called Eudora Chemo Complex Soils and not all soils in this area were created equal. He said he owned a farm in Jefferson County, south of Oskaloosa and he showed a picture of his soybeans. He said he then took his camera to the airport area and the soybeans were about 4 feet tall and the others were upland. He said a person could see why upland farmers would prefer to have a piece of river bottom land. For every one acre of river bottom land, four or five acres were needed to replace it.

He said not all river bottom soils were equal. He said he had bottom land west of Perry and had a sticky soil that was more difficult to farm and plow. He was no soil expert, but he learned from USDA soil surveys that the soils scientists confirmed his experience with river bottom soils. He said the fuchsia/reddish soils were prime farmland soils and capability number one soils. The orange soils were capability number two, which were the soils in the hills and out of the bottom land. The airport industrial park was located as an area designated by chapter 7 as the best property for industrial location. He said the project site for the industrial development was either capability 1 or in the 100 year floodplain. The reason for the capability 2 was because of wetness, but was otherwise good soil. He said to turn this agricultural land into an industrial area would be like crushing the Hope Diamond into industrial abrasive.

He said his second concern was to safeguard his own agricultural enterprise, which was threatened by the nearby development. They could not pick up their trees and move out if the character of the neighborhood changed or if stormwater flooding became worse because of paving or more rooftop space or if the groundwater rose on account of development or if his irrigation wells became contaminated. Unlike a corn farmer, a tree farmer did not recover his investment at the end of the crop year. Their investment was a 50 year economic plan and unlike a homeowner who would be displaced, they could not find a similar orchard down the

road nor could they find a buyer for the property. There were not 20 comparable properties that have developed in the entire United States, and those were mostly in California and Oregon.

He and his wife purchased this land in 1991 and made a long term agricultural commitment which was a demonstrated an orchard with their money and labor beginning in 1995. They made a substantial commitment, followed the law, complied with zoning, did not ask for any special treatment, and relied on the zoning. Now planners wanted to change the zoning nearby, as evidenced by several official and unofficial planning documents, including the latest version of the revised Chapter 7 of Horizon 2020.

Last year, the City Commission approved a Chapter 7 which explicitly provided that an industrial site "be located outside prime agricultural farmland" which was a general locational criteria. That locational criteria was approved in the drafts as far back as 2004. The prime soils provision was deleted entirely in the 2008 edition by staff. There was no mention of it being a problem in any of the minutes of the City he had been able to find or the County Commission. There was no elected official that complained of this particular provision or that it be altered. However, someone had taken it upon themselves in the review process to change the language that was otherwise acceptable to the City Commission, at least in public assembly, to vote the City and County governments not so many months before.

He suggested that someone finally realized it would be impossible to go forward with the Airport Industrial Park without violating the principle that industrial sites be located outside prime industrial land. The airport area and Pine Family Farms land was the best land in Douglas County. It was both prime, capability 1, and should not be sacrificed to any development. He suspected that was why the attorney for the developer recommended to the Planning Commission that prime farmland provisions be removed from Chapter 7. He said he thought that was the true reason why the Industrial Design Sub Committee, including as a member, a broker associated with that same project, reported out a draft which cited this particular restriction, but he did not know for sure because the Industrial Design Committee did not have

open public meetings keeping minutes. He said Horizon 2020 began as an open public process and a statement of what the people of Lawrence wanted. It has devolved into a staff written accommodation of special interests.

He said another example was the section on the airport. The new paragraph under the airport stated: "the area around Lawrence Municipal Airport best suited for industrial development, generally lying southwest of the airport, north of I-70, and encompasses 230 acres." He said that provision was not in the original Horizon 2020. In no other part of Chapter 7 is land described with such specificity without a prior area plan having been developed after the discussion of the neighborhood. He said this obviously decided the airport industrial park, which was 140 acres plus 90 more acres owned by the same family owner. This airport industrial park was subject to existing and pending application for rezoning. Several neighbors have joined in the statutory protest petition protesting the rezoning. He asked if the City would change the master plan in advance and change the rules in the middle of the game to prefer the developer over the neighbors. He did not think it should.

He said when those properties turn over, the City Commission and County Commission would be hard pressed to tell those people that they could not develop their property if they had already told Senator Pine that he could develop his property. He said he felt this was a domino effect of development that would go down Highway 59 and there was not much the City could do about it unless there was some protection of bottom land by law and established. He said regarding industrial land, he agreed with many people that Lawrence needed more industrial land and it was in the City Commission's power to make more ordinary land into industrial zoned land. It was not in the City Commission's power to make good farmland.

He said if the City was to approve Chapter 7 as now rewritten, it would seem to him to be a retreat from the policies the City approved about a year ago. The reason would seem to be to accommodate special interests. He said he would recommend the City Commission send this revised Chapter 7 back to the Planning Commission for new, open and transparent

proceedings to determine the best way to satisfy the needs of industrial sites on ordinary land without sacrificing primary farmland.

Barbara Clark, member of CRP, said her goal was to give objective data that would illustrate that the City and County would have the ability to address the needs for continued industrial growth and at the same time preserve the prime farm soils. She said she wanted to give the USDA's description of the various capabilities of class soils. Capability class one and two were soils they were asking for preservation language. Class one soils had few limitations that restricted their use. Class two soils had moderate limitations that reduce the choice of plants or required moderate conservation practices. Beyond Class 3, there were severe limitations. She said she happened to farm on Class 3 soils, sustainably farm and fortune to integrate livestock with her vegetable production. Otherwise, if she was chemically farming, she would use extensive fertilizers and pesticides to accommodate the same production she now had because she farmed sustainably on those soils. She said as the numbers increased, there was a point at the bottom where soils had no production capabilities at all and were recreational and wildlife purposes. She said their hope was that they would find protective language for one and two and were restricting it further down by using, aside from the numerical classification, the classification of prime farm soil, which made it more restrictive.

Over the past several months, she had been on a self education journey assisted by numerous soil scientists with the USDA and NRCS, both at the location level and state level. She showed a map that was generated by Cleveland Watts, who was a soil scientist at the USDA and NRCS Salina office. The map was elegant in simplicity; it showed only capability class one and two soils in Douglas County. The other thing exceptional about the map was the normal system of location; it was section, township, and range. Any site on any future industrial map could be easily located on this map and they could access if there were any class one or two soils there.

She showed a map that was potential location for industrial and employment related land use that currently was part of the Horizon 2020 Chapter 7 document. She said she wanted to liberate the City Commission to expand industrial sites, but still be able to preserve class one and two soils. Those soils had a tremendous economic value that they were not seeing now through commodity crops but sustainable agricultural in the future would bring those to a far different level as far as their economic value to the City, County and region. She said if they could say class one and two soils were protected, there was a wide open expanse of county land that could be developed. The sites proposed, with the exception of the northern sites, were widely open. She said this was extremely important for the future and was doable for everyone.

Charles Marsh, Lawrence, spoke in favor of a revised Chapter 7 that would protect class one and two prime soil. His main point was class one farmland and class two soils were already irreplaceable economic assets and were going to be increasing in value. Those soils were naturally fertile, which meant they did not rely on a dwindling resource, which was commercially produced, nitrogen based fertilizer. Today that fertilizer was used to enhance marginal, less fertile farmland which right now fed 40% of the world's population, 3 billion people. Unfortunately, producing the nitrogen fertilizer consumed huge amounts of energy. Scientists at MIT estimated that annually 1% of all the energy expended in the world went to the production of nitrogen based fertilizer. He said 5% of all the natural gas consumed in the world went to the production of nitrogen based fertilizer that was keeping the marginal farmland productive right now.

In the energy tight future, those levels could not be sustained, which meant less marginal farmland and less food production. He said he received the same letter the City Commission received from the Barber Emerson law firm that was in support of removing the language that protected prime farmland. In this letter, he asked, "How is it that farmers in the corn belt states of Iowa, Illinois, Indiana, and Ohio could harvest corn yields on Class three and Class four soils that exceeded the yields of corn grown in Kansas on Class one and Class two

soils and the answer was in the recipe.” He said the answer was in the recipe, but the recipe was nitrogen fertilizer that was added to those soils that were added in those particular states. The price of that nitrogen based fertilizer two years ago went up 17% in one year. Last year the price went up 30%. He said also that nitrogen based fertilizer in Illinois, Indiana, Ohio, and Iowa flowed into the Mississippi River and down into the Gulf of Mexico where it grew algae and ate the oxygen and there was now an 8,000 square mile dead zone in the Gulf of Mexico because of the nitrogen based fertilizer being used. He said the bottom line, was that they were going to see nitrogen fertilizer, which meant a loss of farmland that was not naturally fertile and that loss of farmland endangers the food supply for 3 billion people.

He said he was not a farmer and was not a business owner and did not live in North Lawrence, but he was present as a father and a parent. They should not ensure the current progress by destroying a natural resource they should pass onto their children. He said he urged the City Commission to send Chapter 7 back to the Planning Commission to preserve class one and two farmland.

Mary Ann Stewart, Lawrence, said she was a North Lawrence resident for a total of 24 years and was a civil engineer. She said she would speak of flood issues that should cause Chapter 7 to be sent back to the Planning Commission for revision. She said Lawrence was lucky in escaping flood damage this summer. U.S. flood damage continued to escalate despite the investment of billions of dollars in structural flood control. Meanwhile, whether risk in the Midwest had increased and from this summer, Iowa’s repair bill was currently estimated at \$10 billion. Cedar Rapids experienced well over a 500 year flood. Yet we continued to intensify development so that risk was increased due to actions of others in and around the floodplain. Diverting water onto other properties, reducing the size of natural channels and altering water velocities would result in continually rising costs over time, was not equitable to those whose property was affected, was neither economically or environmentally sustainable, and was a pattern of conduct that was generally not supported by the courts.

The current situation was bad enough, but the rules were changing. She said U.S. House Bill 3121, Flood Insurance Reform and Modernization Act of 2008, addressed areas of residual risk. Those were areas protected by levies, generally zoned X on FEMA maps. She said this bill would require properties in residual risk areas to purchase flood insurance and be regulated similarly to the 100 year flood plain. The State Flood Plain Manager assured her that this change would ultimately come to fruition. Adapting to this change would bring large economic consequences for the entire community, not just North Lawrence, and could be mitigated by clear thinking now about land use in the floodplain and areas of residual risk. She asked if there was any solution in dealing with these changes of flood risk and residual change. She said there was. They could adopt principles of no adverse impact recommended by Association of State Floodplain Manager's. She saw features of this approach during a recent visit to Fort Collins, even though there were other communities that have adopted the principle of no adverse impact. Development in floodplain must be designed in Fort Collins so there was no adverse affect to other properties. Since 1984, Fort Collins had request run off from 2 year and 100 year flood events be detained onsite. Using this approach, for each dollar spent on storm water management improvements, they expected to avoid \$1.50 in flood damages. This would break the cycle of disaster, repair, and disaster. No adverse impact standards were well documented and adaptable to the needs of any community; all that was required was the political will to make decisions for long term prosperity and quality of life. She urged the City Commission to send Chapter 7 back for a rewrite that would recognize the value of agricultural land and reducing flood risk as well as adopting the principles of no adverse impact, thus reducing flood risk to properties adjacent to the development as well as financial risk to the City and its taxpayers.

Laurie Ward, member of CRP, said she also attended two of the years of the ECO² meetings which took place between the years 2000 and 2006. She said a couple of years ago the Lawrence City Commission and Douglas County Commissioners accepted the ECO² Plan

as a guideline for the cooperative agreement of how to decide on how open space preservation and industrial site locations. The name came from exponential benefits of economic development and ecological preservation. She said this plan included the categories of open lands, which ECO² thought were worth preserving in the County and included were natural areas which included prairies, woodlands and wetlands, but also the number three categories were agricultural lands as a defined area for preservation. She read the definition of that in the ECO² plan which read:

These lands are an important part of our cultural history and play a significant economic role in our County. Areas to be eligible for inclusion in the open space preservation program should be prime agricultural lands as defined by USDA web soil survey or lands located in the floodplain."

She urged the City Commission to take this into consideration and for the sake of symmetry it seemed Chapter 7 of Horizon 2020 should reflect the same definitions that ECO² worked on for 6 years. She said that committee used those soil overlay maps, including maps available from the City of Lawrence to define the best areas in the County.

Michael Almon, Sustainability Action Network, said he was focusing on the issue of people. He said Mr. Marsh upstaged him and did an excellent job explaining the economics of global, industrial agriculture versus local retail sustainable agriculture, but there was more to that picture. Agriculture in the United States consumed approximately 17% of their total energy. A portion of that total energy was the natural gas in the nitrogen fertilizers. There were other energy inputs that were primarily the pesticides and herbicides which were petroleum based. The tractor fuels in the fields, harvesting and planting, and then drying of grain drying mechanisms. Transporting all the commodities, refrigeration, and on down the line, a lot of it had to do with transportation. All transportation energy costs were rising and would continue to do so. They were past the era of cheap oil. It would impact their agriculture even more.

Agriculture was one of the two main areas that people who were addressing the issue of peak oil were focused on. Transportation was the other main area. There were other issues

including home heating oils and energy for lighting for running pumps and manufacturing and things like that. Agriculture was a main concern for peak oil issues because it was their food and the food was becoming unaffordable to a growing proportion of the population. Basically, local, regional, sustainable, organic, non petroleum based agriculture was going to be essential in the future. He said as he pointed out to the Planning Commission on May 21st, there was a conflict built in Chapter 7 in that the lands they would be using for the local, regional agriculture were primarily going to be urban fringe. They wanted to have that agriculture as close to the urban center as possible to eliminate that transportation component or reduce it as much as possible, yet Chapter 7 wanted to exclude lands in the urban growth area from concern for preserving the agricultural land because it was in the urban growth area and most of the land that would be in that urban fringe agricultural use would be the river bottom. It was immediately next door to the City and was the best land. When Chapter 7 used one of its locational criteria to lie primarily outside the regulatory floodplain, that floodplain was what they were talking about and also to have minimal average slopes and were talking about that same floodplain and if they had not removed to be located outside primary agricultural farm land as defined by USDA, that would also be talking about the floodplain, the bottom lands.

There were various reasons given at the Planning Commission as to why located outside primary agricultural farm land was removed from the general locational criteria for industry. The general reason, as he recalled by the Planning Director, was that they did not want to have negative criteria that would present the chapter in a negative light. He said those criteria were not negative criteria. He said if they said "lie outside the regulatory flood plain," that was no more nugatory than lie outside prime agricultural farm land. The other reasons within the Planning Commission discussion mostly had to do with confusion as to the definition of what was prime land.

He said eight years ago the discussion about industrial development in the east bottoms was pretty much dismissed. The term prime farm land was really not considered a value at all.

The zoning went through for industry in the east bottoms and interceding eight years now, the Planning Commission in an exciting discussion about the value of prime farm land, pretty much everyone on that Commission, all nine members, expressed the importance of preserving prime farm land as a value in the community. They all agreed they wanted to preserve it, but that was as far as this had gone. He said Chapter 7 of Horizon 2020 had gone backwards in that commitment. There was a lot of expression in the Planning Commission discussion about not having enough information as to what was prime farmland. They did not understand about soils, capability one, capability two, the percentage in Douglas County, the locations relative to the industrial sites that Clark pointed out, and she had that documentation at the Planning Commission.

He said at one point in the Planning Commission meeting, Commissioner Lawson said “Those type one and type two soils were going to tend to be in lower lying areas and would tend to be relatively level and fertile.” From a standpoint of percentage, he could not call up a percentage number from the top of his head and did not know if Thelman or Clark could. He said Clark said in response to his question that she had a chart that she could, but public hearing was over and declared as it would not be appropriate at that time. Even though the information was there at the meeting, they did not want to use it to pin down the information they were struggling with. He said they also requested toward the end of the meeting if staff could research Clark’s map, come up with the percentages, and bring it back to another Planning Commission meeting. That discussion did not make it into their motion and instead was forwarded to the City Commission. The discussion was a very good discussion, yet it never went beyond valuing prime farmland. From eight years ago when the community said they did not value prime farmland, now they say they value prime farmland and that was as far as they had gone. It was not going to get them to the point where they would need to be preserving the class one and class two soils.

He said the definition of prime farmland within Chapter 7 should basically refer to class 1 and class 2 soils and that constituted 11% of Douglas County and they were not on any of the sites except Midland Junction and the Airport Industrial Park. He said he thought Novogradac could very well be accurate in his assessment about why the Planning Commission backed out of the having that as a locational criteria.

He said he appreciated that on June 10th Vice Mayor Chestnut wanted the process to be properly handled at the Planning Commission and sending it back because the minutes were very marginal. Right now, there were minutes and instead of two pages there were six pages, which he found limited as well. He said what he read previously was not in the minutes. Also, a quote was not in the minutes either which came from Planning Commissioner Finkeldei "As a practical matter, they would eliminate and take the airport business park out of this plan." Commissioner Lawson replied, "I think that was exactly right." Commissioner Finkeldei said "and that was what you do, I mean that would be the maximum protection. Commissioner Lawson replied, "I think that was exactly right. Commissioner Finkeldei replied "yeah".

The airport business park was the only one of 11 sites that was on class one and class two soil. Other than that, this community could protect the class one and two soils. They had many opportunities for industrial locations. They needed to rethink the whole issue of the north bottoms from a flooding perspective and from a farmland perspective, particularly in light of the growing cost of food. He said to him it seemed it was a "no brainier" that they had to go through all this scientific convolutions as to whether that soil was worth protecting. For millennia, people had always farmed the bottom lands and knew the bottom land was the best soil.

He said thirty years ago, this community decided that they did not want to be labeled an agrarian community and tore down the grain elevators to build City Hall, not to say this building was not valuable and that they were not doing important things here, but indicated the attitude of the Lawrence community 30 years ago. Right now, they were at a point in this building they could decide that they needed to preserve the soils that fill those elevators.

Beth Johnson, Vice President for Economic Development, Lawrence Chamber of Commerce, said they were doing one side versus the other side tonight and was a shame because when boiling it all down, they were not on two sides of the issue but sounded like that a lot of times when they talked in public. When talking behind the scenes, they were not far off from the community that they wanted to change the tax base to take it off the residents, wanted to have jobs so that citizens who drove every day had places to work. The issue that came in was where they would put it. She said there were only soil classifications one and two in certain areas and there was only one I-70 in their community. There was only one East Lawrence, one West Lawrence and one Lecompton interchange in those areas of the community. There was K-10, rail access, an airport, and water and sewer infrastructure. They were only in certain areas of the community at this time. She said from her standpoint, she said that was fine that they wanted to protect certain areas to not have certain types of development in those areas, that was fine but they needed to determine where those were and why they were protecting them. They needed to look at what the areas were being used for now and look at the property owners and people willing to take a risk to invest some of their own funds in order to do the development. She said they had to look at those issues to determine what would be best for the community to move forward. She said they were in a crisis and were a little protected from some of the highs and lows that other parts of the nation saw and were protected because they had an institution of higher learning that kept them protected from those highs and lows. They were in a crisis where they had citizens who lived here who did not have a job here. They had citizens who wanted to live here but did not have a job here. They had commuters and were commuting to a new location which meant they would have to pack up their family and move to that location because they could not afford to live and work here. They needed to determine in her thoughts, what they wanted to be when they grew up and where they wanted that to happen.

Commissioner Hack asked staff to address the issue of the design guidelines committee.

Scott McCullough, Director of Planning and Development Services, said they heard testimony tonight and criticism of the composition of the subcommittee. In a general sense, there was always potential to criticize subcommittees where those who were not appointed by this governing body or others were not drawn into the discussion. That was where staff did all the public work and public hearing in front of the Planning Commission, and that was where decisions were made. Anything that came out of subcommittee work or anything that came out of private meetings with individual members of the public, or meetings with Planning Commission members individually, all was filtered by staff and taken to the Planning Commission for a lengthy debate. Most of the issues had been debated by the Planning Commission.

He said the Planning Commission had full knowledge that a subcommittee was being used for this process as evidenced by a motion on March 26th that explicitly sent some of the comments of that hearing to that subcommittee for a recommendation. That came back in May to the Planning Commission as a whole where additional testimony was provided by individual members of the public and others. The Planning Commission ultimately got to a place where they could recommend some draft language to this governing body. It was a general sense and where the statutory process had been performed and extraordinary process had been performed in several hearings that had taken place on this matter.

Commissioner Amyx asked about the recommendations were made on the various sites in Chapter 7, and asked if those recommendations came from Horizon 2020.

McCullough said yes, some of those recommendations came from Horizon 2020. He said the direction staff received from specifically the County Commission when they denied this in fall 2007 was to map out additional sites that made sense. Over the years, as staff had been processing this amendment, staff learned more and more about potential industrial employment opportunities. Staff had attempted to use some of that data in their analysis of some of those sites and that was why they did find specific information on several of the sites, not only the

airport district, but also sites at Farmer's Turnpike and K-10 and 40. He said staff tried to get more specific in the language.

Commissioner Amyx said the in Chapter 7, Policy 2.4(b), talked about identifying a plan for appropriate supply of industrially zoned land. He said based on the population now and anticipated population in the future, he asked if anyone had an idea of the appropriate supply of industrial land needed to accommodate the various levels of population.

McCullough said he did not know if staff had done that specific of a detailed exercise. He said staff knew there was a Horizon 2020 goal of 20,000 jobs by 2020. Staff also knew that not every type of employment center would have the same kinds of needs. A lot of staff's efforts were to find locations in the entire region that might benefit from different kinds of opportunity. For example, the facility in Gardner, Kansas, might spur development along 56 Highway. He said staff was working to provide the County some low impact industrial zoning district standards in the County zoning code that might help supporting development of that nature. Likewise, staff believed that there was going to be a need for an employment center and industrial use along K-10 that existed today and believed there was still that link between Southeast Lawrence and Johnson County. Staff also believed that the Interstate 70 was an important asset to the community in terms of an employment centers. Staff was trying not to put all their eggs in one basket and trying to find opportunities for the region in a region wide basis with this chapter.

Commissioner Amyx said the reason he brought this up was because of existing industrial zoned land that was currently not being used and a period of time had gone by where that property was not going to be used industrially. The recommendation was to go back and rezone this area into another acceptable use for the land.

McCullough said yes.

Commissioner Amyx said they were looking at a lot of work done on the new Chapter 7. There was a lot of work done with good, sound, planning principles. The question he saw was

the class one and class two farm ground. It was a good working document. He said the Commission could make a decision on Chapter 7, but had to come to some kind of decision on what had been discussed. There was a way to protect class one and class two prime farmland, but that was a decision they had to make and whether it was appropriate to industrial zone property that had class one and class two soil properties. This document would work and give the Commission the direction this body needed, but with the planners that needed to proceed with location of industrial. He said the City's question was what type of ground it would sit on and whether class one and class two properties was worth protecting via this document.

Mayor Dever asked McCullough to touch on the issue of regarding more positive language.

McCullough said one of the overriding issues in the entire chapter, when taken last fall, that this body and the County Commission also talked about was it did not speak very positive if you were an out of town business owner looking to commit to come to the region and wanted to look at the City's planning documents, but it was not very positive in the sense of being drafted as a chapter that welcomed industry into the region. One of the things Almon brought up was the issue of removing prime agricultural land from one of the locational criteria as being a negative statement. With the exception of the flood plain, the other three locational criteria were criteria were attributes for industrial land. He said reasonable slopes and good access was needed, but that was not the only reason for the recommendation to remove that from the criteria. The Planning Commission found that this was the first place that was investigated the prime agricultural land in a specific use category. Staff did not investigate for residential or commercial use. They found merit in addressing it, but also understood the City was going to look at the environmental chapter as a new chapter of Horizon 2020. The Planning Commission felt that was the place they should be looking at in a more comprehensive fashion, not in a specific chapter that covered only one type of land use. There was no oral consensus on the definition of prime agricultural land. That was something that was a struggle for everyone.

Mayor Dever asked if it was not specifically that they used the word prime farmland being a negative word but the other language in the section that was more overriding. He asked if the word prime farmland was perceived as negative.

McCullough said he did not think it was perceived as negative but used in the context that prime farmland was not necessarily a benefit to industrial land. It was a fact there were classifications for soils, but it was not one of the attributes that directly related to a benefit for industrial use. It did not seem to phase locational criteria to the subcommittee, staff or Planning Commission once all those debates were vetted out. It was deemed by the Planning Commission not to be a location criteria that provided much weight in terms of industrial area. They wanted to look more at access and if it was an urbanized area. They wanted to focus on the issues that the soils map did not show them, like where interstate highways were and where other infrastructures were.

Commissioner Amyx asked McCullough if it made more sense than rather having to look at various sections of the comprehensive plan to have that information in just Chapter 7 as it dealt with industrial development on the farm ground issue rather than the new environmental amendment.

McCullough said the Planning Commission felt that the agriculture land as a natural resource should be addressed comprehensively for all uses. If they found value in preserving agricultural land or other environmentally sensitive lands, they should be addressed with commercial development, industrial development, apartment development, single family structures, and those types of issues. They were only addressing it in a chapter that dealt only with industrial uses. They talked about options. They talked about if they should maintain that discussion in the chapter and when they go back to revise other types of land use chapters, insert that language into other chapters or should they address it head on in the environmental chapter, more comprehensively, which was the decision of the Planning Commission.

Commissioner Hack said that made sense because if their goal was to protect it for agricultural use, they did not want to allow an ice skating rink or shopping area.

Commissioner Amyx asked when that environmental language was going to be ready.

McCullough said staff had begun drafting that language. They had a meeting the next day with the subcommittee and did not see it as a fast process, but hoped to get some drafts in the next few months. They wanted to work as expeditiously on those chapters as they could and were meeting with the Mayor's Climate Protection Task Force to give an update and get a link in there with the environmental chapter and what that group was trying to accomplish. There was going to be a lot of input from various organizations and members of the public on that chapter. He said in his opinion, they only touched the surface on what it meant to preserve environmentally sensitive lands above what the codes provided today which was some protection of environmentally sensitive lands for rezoning and site planning. If they wanted to move above and beyond that, they needed to start making policy decisions about that.

Commissioner Amyx said if the Planning Commission, City Commission and Board of County Commissioners were to adopt Chapter 7 and once the environmental chapter was completed, he asked if the City Commission needed to revisit Chapter 7 to replace that new language or would it remain an amendment all onto itself.

McCullough said as staff was working on it now it would be a chapter in Horizon 2020 just as Chapter 7 was and hoped they would dovetail together. It was often the case when doing sector plans, for example, when getting on to the more detail level, that staff had to update different chapters of Horizon 2020 to reflect the latest and greatest data and planning effort they had. He said staff might need to go back for certain amendments in other chapters, including Chapter 7, once that final chapter was produced.

Commissioner Amyx asked if it was McCullough's recommendation if the City Commission wished to deal with the class one and class two preservation of agricultural land to do it in this document or wait until the environmental amendments were taken up.

McCullough said first he thought staff would like to take that up in the environmental chapter. He said on two different occasions and discussions after lengthy debates of the Planning Commission level and after all the information was presented on the locational criteria and agricultural information, he asked specifically to the Planning Commission whether that information or data would mean a change to the Chapter 7-2 map. He said whether or not any of those sites identified as industrial or employment centers, it was their recommendation to revise that map. They said no and wanted to move forward with the map. The Planning Commission was looking for locational criteria for future sites not identified on map 7-2. When moving through that process, he wanted to be clear they were moving in the right direction and they were comfortable because at the time there were two or more sites that were moving through rezoning processes that were an issue and debatable with this process. On two different occasions, staff asked the Planning Commission specifically if it would change the recommended industrial sites and the answer was no; that was why they had a map that depicted the industrial sites they had today.

Mayor Dever asked if there were any changes anyone would like to see in the document.

David Corliss, City Manager, said this came on a recommendation from the Planning Commission so the City Commission had a few options. He said the City Commission could approve this amendment as recommended, by a supermajority vote (four votes or more) or make substantial alterations to the amendment. He said if there was minor tweaking to wording it would not require a supermajority vote or refer the text amendment back by a majority vote of the Commission. If the City Commission were making substantial changes to the document, it would have to go back to the Planning Commission unless there was a supermajority vote. The text amendment also had to be approved by the County Commission.

Commissioner Hack asked if the City Commission sent the recommended text amendments back, she asked if there would need to be specific items the City Commission would want the Planning Commission to change.

Corliss said yes. He said it would be helpful if the City Commission could focus on the areas they wanted the Planning Commission to review and consider.

Vice Mayor Chestnut said he appreciated all of the comments. He said one of the things that helped him was to review the introduction in Horizon 2020, which he always thought was appropriate. He said he wanted to speak about this to put it into context because he thought it was important. He said in reading the general goals, planning and managing growth, diversity of employment, housing, cultural, economic and education opportunities for the community along with sustainability was important. He said what was important to note the last two sentences of the "General Goal" which read:

"It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail."

He said deciding what the public welfare was a difficult process they struggled with every day. He went on to read:

"It is the intent to meet and safeguard individual rights and vested interests in a manner which will create the minimum disruption in individual freedoms and life values."

He said it was important to take that information into context. He said Horizon 2020 was written and adopted in 1998 as far as one of the primary stated objectives of Horizon 2020. It was one of the reasons why he agreed with the language, with one minor exception, relative to the discussion about prime farmland that was currently in that document, but he did not think it was reasonable in Chapter 7, to place a statement in that chapter to preclude any development on any prime farmland because it was directly against the stated "General Goal" of the written document. The fact was that he did not want to spend a lot of time on this particular site that had been discussion because they were looking at a much broader context on how to

move forward across all industrial sites. This particular site, since it had been in discussion, had been a conflicted situation and had no idea where it would go. There was a situation where eminent domain or threat of eminent domain had taken a whole lot of that land away. He did not know where it was going to go, but balance had to be kept in mind on what the "General Goal" of the entire document which was to take into consideration individual rights and vested interests and then decide what the public welfare was. He said he believed it was not the intent of the document to put a dispositive statement in there about prime agricultural land. It should be a criteria, but should be a criteria along with sustainability. He said one thing about sustainability was that he did not know what reduced their carbon footprint more, 800 person employment center that kept people in town and not drive into Kansas City or Topeka, or necessarily the protection of that particular site as far as agriculture. He said he wanted both, but he did not know how that would come out. He said those were complicated issues and did not think they were narrowing down on important criteria, but only one of many. He said that was why he started to get buried in all the correspondence and had to back up a minute and look at what the City Commission's goal was and go back to the introduction of Horizon 2020 which had no amendment to that document since 1998.

He agreed with the dialogue and thought it was important to have dialogue about the preservation of high quality agricultural land, but more restrictive language went against the intent of the entire document which was to look at individual rights because if they were going to preclude it, in particular, part of it was already zoned industrial from the County's standpoint and did not know where that would go either. It was a very complicated issue and when that rezoning came back, they had to sort those things out. Where it stood now, the language was a good balance from a lot of public input about making a definitive statement about high quality agricultural land, but not making it a test about whether a piece of ground was in or out. He thought that weighed itself away from the intent of the document and going back to the general statement that talked about the fact that individual rights and interests needed to be considered.

If waiving it completely, that gave a land owner no recourse to make any kind of submission that might be compelling for one reason or another. He said public welfare was evolving and public welfare was also in the eyes of the beholder. Depending on where they were on any particular issue, they had to have that ability to bring it forward.

He said the only issue he had was the one statement in the power point presentation that read:

“At least one of the sites identified above “airport” has some amount of high-quality agricultural land. Agri-industry business that would benefit from high-quality agricultural land should be encouraged to locate in these areas.”

He said he did not know why in that particular statement that they would identify that specifically because it was not the specific dialogue and discussion about all the different ones, but it cites that specifically. There was no other example he could see where there were general statements and dialogues and it identified one particular site. He said that statement and one line went against the spirit of the “General Goal” of Horizon 2020. It made a definite decision on a piece of ground that he did not know was necessarily right. He said they had some presentation, but certainly the Planning Commission and others had not had the opportunity to review all agricultural land in all the industrial locations that were on the list. He said it identified one specifically as an example and did not know if that was appropriate. He thought the rest of the language was fine. He said they needed to have the statement in that document because it tied into the sustainability of the community, but a movement that was much more restrictive moved against the general goal of the plan.

Mayor Dever asked Vice Mayor Chestnut if he had a problem with identifying class 1 and 2 soils by naming, specifically the airport development, as one that might conflict with such classification.

Vice Mayor Chestnut said at least one of the sites identified airport and did not know why the airport was lobbed into that document. He said the agri-industry businesses what would benefit from high quality agricultural land should be encouraged to locate in those areas as high

quality agricultural land, but it seemed that was singled out and did not know if that was appropriate, otherwise he thought the language was fine and agreed there needed to be a broader discussion which needed to go outside of just the industrial sites. He said they needed to look at the entire valley and decide where to go with it and have a broader base study which went along with ECO² that looked at open spaces. He said he did not know the topography of Douglas County and did not know what other land was out there, but that would be good information. He said they were looking at dots on a map, but not a comprehensive picture.

Commissioner Hack said another good document to look at was the ECO², the industrial site section because it went through potential industrial sites and did have some of that criteria.

She said her comments were very much in line with Commissioner Chestnut's comments. She said Horizon 2020 was a series of compromises as was Chapter 7. She said the Commission continued to evolve and worked with the "latest and greatest data." The parameters under which they were operating were completely different now than in 1998. If there was the Mayor's Climate Protection Task Force and a Peak Oil Task Force in 1998, she thought people would have thought they were idiots, but they probably needed those task forces then and knew they needed those types of task forces now because times have changed. She said they had been revising this particular chapter for the last three years. If the City Commission sent the document back to the Planning Commission, she asked what the City Commission would be asking the Planning Commission to change. She said would the City Commission be asking the Planning Commission to take out specific wording on class one and class two farmland or asking them to take out specific wording on the airport park because it had been the focus of conversation. She could not support either one of those and agreed that looking at the specific soils needed to be done in the Environmental Chapter.

She said it was discussed about not taking this land, but ordinary land and having been a part of the City Commission for almost 7 years, there was no such thing in this community as ordinary land. She said because there was no ordinary land, it needed to be in the

Environmental chapter. She said the Planning Commission had heard this item several times and did not see any reason to hand it back because she would not want to hand it back with those two specific points. She said her assumption that giving it back to the Planning Commission and changing the wording to reflect no industrial development with class one and two, they could even extend it to say it was taking because they were altering the ability for someone to use their land. It did not mean that in the criteria for the environment it was what they were encouraged to do and look at specific businesses that complimented that. She said Chapter 7 was a good compromise and still were not where they needed to be for industrial. They still had a site where they could show a proposed individual that wanted to develop here. With the elimination of the one sentence the Vice Mayor mentioned, she could support the amendment as written. She did not think Horizon 2020 should refer to a specific proposal and to her it did.

Commissioner Highberger said he appreciated the fact that Vice Mayor Chestnut went back to first principles to put this issue in a broader context. He said he thought they could specify more prime agricultural soils as locational criteria without making it an absolute and without violating the spirit of Horizon 2020. He said he understood the wisdom of putting the prime agricultural soils as a locational criterion in the Environmental chapter, but that chapter was initiated three years ago. He said they should take the opportunity now and after it was addressed in the Environmental chapter they could go back and look at the issue rather than waiting for an indefinite period of time. He said he had some serious process concerns about how this entire issue had gone down. He said this was essentially completed three years ago and approved by both governing bodies and was also delayed for a while, then finally reopened after the efforts of a single land owner and had gone through the process again. He found it a little concerning that a lot of drafting of this amendment was done by the representative of a single applicant and drafted to reflect the interests of that applicant.

He said in 10 – 20 years they would be very fortunate if they still had higher productive farmland adjacent to this City. He said this society was on the verge of a pretty serious transformation that would be critical. Anything the City Commission could do to make that happen now should be done. He said because of the process concerns and the weakness of the statement about preservation of prime agricultural land, he would prefer to send back to the Planning Commission with the direction to strengthen the protection for prime farm ground.

Mayor Dever said he was not around the first time this issue came around and asked about the substantial changes. He said the change that was brought to his attention was the definition of prime agricultural land.

Commissioner Highberger said that definition was not discussed the first time around which was a good thing.

Mayor Dever asked if there were other issues that Commissioner Highberger thought were modified substantially.

Commissioner Highberger said his perception was this was reopened to add the Farmers Turnpike site to the map.

Commissioner Amyx said the Vice Mayor brought up a point that talked about site specific which was a concern because there was a particular application before the City Commission that spelled out criteria the City Commission might need to use for making a decision about that site. He said regarding locational criteria in Chapter 7, he appreciated the information he received the last few days. He agreed with McCullough regarding the environmental section of the amendment, but he was afraid it might take longer. He said if it was the intent of the governing body to impose some type of protection or limits on class one and class two agricultural property this was the time to do it. The City Commission should not wait on another amendment because it would be another two Commissions from now.

A lot of hard work had gone into this amendment and he appreciated all the hours. There were other things that needed to be done as a Commission in understanding the City's

competition when it came to industrial development and make sure everything was in line not only with Wichita, Topeka or the Kansas City area, but more of a regional issue. He said when looking at those documents they needed to make sure there was no duplication in the development code, but there had been a lot of work done to make sure those types of things did not happen. Again, he said if it was the City Commission's goal was to place restrictions on any class of property, it should be done now or not at all.

Commissioner Hack asked what Commissioner Amyx was proposing and would he send the amendment back to the Planning Commission with the direction to include some language.

Commissioner Amyx said he did not want to send it back because the Planning Commission had done its job in making a recommendation to the City Commission. He said he did not know what the wording should be in this document and needed to rely on staff for that wording. He said he was asking the City Commission for four votes to make this happen because he did not think it should go back to the Planning Commission.

Commissioner Hacks said if staff was going to draft the language, she could support that idea, but she did not want to send the amendment back.

Mayor Dever said he had some concern about the omission of those two sentences which were:

"At least one of the sites identified above (Airport) has some amount of high-quality agricultural land.

Agri-industry businesses that would benefit from high-quality agricultural land should be encouraged to locate in these areas."

He said there were two problems and one of those problems was they specifically named a location and did not anywhere else. The next sentence identified agri-industry businesses that would benefit from high quality agricultural land, and it was a vague statement as well. He said he asked what that meant and no one could tell him. He said if writing something into a standard, he wanted to give direction if they were going to give direction, but

that was vague and would bring him back to his comments about the use of prime farmland. He said he was a scientist by training and to use vague terms like prime farm land, he thought the conservation office did a great job in firming up and creating categories for soils and did a fine job in trying to make that information available. It used to be in books, and now it was on the web.

The key to the classification system was for the soil scientists to go out and create the information, which was to poke a hole in the ground in various locations and it might be on a 40 acre parcel or cover 400 acres because those scientist had a systematic approach, but it was not every spot on the earth or in Douglas County. The system was general in nature and had to be because of the limitations of the system. They would use general information to describe soil or map soils in areas. Then they were going to use a general term to describe that soil as prime farmland. They were diluting the meaning of what they were trying to protect. If they were trying to protect a category of soil in which they were in favor of, they needed to be as specific as possible to do so because if not, they eliminate or did not allow them to consider the area they wanted to develop. If a developer came into this community and identified category three and four soils and came to the City Commission and said they wanted to develop, it was a miracle and scientific approach in trying to guide and assist developers in a future development. He said by just saying prime farm land they would be reintroducing the whole conversation about what prime farmland was because he would debate that their system was not perfect. He said they had to get to a point in what they were trying to protect was protected and what they were trying to identify as a goal was specified. By using specific categories like one and two, they were providing positive services with this document. He said this was an improvement and by being more specific in what they were trying to protect was a good thing and was 100% in support of doing that. He said if they started naming specific businesses they wanted in a location and naming specific sites in general, then in only one instance they were getting to be more obtrusive to the process and was not sure he liked that or wanted to identify what agri-

industrial business was and did that mean a plant that processed soy beans. He said an agri-industrial business was vague and did not belong in this sentence. He said his point was to remove the word “agri-business” or specify what it meant, but not necessarily amend it.

Vice Mayor Chestnut said this was an extreme case because he was in this particular industry which was meat processing and would consider itself to be an agri-business and he did not think that would be anything the City Commission would want to entertain ever.

Commissioner Amyx said the Mayor’s comments were perfect in eliminating the language that was site specific in relation to the airport site. If it was class one or two, that was fine, but he was convinced this was the time to deal with this issue.

Mayor Dever said that if it went to that extent, it was saying they needed to consider that in identifying locations, but it was not a definitive reason to deny.

Commissioner Hack said the compromise was in how it was worded.

Mayor Dever said if that was true, then they were talking about a site that was clearly within those categories of class 1 and 2.

Commissioner Amyx said when it was all said and done, it was just a guide.

Commissioner Hack said it had to be written as such. She asked if Commissioner Amyx would be fine with the document removing the first two sentences in the second paragraph.

Mayor Dever said basically the essence was future industrial and employment land use sites not included on map 7-2, potential locations for future industrial and employment related development, should balance the agricultural significance on the site against the need for industrial and employment related development. He said introducing the paragraph with the airport and agri-business or industry was where he needed to get some understanding.

Commissioner Hack said the first paragraph did specifically mention the class 1 and 2 and talked about good soil quality producing a high yield of crops. She did not know how much more specific they could get because they mentioned one and two.

Mayor Dever said he thought the City Commission would end up in that situation because the category one and two soils would exist in areas that were low lying with roadways and it was easy to build roads and were good quality soils. He said they were going to have this conflict in the future and those conflicts needed to be identified. If the intent of the document was to protect them and make them a major consideration when developing this land and this was what this was trying to do as a guide.

Commissioner Hack asked after the elimination of the two sentences, they would be fine with Chapter 7 as it existed.

Mayor Dever said he had a problem with identifying those two things with those two discussions and whether the language was changed, made the language more consistent with the document, or removed those sentences, but those issues needed to be discussed and they needed to move forward.

Commissioner Hack said she appreciated the fact that in the first part of the paragraph, the preservation of high quality agricultural land, which had been recognized as a finite resource, was important to the regional economy and important to the community, which were comments heard from a number of people. She said she would agree that naming the airport site as that spot was not appropriate because there was a good case to be made that downtown Lawrence was sitting on some of it right now. With the elimination of the one specific and one extremely general sentence, she thought they were saying what they wanted to say.

Mayor Dever asked where those sentences came from.

McCullough said he believed Commissioner Hack mentioned compromises and this specific language was identified in discussions with individual planning commissioners, about which definition to use and ideas that if wanting to remove it from the general location criteria, some trade off or general equivalent language that talked about the value of agricultural land in the community with the intent that it would be relevant to future employment land use sites not included on Map 7-2 and should be a balance of the agricultural significance of those sites with

the need for an industrial employment center. After some of those discussions, it was what they thought needed to be proposed to the Planning Commission to address the issue that had been one of the elements of the chapter.

The specific language about the airport was provided as an example of what they were trying to get across, that some of the sites, such as the airport, had the attribute and that agri-industry which was purposely not defined, but mentioned it would benefit from the high quality agricultural land was stated as an example of what they were trying to convey in the language. He said he certainly recognized the different perspective.

Commissioner Amyx said if the first two sentences were dropped on the first paragraph, page eight and the statement that was left talked about Douglas County capability classes, non irrigated one and two, and asked if other changes needed to be made to locational criteria established in this document about a waiting system for those two classes or was it something that would be a guide.

McCullough said he did not think they needed to because they were not included as specific locational criteria. He said at the end of page 7-4 when they talked about locational criteria, staff was very careful to make the document read as a guiding document that a given site whether in the City limits or the unincorporated areas should substantially meet the following general. Staff wanted to emphasize those were guiding factors to include. At one point it included prime agricultural land, but had trouble with defining that statement and arrived to a consensus that it should be a general statement about the value of agricultural land, which was how they arrived at this present language.

Vice Mayor Chestnut said on the basis of striking two sentences, he asked if that was a substantial change or not.

Corliss said given the discussion level at the Planning Commission, striking those two sentences would require a supermajority vote by the City Commission.

Commissioner Amyx asked if that paragraph addressed the Mayor's concern about the two different classes.

Mayor Dever said yes. He said he used those numbers in evaluating a specific site historically just to see how it fit. It helped guide him in making a decision of whether or not he thought it was adequate or whether they were taking prime farmland. He said it was a good guide.

Moved by Hack, second by Chestnut, to approve the amended (deleting the first two sentences in the last paragraph on page 7-8) Comprehensive Plan Amendment (CPA-2004-02), Chapter 7, Industrial and Employment Related Land Use, and adopted on first reading, Ordinance No. 8283, amending the Comprehensive Land Use Plan "Horizon 2020" by incorporation by reference "Chapter 7", Industrial and employment related land use May 2008 Edition." Aye: Amyx, Chestnut, Dever, and Hack. Nay: Highberger. Motion carried. **(20)**

Consider authorizing the Mayor to sign joint City/County resolution concerning transportation improvements for the City of Lawrence and Douglas County and supporting the enactment of new Comprehensive Transportation Program.

Chuck Soules, Public Works Director, presented the staff report. He said the State Comprehensive Transportation Program was passed by the Kansas Legislature about 10 years ago in 1999 and would end in 2009. The League of Municipalities and Kansas Association of Counties were working together to advocate for a new transportation program that would benefit both local and state economies. The governing bodies of both the state and counties were asked to renew their transportation needs and adopt a resolution supporting a new program of transportation needs. The county signed the resolution yesterday.

David Corliss, City Manager, said the press release provided was not good news for the City, County or State. The federal highway program authorized more projects than they had money and they were cutting back which would trickle down to cities and counties. He said staff already communicated to the City Commissioner earlier that they were not likely to fund future

economic development or geometric projects in the future. The concern he had was they were likely to go after the City's share of the State's gas tax in the future.

The list was a very ambitious list and included everything staff could think of that the state would be likely to fund. After this point was a list of needs. Those projects had not been engineered and had not done any public process as far as talking to adjacent property owners. He said this was the list of project that they would want to tell the state and communicate at that state level to indicate the City's level of transportation needs. It included other things than surface transportation which were airport that followed the airport master plan, pedestrian bicycle facilities which was a general estimate of those projects in the community and transit related items.

Soules said all those projects were taken from T2030, long-range transportation plan.

Corliss said it did not commit the City to those projects, but stated to officials the City's need in this community.

He said in adding up those projects, they were spending a healthy portion of the State Transportation Program. He said at the briefing he attended the Secretary of Transportation indicated they were looking for innovative financing mechanisms because there was not a lot of interest in increasing the gallonage fuel tax and if taking that off the table then there was discussion about some other financing mechanisms.

Mayor Dever called for public comment.

There was no public comment.

Commissioner Highberger said he could support this resolution with a minor editing change, but since the County already approved the resolution, he could not support the 32nd street alignment for the SLT.

Moved by Amyx, seconded by Chestnut, to adopt Resolution No. 6798/County Resolution No_____, concerning transportation improvements for the City of Lawrence and

Douglas County and supporting the enhancement of a new Comprehensive Transportation Program. Aye: Amyx, Dever, Chestnut, and Hack. Nay: Highberger. Motion carried. **(21)**

PUBLIC COMMENT:

David Nelson, Lawrence, said he was a planning student at the University of Kansas in the graduate school. He just completed a graduate thesis in populism and planning. He was continuing to devote more interest into Lawrence's city government and municipal events than his previous home of Omaha, Nebraska. He said his personal comment tonight was the biggest need for industrial development around the airport was based primarily on the fact that the City of Lawrence had a growing population base and the tax burden was not being lifted by that because it was growing faster than the City's commercial and industrial industries were growing. He said his biggest concern was a lot of that kind of development had continued to devote a proportional number of resources to furthering the suburban fringe, developing closer around Clinton Lake and subdivisions that did not fit the urban context in which were being built adjacent to in East Lawrence where he resided. He said he felt like that it was because of bad policies in the planning department prior to this they were having to deal with and making economic decisions to support the consequences of those bad choices in the past. As they got further and further to deciding what would happen with the airport industrial development, he hoped that would get taken into context and the fact that there were numerous other kinds of urban developments that could not only support a growing population, but industry that was much more sustainable and increasing the tax revenues while not hurting the tax base.

FUTURE AGENDA ITEMS:

- 09/16/08
- Receive presentation of results of Recycling Survey.
 - Public hearing on establishing water and sewer improvements for Bauer Brook Estates.
 - Receive staff memo regarding green burials.
 - Conduct City water and wastewater revenue bond sale proceedings.
-

- Consider approving SUP-07-04-08, a Special Use Permit and Institutional Development Plan for Lawrence High School for the construction of additional parking and installation of bleachers/restrooms/concessions/lighting/sound systems to accommodate football/softball/soccer competition on-site at 1901 Louisiana Street. Submitted by Landplan Engineering, for City of Lawrence Public Schools USD 497, property owner of record. Adopt Ordinance No. 8319 for SUP-07-04-08, a Special Use Permit and Institutional Development Plan for Lawrence High School, on first reading. (PC Item 9; approved 7-0-1 on 8/27/08)

ACTION: Approve SUP-07-04-08, a Special Use Permit for Lawrence High School, subject to conditions, and adopt Ordinance No. 8319 on first reading, if appropriate.

- Consider approving SUP-07-06-08, a Special Use Permit and Institutional Development Plan for Centennial/Lawrence Virtual School for the construction of additional parking and installation of bleachers/restrooms/concessions/lighting system to accommodate baseball and tennis competition on-site at 2145 Louisiana Street. Submitted by Landplan Engineering, for City of Lawrence Public Schools USD 497, property owner of record. Adopt Ordinance No. 8320 for SUP-07-06-08, a Special Use Permit and Institutional Development Plan for Centennial/Lawrence Virtual School, on first reading. (PC Item 10; approved 7-0-1 on 8/27/08)

ACTION: Approve SUP-07-06-08, a Special Use Permit for Centennial/Lawrence Virtual School, subject to conditions, and adopt Ordinance No. 8320 on first reading, if appropriate.

- Consider approving SUP-07-05-08, a Special Use Permit and Institutional Development Plan for Free State High School for the construction of additional parking and installation of bleachers/restrooms/concessions/lighting/sound systems to accommodate football/softball/basketball/soccer/tennis competition on-site at 4700 Overland Dr. Submitted by Landplan Engineering, for City of Lawrence Public Schools USD 497, property owner of record. Adopt Ordinance No. 8321 for SUP-07-05-08, a Special Use Permit and Institutional Development Plan for Free State High School, on first reading. (PC Item 11; approved 7-0-1 on 8/27/08)

ACTION: Approve SUP-07-05-08, a Special Use Permit for Free State High School, subject to conditions, and adopt Ordinance No. 8321 on first reading, if appropriate.

- Receive update on Oread Hotel traffic plan.

10/28/08 • Employee Service Awards.

TBD • 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. Adopt Ordinance No. 8297 on first reading regarding TA-03-01-08 to amend Article 4 of the Development Code relating to

uses permitted in the GPI District. (PC Item 4; approved 8-0 on 6/23/08) (PC Item 4; approved 8-0 on 6/23/08)

ACTION: Approve TA-03-01-08 and adopt [Ordinance No. 8297](#) on first reading, if appropriate.

- Consider city laws regarding the keeping of live fowl and domesticated hedgehogs in the city limits.
- 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.
- Draft Rural Water District #5 contract – awaiting finalization with RWD and City. [Draft Agreement](#)
- 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.

- 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)
- Consider authorization of City contribution toward site work for the 87 acre tract adjacent to the East Hills Business Park.
- Approve Text Amendment TA-07-14-08, to Section 20-525 and Section 20-526 of the Development Code to specify use standards for general retail sales and retail establishments in the MU (Mixed Use) District. (Initiated by Planning Commission on 7/21/08) Adopt Ordinance No. 8318 on first reading for TA-07-14-08, to Section 20-525 and Section 20-526 of the Development Code. (PC Item 7; approved 8-0 on 8/27/08)
- **Consent Agenda Item.** Approve Text Amendment TA-06-12-08, to Section 20-810 of the Subdivision Regulations to clarify the natural resources and environmentally sensitive areas that are to be protected or preserved. Initiated by County Commission June 23, 2008. Adopt Ordinance No. 8317 on first reading for TA-06-12-08, to Section 20-810 of the Subdivision Regulations. (PC Item 3; approved 7-0 on 8/25/08)
- Approve a contract with LSA Associates, Inc. for on-call traffic modeling services needed by the Lawrence-Douglas County Metropolitan Planning Organization (MPO) in their conduct of the regional transportation planning program. The funding for this contract is 80% federal planning funds programmed by the MPO with the 20% local match provided by the Lawrence-Douglas County Planning Department.

COMMISSION ITEMS:

Moved by Amyx, seconded by Chestnut, to adjourn at 10:05p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF SEPTEMBER 9, 2008

1. Bid – 2008 Microsurfacing Program to Ballou Construction Co., Inc. for \$548,252.70.
2. Contract - Marsh McBirney – Hach, data delivery services Wastewater Collection for \$214,800.
3. Ordinance No. 8298 – 2nd Read, rezone (Z-02-05-08) 9.27 acres, RS7 to RS7-PD, W side of Iowa between Stratford 200' S of University Dr.
4. Text Amendment (TA-05-09-08) Submit taxes or special assessment due for Minor Subdivision request.
5. Text Amendment (TA-06-10-08) RDP's created on boundary roads.
6. Text Amendment (TA-06-11-08) RDP's comply with lot requirements.
7. Text Amendment (TA-05-08-08) Cross Access Easements, create & min construction standards.
8. Text Amendment (TA-12-26-07) Parent Parcel divide to create 1 residential parcel.
9. Signs of Community Interest – Lawrence Home Builders Assn for Fall Parade of Homes.
10. 10. Ordinance No. 8316 – 2nd Read, temp sale alcoholic beverages in 800 blk of New Hampshire, Get Downtown.
11. City Manager's Report.
12. Bid – GOB/Temp Notes, Series 2008-I
13. Bid – BOB, Series 2008-A
14. Resolution No. 6796 - Sale & Delivery \$10,635,000, GOB/Temp Notes Series 2008-I.
15. Ordinance No. 8322 – Declare and emergency for 1st & 2nd Read, \$11,985,00 for GOB Series 2008-A.
16. Resolution No. 6797 – Sale & Delivery \$11,985,000, GOB Series 2008-A.
17. Oread Inn, LLC for waiver of restriction of sale & consumption of alcoholic liquor 400 ft from school or church.
18. Ordinance No. 8323 – 1st Read, Amend rental licensing of dwelling units if RS zoning.
19. Marked Crosswalk w/pedestrian refuge Island, Louisiana adjacent to Dakota St.
20. Ordinance No. 8283 – 1st Read, CPA-2004-02, Employment related land use.
21. Resolution No. 6798/County Res __ - Comprehensive Transportation Program.

