



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

September 23, 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 Saturday, September 27, 2008 as the "Second Annual River City Reading Festival."

The Consent agenda item regarding the first reading of Ordinance 8319, a special use permit (SUP-07-04-08) for Lawrence High School was pulled from the consent agenda for a separate vote; and the second reading of Ordinance No. 8283, a comprehensive plan amendment (CPA-2004-02) to Horizon 2020, was pulled from the consent agenda for separate discussion.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive the Grant Review Board meeting minutes of July 7, 2008; the Neighborhood Resources Advisory Board meeting minutes of April 17, 2008; the Public Health Board meeting minutes of July 21, 2008; and, the Hospital Board meeting minutes of August 20, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve claims to 447 vendors in the amount of \$1,693,782.73. Motion carried unanimously.



As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve the Drinking Establishment Licenses for Longhorn Steakhouse of Lawrence, 3050 Iowa; Thai House, 711 West 23rd Ste: 24; the Class A Club License for American Legion Post 14, 3408 West 6th; the Retail Liquor License for Myer's Retail Liquor, 902 West 23rd; the Caterer License for New School Catering, 2223 Haskell Avenue; and, the Cereal Malt Beverage License for Swansea, Inc., 1801 West 2nd. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to set bid date of October 14, 2008 for the Community Development Weatherization Program for 46 homes. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to set bid date of October 21, 2008 for the Comprehensive Rehabilitation Program for 1808 Miller Drive, 1909 Kasold Drive and 1627 East 18th Street. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the City Manager to execute a cooperation agreement between the City of Lawrence and Douglas County to share costs in the expected study of the design of 31st Street to Douglas County 1057 Road, not to exceed an amount of \$216,000. The City's total will be \$10,000. Motion carried unanimously. (3)

The City Commission reviewed the bids for 6th Street and Congressional Drive, Intersection, Traffic Signal Improvements for the Public Works Department. The bids were:

| BIDDER | BID AMOUNT |
|--|---------------------|
| Engineer's Estimate | \$274,648.00 |
| Torgeson Electric | \$247,950.40 |
| J. Warren Co., Inc. | \$259,370.28 |
| Wildcat Concrete Services, Inc. | \$296,793.90 |

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to Torgeson Electric, in the amount of \$247,950.40. Motion carried unanimously. (4)

The City Commission reviewed the bids for sodium bisulfite for the Utilities Department. The bids were:

| BIDDER | BID AMOUNT |
|------------------------|--------------|
| G. S. Robbins | \$2.40/gal |
| Brenntag Mid South | \$3.5712/gal |
| PVS Chemical Solutions | \$4.90/gal |

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to G.S. Robins, in the amount of \$2.40/gal. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt on first reading Ordinance No. 8315, amending Chapter 19, Article 6, Section 19-604 of the City Code concerning general discharge prohibitions under the City's pretreatment regulations. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt on first reading Ordinance No. 8320, for Special Sue Permit (SUP-07-06-08) for Centennial/Lawrence Virtual School, located at 2145 Louisiana Street. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt on first reading Ordinance No. 8321, for Special Use Permit (SUP-07-05-08) for Free State High School, located at 4700 Overland Drive. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt on first reading Ordinance No. 8326, enacting Chapter 5, Article 21, of the Code of the City of Lawrence regarding Excavations and Structures in Utility Easements. Motion carried unanimously. (9)

Ordinance No. 8318, for TA-07-14-08, to Section 20-525 and Section 20-526 of the Development Code, pertaining to the permitted uses in and use standards of the mixed use zoning district, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (10)

Joint City Ordinance No. 8301/County Resolution No. 08-41, regarding amendments to the Subdivision regulations (TA-12-26-07, TA-05-08-08, TA-05-09-08, TA-06-10-08, and TA-06-11-08) approved by the City Commission on September 9, 2008 and the Board of County Commissioners on September 3, 2008, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6803, setting out the findings and determinations of the governing Body and ordering construction of a northbound right-turn lane at the intersections of Stoneridge Drive and Kelly Drive and related improvements to be financed by benefit district. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6805, authorizing the reallocation of Series 2007 water and sewer revenue bonds in the amount of \$11,825,000. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve the donation of property from Michael Stultz, approximately 46 acres generally located north of West 6th Street, west of Queens Road; and authorized staff to execute necessary documents to accept donation. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve as “signs of community interest” a request from United Way of Douglas County to

display 6 ft x 3ft vinyl banners which say "United Way Helps Here" at 15 locations throughout the City from September 17 – November 14, 2008. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve as "sign of community interest" a request from Altrusa International to display a 3' X 20' banner which says "River City Reading Festival, 10 a.m. – 4 p.m., Saturday, September 27th" on the east side of the Public Library from September 24 – 28, 2008. Motion carried unanimously.

(16)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive petition to create a benefit district for improvements to the intersection of 6th Street and northbound Wakarusa Drive by creating a turn lane and median improvements, including sidewalks, subgrade, stabilization, stormwater improvements, utility relocations, and other necessary and appropriate improvements, not to exceed an amount of \$800,000; and referred to staff for preparation of necessary resolution for City Commission consideration. Motion carried unanimously. (17)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize staff to advertise an RFP for design and construction phase engineering services associated with benefit districts for sanitary sewer and water improvements to Bauer Brook Estates per Resolutions Nos. 6799 and 6800. Motion carried unanimously. (18)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve donation of the sculpture entitled "Hedgehog House" from artist Christopher Fennell to be located at the north entrance of South Park. Motion carried unanimously. (19)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve, subject to finalization of use of right-of-way agreement and license documents, a sidewalk dining license for Yummy's Over the Top Yogurt, 1119 Massachusetts. Motion carried unanimously. (20)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the City Manager to execute a Second Amendment to Agreement for Lease of City of Lawrence property which allows AT&T Mobility to install replacement equipment on the water tower at 6th and Kasold Streets and increases the rent to \$2,000 per month, effective November 1, 2008. Motion carried unanimously. **(21)**

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6804, establishing October 14, 2008 as public hearing date for the proposed Transportation Development District (TDD) for the Bauer Farms development, located at the northeast corner of Wakarusa and West 6th Street; and authorized the City Manager to execute an agreement with the developer requiring the developer to pay City costs associated with the TDD process. Motion carried unanimously. **(22)**

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the Mayor to sign a Subordination Agreement for Joaquin Meza, 825 Crestline Drive. Motion carried unanimously. **(23)**

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve as "signs of community interest" a request from Just Like Lawrence, Inc., for the placement of signs in the City right-of-way near the entrances to city parking lots 4 and 8 from September 27, 2008 to October 4, 2008, explaining the dates and times that the parking lots will be closed due to Get Downtown, and a 3' X 12' banner across New Hampshire near 9th Street from September 26, 2008 to October 4, 2008, promoting Get Downtown, contingent upon final staff approval of signs. Motion carried unanimously. **(24)**

Commissioner Highberger pulled the first reading of Ordinance 8319 from the consent agenda for a separate vote. **It was then moved by Chestnut, seconded by Amyx**, to adopt on first reading Ordinance No. 8319, a Special Use Permit (SUP-07-04-08) for Lawrence High School, located at 1901 Louisiana Street. Aye: Amyx, Chestnut, Dever, Hack. Nay: Highberger. Motion carried. **(25)**

Commissioner Amyx pulled for separate discussion Ordinance No. 8283, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7 – Industrial and Employment Related Land Use. He said after reviewing the amendment, the only area he was interested in changing was the locational criteria for Industrial Developments which read:

“A given site, whether located within City limits, in the UGA, or in unincorporated areas of Douglas County, should *substantially* meet the following general locational criteria:

- have feasible access to Federal and State transportation networks;
- be of adequate parcel size, generally over forty acres;
- lie primarily outside of the regulatory floodplain;
- have minimal average slopes.”

He said even after all the discussions at the Planning Commission level, there were changes regarding prime agricultural property in the C1 and C2 category. Since this document discussed future sites for industrial, it would be appropriate to add prime agricultural property in C-1 and C-2 category as a fifth bullet point.

He also read from the draft Chapter 7, “After identifying a general location for potential industrial and employment park development” and went on to read the last sentence which read, “Locations initiated through the planning process that are not on Map 7-2 will be weighted against the general location criteria above.” He said the map was not depicting current locations on Map 7-2. Prime agricultural property was important to mention as one of the bullet points in establishing industrial centers locations in the future and understood the County Commission would chime in on that issue. Again, if the City had any concern about prime agricultural property, a bullet needed to be added.

Mayor Dever suggested the City Commission discuss what that bullet point should state.

Commissioner Amyx suggested the bullet contain the phrase, “Containing minimal areas of high quality agricultural land,” as a starting point.

Commissioner Hack asked if the City Commission wanted to specifically identify class one and two.

Commissioner Amyx said it was important to mention the two specific categories. He said it would be a big step regarding future development of industrial sites and employment centers, but it was important that if there were concerns about those two categories of property, those two categories be mentioned.

Mayor Dever said those were all positive statements and the last statement would be refraining from developing in areas of capability class one and two as defined by the NRCS.

Commissioner Amyx said that was the language that was left in the document. He said to treat this item fairly, because of the last minute proposed change in the wording, this item needed time for public comment.

Commissioner Highberger said he agreed with Commissioner Amyx. He said he had other problems with the document, but the way the document was stated now, had almost no weight. The change would not be an absolute rule, but would be much stronger criteria. Despite other concerns about the document, he would be willing to support the document with that change. He said he believed it required a supermajority to pass.

Vice Mayor Chestnut asked what happened if this item did not receive a supermajority vote.

David Corliss, City Manager, said it would go back to the Planning Commission. If this Commission was making a substantial change, it would require a supermajority vote. It still had to go through the County Commission. Because the City Commission was proposing changes that were substantial, the County Commission would have to have a supermajority vote.

Vice Mayor Chestnut said he would stand on the same comment he made two or three weeks ago. He said in going back to the introduction of Horizon 2020, he still thought it was a restriction because the term "should substantially" was a restriction to him. The other criteria addressed physical attributes of the land that were critical to being close to highways, right size, outside the flood plain, and minimal to average slopes.

The characteristics of the swell, he felt confident that with the character of the soil the Mayor made some important comments about that being a difficult determination to make. He would not support that item and thought there was a lot of discussion at the Planning Commission level about that particular subject and in the matter of course, the Planning Commission decided to go with language that was a little less restrictive because he believed at one point that criteria was in, then it came out. He said he at least wanted to support the Planning Commission's findings in general because he agreed it was too restrictive. He said if there was a supermajority it moved on, but if not, he was trying to figure out what happened. He asked if there needed to be another vote to send it back to the Planning Commission.

Mayor Dever said yes.

Commissioner Amyx said sending it back to the Planning Commission would not be his preference because he believed the Planning Commission did a very good job sending the document to the City Commission. He said he only had a small difference of opinion on locational criteria and the specificity of that language along with the idea of the 5th bullet point.

Mayor Dever asked staff to confirm that item was in the document and then removed.

Scott McCullough, Development Services Director, said at one point there was that locational criteria. One of the things staff clarified for Commissioner Amyx was that Map 7-2 had gone through the exercise of using the locational criteria to get their "snowflakes" was the term. He said the locational criteria, in the context of this section of the chapter, was meant to be used for any site that was not located on that map. Throughout the process there were a couple of active zoning cases where this discussion was central to those two rezoning efforts in terms of depending on how they established their locational criteria in the section would be transferred to those zoning items. It was never staff's intent to do that, but instead to use the locational criteria in the chapter to establish a County map of industrial sites and anything not shown on that map, in the future, submitted as a development project, would be judged based on those locational criteria. He said he apologized staff did not make that clearer in their

presentation to the governing body, but that was certainly staff's intent and that was how staff interpreted the language in that it would not change Map 7-2.

Mayor Dever said if they had locations that contradicted their locational criteria, which was going to happen if they did this, because he assumed that most of the locations were with soils of class capability one and two.

McCullough said it was a position that if they substantially met the locational criteria, left enough flexibility in the language, looked at the transportation networks, and some of the slope attributes to those specific sites, they believed they weighted out higher towards industrial development than some other type of development. He said map 7-2 was produced based on the locational criteria. They did not know of future sites and could add more sites, but determined that was ample amount of opportunity to get them into the future, but wanted to be flexible enough for other potential industrial centers in the county that would be judged by criteria.

Mayor Dever asked if there were locations that contradicted their locational criteria, which would happen now if the amendment was adopted because if he went through and mapped it, it would be found that more than one of those locations was located with soils with capability class 1 and 2.

McCullough said he agreed with that statement, but staff was at a position that if substantially meeting the locational criteria, in which staff left flexibility in the language, they could look at the transportation networks and some of the slope attributes and those types of issues to those specific sites, staff believed they weighted out higher toward industrial development than some other types of development. Staff stood on Map 7-2 as being the specific sites that had gone through the exercise of the locational criteria, by the Planning Commission, by the subcommittee, and staff. He said that was the map that was produced, in some instances by ECO² committees, that was the map that was produced base on locational criteria. He said staff did not know future sites, but they could add more snowflakes to the map,

but staff determined there was ample amount of opportunity to get further into the future. He said they wanted to be flexible enough that if a site, for example, Highway 56 or 59, could be potential industrial employment centers in the County that would come in and be judged by this criteria.

Mayor Dever asked if staff did not think it was a concern that the City contradicted criterion by the use of the snowflakes because of the statements just made.

McCullough said he did not think it was a conflict, if they added the locational criteria back in, because it was a judging of several factors.

Mayor Dever asked if they could use this as an example of superseding the criteria, in spite of the fact it might have met one of the criteria, they still identify it as a developable area. In the future, one could render the opinion that if it met four out of the five locations, they could not contradict their methodology of the past. He wanted to make it clear that if the City Commission was going to approve this amendment, that they would be setting that precedent from day one.

Commissioner Amyx said that Mayor Dever made a perfect point. Even with the addition of the fifth vote, the criteria that would be established in whatever location that was being discussed, might have met three or four of the criteria and weighted as such in saying there was not a contradiction with Chapter 7. He said the correspondence the Commission received concerning Chapter 7, whatever language was changed, it needed to appear back on the agenda for public comment.

Corliss said the City Commission could amend the ordinance on second reading and adopt the ordinance as he understood Commissioner Amyx would like the language worked out and then staff could place the amendment on a future agenda again.

Commissioner Amyx said he did not want someone to come forward and state the City Commission changed the language at the last minute without any opportunity for public comment.

Vice Mayor Chestnut said he would be in support because this issue would be opened back up to significant public comment because of that change, both in support and against.

Commissioner Hack said the language could read that those were located outside areas classified as C1 and C2 as defined by NRCS which would be the 5th bullet point and parallel with the others.

Vice Mayor Chestnut said given the meaning in 7-5, when saying locations initiated through the planning process, he said what was being evaluated was essentially the individual site analysis on the four criteria and would probably need to add a 5th bullet point.

McCullough asked if the 5th bullet would be the language regarding soils.

Vice Mayor Chestnut said yes, there would be transportation, floodplain, slope, and there needed to be something regarding soils.

McCullough said correct.

Vice Mayor Chestnut said that would be added to Farmland, Southeast, airport, I-10, I-70, K-10, the ones that were evaluated against the four criteria.

Mayor Dever said yes, the particulars for each item. It would need to be updated with the 5th bullet point.

McCullough said yes.

Mayor Dever said there were a lot of things that would occur once they placed that item in that loop and he did not necessarily have a problem with being specific. He said it was better to be more specific than vague when someone was gauging a location. There were standards and as long as there was clear understanding that when they itemize each of those locations, it was not going to add up to what they just specified. If it was okay listing off each site and acknowledging they did exist in areas containing what they just suggested they not do, and set that precedent, then he was okay inserting that language as a bullet item. It seemed contradictory. He said when McCullough inserted the capability classes for each one of those locations, two of those locations would end up that they had capability class 1 and for sure 2.

He said the document that McCullough produced for final approval was going to contain at least 1 or 2 sites.

McCullough said there would be a few sites that would contain some amount of class 1 and 2 soils.

Mayor Dever said it set a precedent that they would still allow them to be considered if they substantially met most of those. It was good to have a number, look at the number and say they should refrain from building in those areas. He said they were trying to achieve protecting substantially those areas, but they were contradicting in that document and he wanted to make that clear because they were going to have sites listed as capability class 1 and 2.

McCullough said in looking at the maps, the transportation network had been given a very strong weighting factor, but was not laid out as a weighting factor. He said the pattern of where those employment center sites were located gave a lot of deference to the state and interstate transportation system. Again in language in 7-5, it talked about a non-exclusive list of sites had been identified on Map 7-2 and it went on to discuss those sites and what factors were relevant to those sites. He said what this document was saying was given the factors and the analysis for individual sites, there had been a determination made by ultimately the governing bodies that those individual sites weighted out and factored out to be good areas for employment centers.

Mayor Dever asked if the word "modifier" could be inserted into McCullough's comments.

Commissioner Amyx said on page 7-4, under Lawrence New Industrial Areas, the last sentence talked about the criteria of striking a balance between industrial user needs and community interest as well as being aligned with the criteria developed through the ECO² process. He asked if that sentence should be used with those potential 5 bullet points and then staff could make a determination of community interest versus industrial future needs as to what was going to carry the most weight.

McCullough said yes.

Commissioner Amyx said this body and the Planning Commission would be able to do that also.

Commissioner Hack said she thought the word “area” was better than “amount” or “quantity.”

Mayor Dever said yes, but the only problem with saying “area” was that the area could be defined as a mile. He said Commissioner Hack proposed the following language as the 5th bullet point, “were located outside areas classified as having a substantial amount of class 1 and 2 soils as defined by NRCS which would be capability Class 1 and 2 as defined by NRCS.” He said located outside areas was vague and one could be within proximity of that and therefore be a reason to deny or to vote against even though it would not contain the soil.

Commissioner Hack suggested revising the language to reference a parcel or site.

Commissioner Highberger said, in keeping parallel with the existing language regarding slopes, and suggested revising the proposed language to read, “have minimal areas of capability class 1 or 2 soils.”

Moved by Highberger, seconded by Amyx, to defer second reading until October 14, 2008 and direct staff to add “have minimal areas of capability non-irrigated Class 1 or Class 2 soils as defined by NRCS”. Aye: Amyx, Dever, Hack and Highberger. Nay: Chestnut. Motion carried. (26)

CITY MANAGER’S REPORT:

During the City Manager’s Report, David Corliss said staff drafted a report on the most visited City websites; staff and board members attended the Sister Cities 2008 International Conference; and Parks and Recreation hosted a National Gymnastics Day Event. (27)

REGULAR AGENDA ITEMS:

Conduct a public hearing on a request by Lawrence Originals, 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 the temporary sale of alcoholic beverages at the Lawrence Originals Food Festival at South Park on Wednesday, October 8, 2008 from 5-9 pm; and consider the

adoption, on first reading, of Ordinance No. 8327, authorizing the temporary sale, possession and consumption of alcoholic beverages at South Park related to the event.

Frank Reeb, Administrative Services Director/City Clerk, presented the staff report. He said the public hearing was at the request of the applicant, Lawrence Originals, a group of local independent restaurants that were planning a food festival at South Park, Wednesday, October 8th. He said as part of the food festival, the applicant was requesting to sell alcoholic beverages and was starting the process to obtain a state temporary license from Alcohol Beverage Control in Topeka. The reason for the public hearing was because the event at South Park was within 400 feet of the Trinity Lutheran Church, located at 1245 New Hampshire. The applicant was requesting the City Commission waive the distance restriction in the City Code. He said he wrote a letter to Pastor Gary Teske, Trinity Lutheran Church, and Pastor Teske did not object to the sale of alcoholic beverages at this event. In addition, staff had not received any written or telephonic comments from any members of the public on this item.

In the event the City Commission approved the waiver request, as required by City Code, the Commission also needed to make a finding the proximity of the temporary sale of alcoholic beverages, related to this event, was not adverse to the public welfare or safety.

Lastly, because the temporary event would occur on City property, on which the sale, possession and consumption of alcoholic liquor were generally prohibited, a special authorizing ordinance was required and as such Ordinance 8327 was included for City Commission consideration. This ordinance, if adopted, would allow the temporary sale, possession and consumption of alcoholic beverages during this event. If the distance restriction waiver was approved, it would also be necessary to adopt on first reading Ordinance 8327.

Mayor Dever called for public comment.

Matt Lewellyn, 23rd Street Brewery, representing Lawrence Originals, said they were a new organization in town focused on local restaurant owners. The event was more focused on

food than alcohol. However, beer would be provided along with wine, but no hard alcohol. He said the emphasis was on their food.

Karen Black, Local Burger, said she was one of the 17 and growing members of the restaurants of Lawrence Originals. She said one of the goals of Lawrence Originals was to keep money in the local economy. Later in the year, they would launch a give back rewards program where if dining at one of Lawrence Originals Restaurants that money went into the five or six local charities they were working with in the Lawrence area.

Mayor Dever called for public comment.

After receiving no public comment, **it was moved by Amyx, seconded by Hack**, to close the public hearing. Motion carried unanimously.

Commissioner Amyx said this event was similar to a Chamber of Commerce event which worked well.

Commissioner Hack said this was a fantastic event. They had some unbelievably awesome local restaurants.

David Corliss, City Manager, asked if the ordinance needed a second reading as well.

Reeb said the Commission could declare an emergency and this evening adopt Ordinance 8327 on first and second reading but what he was planning to do was have second reading on October 7th and pre positioning it with the Journal World so the publication could occur on October 8th the same day as the event.

Commissioner Hack asked if it would be better if they would declare an emergency.

Reeb said yes if the Commission declared an emergency.

Mayor Dever said it was great when locals could team together and do something like this. The least the City Commission could do was consider an emergency and adopt the ordinance on first and second reading.

Moved by Hack, seconded by Amyx, to find that the proximity of the Lawrence Originals Food Festival and temporary sale, possession and consumption of alcoholic

beverages, is not adverse to the public welfare or safety; approve the distance restriction waiver request; declared an emergency and adopted, on first and second reading, Ordinance No. 8327, authorizing the temporary sale, possession and consumption of alcoholic beverages on specified city. Motion carried unanimously. (28)

Consider approving the City's updated Citizen Participation Plan for the CDBG and HOME programs.

Margene Swarts, Assistant Director Planning and Development Services, presented the staff report. She said this Citizen Participation Plan was a document that set forth the procedures and process followed for the citizen participation in the CDBG and HOME Programs. It was updated periodically, more or less on an as needed basis. Staff was looking at the plan recently and because of a few different circumstances, most notably the departments of Planning and Neighborhood Resources combined and became one department along with changes that happened with the various advisory committees and bodies in which they updated the plan.

The Neighborhood Resources Advisory Committee unanimously approved the new plan and recommended sending it to the City Commission for approval. The most notable changes other than the name changes would be a section added asking that CDBG funded neighborhood associations would do regular newsletters. That was expected but was not in the plan. The most important part was the actual advisory committees.

In the old plan, there were three committees, The Practitioner's Panel which was a body that talked about housing policy and made recommendations to the Neighborhood Resources Advisory Committee and over a period of time the panel moved into dealing with homeless and homelessness issues and served as the body that dealt with the continuum of care issues for the City. Earlier this year, they voted to go in with this balance of state for continuum care because the amount of funding was much greater. In doing that, some of the agencies that came to the meetings did not feel it necessary to come anymore so attendance had fallen off.

The other body was the Community Development Grant Review Board and that body was originally established more or less as a group to oversee to the Comprehensive Housing Rehabilitation Program the City administers. To make sure staff was administering the program correctly, there used to be a lot of applications and projects that were going forward. Over a period of time, they had rehabilitated a lot of places in town. The program had slowed down somewhat and the committee had become more of a rubber stamp because of the policy and procedure. It was pretty clear if someone qualified income wise and did not exceed the maximum amount for rehabilitation.

The Neighborhood Resources Advisory Committee was suggesting they would become the Community Development Advisory Committee, remain an 11 member board, with one of the members to still be a landlord. The main difference would be altering the requirement of having six members be from low and moderate income areas, whereas now there are just five from the neighborhoods. They were also moving away from specifying individual low and moderate areas people would need to be from.

Mayor Dever asked if staff worked through the process and removed some unnecessary administration or oversight because systems were created to take their place.

Swarts said yes.

Mayor Dever asked Swarts if the Practitioner's Panel was no longer necessary.

Swarts said yes. One advisory board would be left.

Mayor Dever called for public comment.

Commissioner Highberger asked how often the low and moderate map was updated.

Swarts said it was renewed as staff received new census data and were fairly new with the GIS capabilities used in the department. Staff concentrated on the neighborhoods that had defined boundaries and knew those neighborhoods were eligible. It was only fairly recently the community was looked at in a greater sense, although staff always had the capability to see if

someone was eligible or not. Staff was surprised how much more of the community in contiguous areas was eligible.

Mayor Dever asked how they came up with the boundaries and numerical values to identify low and moderate.

Swarts said the neighborhood associations themselves establish their own boundaries. Some cross over census tracts and block groups and one example of that was East Lawrence and Brook Creek. Staff knew how many people were in a particular area and if there were two neighborhoods in that particular area, the total had to be extrapolated. Staff received the data from Housing and Urban Development (HUD) to tell what block group, what census tract or percentage, then staff was able to map that information out. In the case of Brook Creek and East Lawrence they knew the entire area was eligible.

Mayor Dever asked if staff received data from HUD.

Swarts said yes. The data from HUD came from census block and tract group information with the exception of North Lawrence. Not all the neighborhoods were so neat and tidy in terms of following within those boundaries and some other overlapped in some places. It was all census data and staff imported that data.

Moved by Chestnut, seconded by Highberger, to adopt the updated Citizen Participation Plan for the CDBG and HOME Programs. Motion carried unanimously. (29)

Receive update on Oread Hotel traffic plan.

Chuck Soules, Public Works Director, presented the staff report. He said in May the City Commission received and reviewed the Traffic Control Plan for the Oread Inn Project. The Traffic Control Plan included the closure of Indiana Street, between 11th and 12th, added stop signs on Mississippi, Indiana and Louisiana at 11th Street, and signed detours. The plan was approved and the traffic control plan was working well right now. The traffic control plan would be reviewed again in the fall.

In discussions regarding the development, the current traffic control plan was being requested to remain in effect until the street improvements were completed. Street improvements on Oread Avenue and 12th and Indiana were planned for next summer. The excavation was very significant and the work area was extremely confined for the safety of the public and site workers at this point until Indiana Street could be reopened and the development was built up higher. Staff could not safely recommend reopening Indiana Street.

Staff received a few comments and concerns from adjacent residents about access during inclement weather. Indiana Street was used because the grade of Indiana Street was flatter than 11th and 12th Streets to get up that hill. There were concerns during inclement weather how people would access that area. He received an e-mail from a worker at KU that used Indiana Street to get to her work as well. Staff talked to the developer and agreed that if this street was to remain closed, extra effort would be needed for snow removal. Both the City and the development would put extra emphasis in the area to make sure the roads were clear so people could get in and out.

Commissioner Amyx asked if the closure of that street was only to be closed until August.

Soules said he believed there were discussions about the street closing until August.

Commissioner Amyx said closing that street until August was obviously not going to happen.

Soules said because of the construction that street was not ready to be opened.

Commissioner Amyx said when this item was last discussed, some of the neighbors that lived in those adjacent apartments were present at that meeting and it was stated the street might be open in the August or fall, but obviously safety issues have to be addressed.

Soules said as far as access to some of those apartments, he had not received any comments.

Paul Werner, Paul Werner Architects, said when Indiana Street was opened one way north, it was amazing that no one paid attention to any of the street signs. Because of the fire access requirement for 20 feet, it was great for fire trucks but gave room for two cars to pass. Even though they had the road closed signs and one way only, they found that more cars were coming from the south on Indiana. It worked well now that everyone figured out and KU had been great about it.

Mayor Dever asked what would be Plan B, if this was not approved.

Werner said the fence could be moved and they could look for other areas. He said they were planning the project would be complete in May 2009 which included all the street improvements and water line improvements.

David Corliss, City Manager, said it was close quarters in that area and he had a concern about vehicles driving in that area with the hole and construction going on. He said he wanted to get the construction moving as quick as possible so it could get up and get out of the ground and be on its way toward completion.

Mayor Dever called for public comment.

There was no public comment.

Commissioner Amyx said staff and the developers had addressed the majority of his concern. He said fire safety in that area was a main concern and as long as the Chief and his staff were comfortable with the plan that was fine. There was too much activity and did not want people walking and driving around in that area. It only made sense at this point to get in and get the building built to have it completed next year.

Mayor Dever said once it was above or equal to grade, the safety issue was what compelled him to keep it closed, but once there was no longer a pit to drive into or fall into, he said this project was lasting longer than originally anticipated and maybe they could revisit this project when they hit grade and see what the materials and locations were like.

Corliss said there were 8 months until construction of those streets, which meant they had to be off the streets to work on them. He said he imagined cranes and other things would be needed as the facility moved up into the air and they still needed access at that location. If staff looked at the site and looked like it could be opened up for a little while, that might work for awhile, but the street was probably still going to be closed next summer as they were working on it and doing things that were part of the redevelopment.

Werner said the crane did move and it worked from the north side to south side. He said it was fair that the project should be looked at and addressed in a couple of months. The time to work on the streets was when school was out which was in May.

Vice Mayor Chestnut said he agreed that it was a problematic situation with that large hole at that location. Secondly, they also had to take into consideration that if it moved the staging areas to other places, the one date they were trying to hit was the opening of the semester after the street improvements were completed. He said they ought to talk about it, but if they were to compromise that date, it was good to have that discussion in February or March. He said he would rather over commit to a time and beat that time. He said he was concerned about changing traffic patterns.

Mayor Dever said he wanted to make sure the City Commission was thinking about those letters they received from people who lived adjacent from this construction and if there was a concern or damage that occurred.

Vice Mayor Chestnut said Werner expeditiously mitigated concerns from the neighborhood. He said if it was a matter of concerns about what streets to open during the winter, the developer would work with the City and communicate with the neighbors to make sure to notify them of which routes to use. He said the City might want to put some extra emphasis on to make sure the neighbors knew they were on those streets.

Commissioner Highberger said he supported the suggestion of looking at this in a few months. It did not seem to him that they should have to open the street for a few months and

then close it again for reconstruction. The rationale for doing the street work in the summer time was because students were not here, but streets were already closed. It seemed like once the street was not needed for construction anymore, street reconstruction could proceed right after that. He said as long as they got an occasional update, they should be good.

Moved by Amyx, seconded by Highberger, to receive the update on the Oread Hotel traffic plan and approved maintaining the closure of Indiana and 12th Street through August 2009 and revisit the street closure issue in the February 15, 2009 timeframe. Motion carried unanimously. (30)

PUBLIC COMMENT: None.

FUTURE AGENDA ITEMS:

10/07/08 · Consider approval of agreement with Rural Water District #5.

10/14/08 · Introduction of Eutin Student Delegation.

· Hearing on proposed Transportation Development District for Bauer Farms Development (northeast corner of 6th and Wakarusa)

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 the following items related to Lawrence SmartCode:

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

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

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

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

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

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

- K-10 and Farmer's Turnpike Plan.

- Consider 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.

- **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)
- Consider city laws regarding the keeping of live fowl and domesticated hedgehogs in the city limits.
- Consider changes to the city environmental code pertaining to trash abatement. This is a follow up item to the 11/07/07 study session with the Oread Neighborhood Association.

COMMISSION ITEMS:

Moved by Hack, seconded by Highberger, to adjourn at 7:55 p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF SEPTEMBER 23, 2008

1. Bid Date – Community Development Weatherization Program, 46 homes, Oct 14th.
2. Bid Date – Comprehensive Rehab Program for 1808 Miller, 1909 Kasold & 1627 E 18th, Oct 21st.
3. Cooperation Agreement – City/County, 31st to DG Cnty 1057 Rd, not to exceed \$216,000.
4. Bid – 6th & Congressional Dr Traffic Signal Improvements to Torgeson Electric \$247,950.40.
5. Bid – Sodium Bisulfite for Utilities to G.S. Robins for \$2.40 gal.
6. Ordinance No. 8315 – 1st Read, 19-604, general discharge prohibitions under City's pretreatment regs.
7. Ordinance No. 8320 – 1st Read, SUP-07-06-08, Centennial/Lawrence Virtual School, 2145 Louisiana.
8. Ordinance No. 8321 – 1st Read, SUP-07-05-08, Free State HS, 4700 Overland Dr.
9. Ordinance No. 8326 – 1st Read, 5-21, Excavations & Structures in Utility Easements.
10. Ordinance No. 8318 – 2nd Read, TA-07-14-08, 20-525 & 20-526, permitted uses in use standards of mixed use zoning districts.
11. Joint City Ordinance No. 8301/County Res 08-41, 2nd Read, amendments to subdivision regs (TA-12-26-07, TA-05-08-08, TA-05-09-08, TA-06-10-08 & TA-06-11-08).
12. Resolution No. 6803 – Benefit District ordering construction, N right-turn lane intersection of Stoneridge & Kelly.
13. Resolution No. 6805 – reallocation of Series 2007 water & sewer bonds for \$11,825,000.
14. Property Donation – Stultz, 46 acres, N of W 6th, W of Queens.
15. Signs of Community Interest – United Way, 6x3 banners, Sept 17 – Nov 14.
16. Signs of Community Interest – Altrusa International, 3X20 banner, E side of Public Library.
17. Petition – Benefit District, 6th & N bound Wakarusa Dr, not to exceed \$800,000.
18. RFP – engineering services for Bauer Brook Estates benefit districts.
19. Sculpture – Donation “Hedgehog House” N entrance of S Park.
20. Right-of-Way Agreement – Yummy's Over the Top Yogurt, 1119 Mass.

21. City Lease – AT&T Mobility, water tower at 6 & Kasold, increase to \$2,000 per mo.
22. Resolution No. 6804 – Oct 14, public hearing TDD for Bauer Farms, NE of Wakarusa & W 6th.
23. Subordination Agreement – 825 Crestline Dr, Joaquin Meza.
24. Signs of Community Interest – Get Downtown, 3x12 banner, NH near 9th from Sept 26 to Oct 4.
25. Ordinance No. 8319 – 1st Read, SUP-07-04-08, Lawrence HS, 1901 Louisiana.
26. Ordinance No. 8283 – 2nd Read, CP-2004-02, Industrial & Employment Related Land Use.
27. City Manager's Report.
28. Ordinance No. 8327 – 1st Read, sale, possession & consumption of liquor at S Park for Lawrence Original Food Festival.
29. Citizen Participation Plan CDBG & HOME Programs.
30. Oread Hotel Traffic Plan.