



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

October 14, 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, and Highberger present. Commissioner Hack was absent.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Dever introduced the Eutin Student Delegation; proclaimed Thursday, October 16 as "Lights on AfterSchool!"; proclaimed the week of October 12 – 19 as "AbilityOne Week"; and proclaimed the week of October 13 – 19 as "Kansas Family and Community Education Week."

CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City Commission meeting minutes of September 23, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Board of Electrical Examiners and Appeals meeting minutes of September 3, 2008; and the Sustainability Advisory Board meeting minutes of August 13, 2008, including WRR Report and 2007 Recycling Annual Report. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve payroll from September 28th to October 11, 2008 in the amount of \$1,740,360.05 and claims to 411 vendors in the amount of \$2,501,012.75. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment Licenses for Jet Lag Lounge, 610 Florida; and India Palace, 129 E. 10th. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to concur with the recommendation of the Mayor and appoint Julie Mitchell and Quinn Miller to the Community Development Advisory Committee, to terms which will expire September 30, 2011; and appoint Lori Tapahonso, Kirsten Krug and Sue Leonard to the Human Relations Commission, to terms which will expire September 30, 2011. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, approve sale of surplus locks and printers on Gov Deals. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to set bid opening date of Tuesday, November 18, 2008 for Bid B08086 Project UT0801KA Kaw Water Treatment Plant Disinfection Conversion – Chlorine Gas to Sodium Hypochlorite Liquid. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to waive bidding requirements, and approve sole source purchase of protective clothing for Fire Medical Department personnel to Municipal Emergency Services for \$34,948. Motion carried unanimously. (3)

Ordinance No. 8335, adopting the Citizen Participation Plan, repealing Chapter 1, Articles 11, 12, and 17, and establishing the Community Development Advisory Committee, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (4)

Ordinance No. 8333, rezoning (Z-06-13-08) a tract of land located east of O'Connell Road between K-10 and 25th Terrace, approximately 44.259 acres, from RM-24 (Multi-Dwelling Residential) and UR (Urban Reserve) to CC-200 (Community Commercial) for Fairfield Farms East Addition No. 2, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (5)

Ordinance No. 8334, rezoning (Z-06-14-08) a tract of land located east of O'Connell Road between K-10 and 25th Terrace, approximately 14.784 acres, from UR (Urban Reserve) to IL (Limited Industrial) for Fairfield Farms East Addition No. 2, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to accept dedication of easements and rights-of-way for PP-07-09-08, a Preliminary Plat for countryside, a one lot non-residential subdivision containing approximately 1.86 acres, located at 1216 Biltmore Drive. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve Special Use Permit SUP-07-07-08, for Countryside, a proposed Extended Care Facility to serve as an Alzheimer's treatment facility, located at 1216 Biltmore Drive and adopt on first reading, Ordinance No. 8336, authorizing the Special Use Permit. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve Text Amendment, TA-03-01-08, to amend Article 4 of the Development Code relating to uses permitted in the GPI district and adopt on first reading Ordinance No. 8297, a text

amendment (TA-03-01-08) to amend Article 4 of the Development Code relating to uses permitted in the GPI District. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve as “sign of community interest” a request from the Pilot Club of Lawrence to place a sign at the northwest corner of 23rd and Harper Streets on US Bank property that advertises the Antique Show and Sale from October 24 – 26, 2008. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to authorize the Mayor to sign a Subordination Agreement for Donna Williams and Jean Dixon, 1601 Kenwood Drive. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve request by Fairfield FF Development, on behalf of the property owner for a variance at The Exchange at Lawrence, a proposed multi-family development at 31st and Ousdahl, from City Code 19-302(1)(B) which states that apartment houses having twelve living units or less shall have a water meter for each living unit. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve as “signs of community interest” a request from KLZR/KLWN Radio to hang two signs promoting the “Bras Across the Kaw” breast cancer awareness event on public right-of-way near the entrances to the Kansas River bridges, and approve the use of public right-of-way to hang bras along the railing adjacent to the walkways across the bridges, from October 17-25, 2008. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt on first reading, Ordinance No. 8332, for Comprehensive Plan Amendment (CPA-2008-11) amending the Southeast Area Plan to change the area designated for high-density residential north of 25th Terrace to Community Commercial and change the Land Use Descriptions in applicable areas to reflect the change. Motion carried unanimously. (14)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss, City Manager, said he would like to start off with the monthly building permit report. There were some familiar trends but the number of single family dwelling units in September was unusual and they had a high of the year of 22 permits. They were still down considerably from previous years following local and national trends, but seemed to be a large number in September and would continue to monitor that activity.

He said there was a report from the traffic engineer for a new traffic signal display permitting left turn movements. It was an interesting issue in the traffic community about how to appropriately advise drivers as they were getting ready to make a left turn about what a yellow light might mean. It was something they would monitor as well as far as its effectiveness concerning traffic safety.

He said they were continuing discussions with T-Mobile cellular company about the possibility of putting in a stealth communication pole. He said the pole would be disguised as part of the foul pole at Holcomb Park and would be used as an antenna platform for T-Mobile. The Parks and Recreation Advisory Board was looking at it. One of the roles as a City was as a land use regulator and whether or not that would come to the City Commission or approved administratively and also their role would be as the landlord in this situation. They were not prejudging those at this time, but letting them know to date that T-Mobile was exploring this possibility.

He received information from the Public Works Department in regards to a number of projects, maintenance and traffic calming projects and information about that. There was also information about the City of Lawrence website and an award it received.

He said he wanted to recognize Diane Stoddard and her efforts for the food drive to the Ballard Center and recognize employees' effort towards that.

Rich Barr had been appointed to a national committee in regards to fire code and fire safety. Finally, through the Mayor's leadership, they had made contact with the KU School of Business and were working with them and their entrepreneurship program for economic development strategy project that was going to involve a number of KU students in their consulting program and were excited to help the students out in this learning opportunity and thought they would benefit as well from their energy and new ideas. He was looking forward to the first meeting with them. (15)

REGULAR AGENDA ITEMS:

Consider the following items related to the Bauer Farms Development at the northeast corner of 6th and Wakarusa:

a) Conduct public hearing on proposed Transportation Development District for Bauer Farms Development.

b) Consider adoption of Resolution No. 6806, ordering the construction of turn lane improvements along westbound West 6th Street (US Highway 40) and turn lane and median improvements along northbound Wakarusa Drive, including sidewalks, subgrade stabilization, stormwater improvements, utility relocation, and other necessary and appropriate improvements, and consider waiving the requirement for bid procedures for public improvements.

Diane Stoddard, Assistant City Manager, introduced the items. She said a transportation development district was a tool that allowed a property owner to petition the City for either a special sales tax or special assessment to cover transportation related costs associated with the development with that tax or special assessment levy only being effective within that particular development. On September 23rd the City Commission passed a resolution indicating that this evening would be the public hearing related to this item and additionally approved a funding agreement for legal and administrative costs that were related to this item. The City received the funding agreement back as well as a deposit to cover the legal and administrative costs from the developers.

She said the petition the City received from the property owners proposed the establishment of this transportation development district in the amount of a special 1% sales tax on all sales within the specific district to pay for certain transportation development related costs that were within the area of the district. The TDD sales tax would fund up to a maximum of \$5 million plus financing costs for transportation related improvements associated with the district and those authorized by state statute. They anticipated, as their policy required, a development agreement with the developers related to these improvements. That draft development agreement was provided in draft form this evening and that development agreement anticipated that the improvements would be constructed up front by the developer with no up front financing by the City. There were special mechanisms in place in order to minimize any City risk related to this project. These would be paid to the developer as a reimbursement for their project costs. In the event that eventually the City issue a debt instrument to replace the developer's financing, that would be a special obligation to pay for that and would not affect in any way any general obligation of the City. It was also anticipated that in order for any debt instrument to be issued in the future, certain obligations would need to be met, including at least 50,000 square feet of retail space that would be constructed and open for business. That would be a minimum threshold for that occurring in the future.

Gary Anderson, Gilmore & Bell, Bond Counsel for the City, said a transportation development district could be created with either a special sales tax or special assessment. Similar to the Oread Project, the petitioners, the property owners in this case, have asked for the City to authorize a creation of the transportation development district and authorize the implementation of a special 1 cent sales tax only within the geographic boundaries of the proposed project. In addition, Item B was the other part of the financing related to this project, which was a creation of a standard city special benefit district to pay for off site public improvements. The TDD would pay for potentially both offsite and onsite

transportation eligible improvements under the statute. With respect to the structure of this transaction, similar to the Oread in many respects, initially the project would be financed by the developer. The development agreement would provide for under certain conditions the City would consider issuing special obligation bonds. Special obligation bonds do not affect the bond rating of the City. If there would ever be a default with the special obligation bonds, the bond holders understood the risks and the interest rate on the bonds affected the risk and the only source of repayment was the sales tax that flowed from the transportation development district. Unlike a TDD, the special benefit district anticipates that the City would issue general obligation notes and bonds to finance those projects. The City had a special assessment on the property that secured those obligations, but in the event there was the inability to pay, the City's general obligation would be called to pay those bonds. The City's credit rating would be at risk if they issued special assessment general obligation notes or bonds, which the City did quite frequently in connection with these projects, which many cities also do.

He said it was anticipated that there was a development agreement, which they had a draft now. There was substantial agreement between the City and the developer with respect to the provisions of that contract and there were certain minimum conditions that would have to be met before the City would consider issuing TDD bonds, which in the mean time the sales tax would be collected as regular retail sales tax sent to the state, deposited in a City special fund, and could be used to reimburse the developer on what they call a pay as you go basis until and if special obligation bonds were ever issued by the City.

Mayor Dever asked about the length of the sales tax and the amount of the expected revenue.

Anderson said the applicant's initial request was for potentially up to \$6.9 million and in discussions with the City, the developer and their counsel, they came to the collective conclusion that there were a few items that they did not believe were eligible under the TDD

statute and in addition the amount of expected TDD revenue to be generated during the up to 22 year clock they had for the TDD sales tax that even at the \$5 million level, it was probably unlikely they would ever be able to recover \$5 million plus the cost of that. He thought the developer was happy with the reduced number, acknowledging that the TDD sales tax would never be able to support a number like that and would not reach that number.

Mayor Dever said he understood there was a not to exceed figure as well as a time limit for the recovery of those funds.

Anderson said it was up to \$5 million of project costs plus interest and cost of issuance if there were any bonds ever issued. They had a maximum period of 22 years.

Commissioner Amyx said he understood the sales tax would start on April 1, 2009.

Anderson said correct.

Commissioner Amyx asked if the 50,000 square feet had to be constructed prior to them issuing any debt on the project so the financial stream would be able to cover the cost of these notes.

Anderson said there were three conditions under the proposed development agreement. Section 3.1C(2) dealt with the conditions that had to be met before the City would consider issuing special obligation bonds. 50,000 square feet had to be built under a final certificate of occupancy issued and businesses opened. The underwriter of the bonds would have to be approved by the City. Third, if the bonds were to be publicly sold, there would be a feasibility report from an independent party demonstrating that the revenues were expected to be sufficient to pay those bonds.

Corliss said the maximum retail square footage was at 72,000 square feet that was approved. They had the additional feasibility study if the bonds were to be sold to the group outside the development group. The best protection to the City was at no time was the City exposed to have to pay for the TDD bonds. He said the development group also asked that

they waive provisions in the development policy or bidding procedures in regards to this project. Usually when they had a sole source benefit district, they require 25% of the cost of the benefit district to be paid upfront. That had been waived in circumstances where the City Commission believed the project to be able to proceed without that. The other item was that they wanted to do the design and construction on their own and not have the City enter into contracts for the design. It would have to meet City specifications and have to be reviewed by City staff, but because this was a mix of public improvements and private improvements, they believed it would improve the efficiency of the project if they did that. The City has allowed this in a few other instances, but only in situations where the property owner and sole property owner was requesting that. He did not think it was appropriate in situations where they had multiple property owners and in some cases there may not be willing participants in a benefit district. The competitive bidding protected the public on the cost of that project. In this instance, because they were paying all the costs and being the only ones assessed, it seemed appropriate and a way to facilitate the development to allow those waivers.

Commissioner Amyx asked if Corliss had reviewed all the financial arrangements and felt comfortable with waiving the 25%.

Corliss said the property was of such great value, he did not think it was likely the special assessments would go into default. They had a very low delinquency on special assessments and continued to monitor that. He said that was a real concern to the City from a fiscal standpoint in that someone would not pay the special assessments. That was why they had that 25% rule in place. In this case, this property was probably some of the most valuable retail property in the community and he did not think for the amount of special assessments, they would not let the property go into default. There was no guarantee as they knew from watching the economy on what the future might bring, but they had as good of comfort level on this piece of property as anything else. Some special assessment

projects might be more speculative and might be concerned about the ability of the property to pay taxes in the future. He did not think they had that concern on this property.

Mayor Dever opened the public hearing.

There was no public comment.

Moved by Amyx, seconded by Chestnut, to close the public hearing. Motion carried 4-0.

Commissioner Highberger asked about the staff matrix. He said on the third criteria there was a question of the project element and if the project exceeded the requirements. He said he wanted a little more detail on that because some of the items identified seemed peripherally related to transportation.

Stoddard said her understanding was some of the elements that were proposed within the transportation development district and those improvements that were going to be done would be exceeding what the city would typically require with a development.

Shoeb Uddin, City Engineer, said he could speak on the roundabout issue. They had a roundabout at an intersection on Champion Lane. The design of the roundabout was submitted to the City and they have reviewed that fully and were comfortable with it. The design of the lighting was also submitted with other plans. They have reviewed that and asked for additional information. They were comfortable with that as well.

Highberger asked how the proposed roundabout exceeds city code requirements.

Uddin said the city does not have a specific code requirement for roundabouts. What they followed was the Kansas Roundabout Guide. The process they followed was that every roundabout they designed, they submit design details to KDOT and KDOT had an on call consultant and they did it as community assistance and send out that information and were sort of an expert on roundabout design. They provided recommendation as to what were the minimum requirements and desirable values and followed the same procedure in this one. Based on their recommendation, the design had been devised.

Commissioner Highberger asked if there had been any design work on the Wakarusa and Overland intersection.

Uddin said no design work had been done on that intersection.

Mayor Dever said there were some questions regarding what had been requested and thought they received good feedback on what would be included in this transportation development district and the terms of the tax, the amount of tax had been spelled out. He was pretty clear on the facts of the matter and at this point they could discuss their comments or feelings on this issue.

Commissioner Amyx said he had a general understanding of everything that was required and how the payment would be received and their obligation was if debt were to be issued, it would be taken care of through the special sales tax and would be collected on items sold in the area. Obviously today he had comments from individuals who had concerns about using this type of financing arrangement on commercial development. This was really why this was set up when they put together this type of special financing for projects to be developed and being able to be taken care of with improvements on the site. They obviously set up a policy that they had in place for several months now that this developer would have the opportunity to apply for. He said they met the requirements the City put in place. It was a pay as you go type of project through the improvements made. He thought that once the 50,000 square feet threshold was put in place, and then there was going to be some new monitoring through staff and others through bond counsel that would be looking at this fairly closely. He said pay as you go would start in April of 2009 and hopefully they would see improvements to that site. He said he would be supportive because the taxpayers and Lawrence were protected because bond holders were going to understand that the assessment collected from the sales tax was going to be the payment they received on the indebtedness of any bonds they would issue.

Mayor Dever said he was generally supportive of this proposal. He said he was a little concerned about the perceptions people have when it came to additional taxes. They were trying to push through a sales tax in their community and any time they start burdening people with additional taxes, it would be an issue. If it was the only way they could put forth this development and program they were trying to put in place in mixing these uses together, he was in favor of it and believed there was a lot of work done and protected the City.

Vice Mayor Chestnut said he agreed. This was pretty common and had been with developments in and around the area. It was a way to put forth and was an enhancement as far as construction in the City and City streets and so on. He said over time it will prove to be a good project and there had been a lot of work especially done on how the traffic worked on Wakarusa. He thought they had a reasonable compromise there and looked forward in moving forward.

Commissioner Highberger said, to paraphrase John Kerry, he voted for this project before he voted against it. He was really excited about the residential part of this development and was a small part of the commercial development which was good. They were mostly looking at a traditional suburban development here. He was not sure it met the criteria set out in the transportation development district policy. It was not a redevelopment and was not convinced that it provided unique retail for the City or innovative mixed use design. His fear was that while the TDD was a good tool in the right place, he thought overusing it could be bad and did not want it turn into stealth 1% additional sales tax part of the City. He was afraid that if they did not have projects that clearly met the criteria, they would see this from every project from here on out. He would not approve this for a project for a grocery store. He was concerned about the use for pharmacy, but in general it did not clearly meet the policy criteria enough for him. He said while he was torn on it, he would vote against it.

Commissioner Amyx said it was their job to set up the requirements in putting together these kinds of programs and the criteria that had to be put in place to establish the district. He asked if it was the responsibility of the private sector to make the decision on what type or whether or not they would locate in this district to do business and that would have an effect on the type of business that would be there also along with the zoning and arrangement of buildings.

Commissioner Highberger said that any business that would locate there would understand that there was an additional 1% sales tax and would factor that into their calculations.

Commissioner Amyx said they would take that part into consideration when they establish their business.

Commissioner Highberger said sure. He said if this was the only TDD they would ever see, he would go along with it, but his only concern was setting a precedent and did not want to see this for every new retail development in the City. He said this project did not meet the criteria to his satisfaction. He said he was disappointed with some changes made after they approved this project. He was not entirely satisfied with it but went along with it because there were some great elements to it. They changed the footprint, moved the pads of the corner store back away from the street, and there was a certain pharmacy company that was looking to locate at another development in Arizona and the company wanted to build a pad site store and they could not do that. He said it was one of the reasons why he was voting against this tonight.

Moved by Chestnut, seconded by Amyx, to adopt on first reading, Ordinance No. 8339, establishing the Bauer Farms Development Transportation Development District. Motion carried 3-1 (Highberger voted no).

Vice Mayor Chestnut asked as far as the waiver of the requirement for the bid procedures, could they help him through that.

Corliss said there were two waivers. The development policy said that they require 25% of the improvement costs to be paid up front and the City would not finance 25%. They have waived that in circumstances similar to this because of the value of the land and thought it was unlikely to have a foreclosure situation. The other item was that they had a bidding procedure they could also waive that was also to protect benefit district property owners to the cost of the project. In this situation, they had a sole property owner that wanted to coordinate the various public improvements with the private improvements. They also thought they would be able to economize by doing it internally as opposed to the design and bidding procedures. The City still had to approve the design specifications and was not a home made recipe as far as the turn lanes; they had to satisfy City staff, KDOT and others that the design was appropriate and the construction was appropriate. They would not bid it and it facilitated the development.

Moved by Amyx, seconded Chestnut, by to adopt Resolution No. 6806, ordering the construction of turn lane improvements along westbound West 6th Street (US Highway 40) and turn lane and median improvements along northbound Wakarusa Drive, including sidewalks, subgrade stabilization, stormwater improvements, utility relocation, and other necessary and appropriate improvements. Motion carried unanimously.

Moved by Amyx, seconded by Chestnut, to waive the public bidding requirements and down payment requirement for this project. Motion carried unanimously. (16)

Consider approving a request to rezone a tract of land, Z-05-10-08, approximately .483 acres from RMG (Multi-Dwelling Residential- Greek Housing) to MU (Mixed Use) at 1420 Crescent Road. Submitted by Jayhawk Book Store, for William P. Muggy, property owner of record and adopt on first reading, Ordinance No. 8331, rezoning approximately .483 acres (Z-05-10-08) from RMG9 (Multi-Dwelling Residential- Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road.

Joe Rexwinkle, Planner, presented the staff report. He said this was a request for rezoning at 1420 Crescent Road, which was commonly known as Jayhawk Bookstore. The

existing uses were currently nonconforming and consist of general retail sales, which was the book store, and multifamily uses, which were the apartments which were also in the same structure. The reason for the request was to allow the uses to be conforming. This was the first request they had for the mixed use zoning district and mixed use zoning district was one of the only districts that permitted those uses in the same structure. As part of the application, the applicant must propose designations of development zones. The district was approved by the City Commission in May 2008 and the development zones had three in the mixed use zoning district and could govern the intensity and scale of the development and the intent of that was to put the burden of compatibility on the mixed use development itself so it would scale down as more compatible in terms of scale and massing with adjacent development.

He said the subject property was a little bit larger than the existing building and the parking lot was behind it. Surrounding existing properties were the Chi Omega sorority and additional sorority buildings, which were three story buildings. The existing Jayhawk Bookstore building was two stories. To the west, there were single family homes, most were two stories tall, and to the south was the University of Kansas campus and Lindley Hall which was multiple stories. He showed some photos taken of the site that gave an idea of the character of the neighborhood. He said the applicant requested secondary and tertiary development zones, there were three of them and the primary allowed the most intense development and secondary and tertiary development zones were less intense. Tertiary zones were required when they were surrounded by existing development that was detached residential uses, which were there on the west. He showed the area that applied for secondary zoning, which included the existing building. The tertiary development zone was where the parking lot was located. He said secondary development zone allowed about 15 dwelling units per acre and the tertiary allowed about 12. That was consistent with the RM12 and RM15 zoning districts for the multi-dwelling residential uses. It would allow

about five dwelling units on this site total. The maximum building height for each zone was 36 feet, or 24 feet, and currently the building was two stories so it would only allow an additional story on the building if it were to be redeveloped.

He said the maximum building coverage was 85% of the site or 75% in the tertiary zone. What this would allow if they calculated it out was a 17,000 square foot footprint on the building. The property was about 20,000 square feet. Parking would come into play and limit it and would not be that large of a building footprint. They also talked about structure form. In the secondary development zone, detached structures may be permitted but are not required, whereas tertiary development zone, they would be required if the existing development zone was a detached development structure. It would have the same form of development. Any use permitted in the zoning district would be permitted in the secondary development zone and the same situation here in residential uses if it was adjacent to residential. This zoning request, the Planning Commission did make a recommendation to prohibit two uses from that, so there was a little caveat to use permitted in the district. The Planning Commission's recommendation was to prohibit manufacturing and production limited, which was small scale high tech manufacturing, and sexually oriented media stores.

Commissioner Highberger asked if there was redevelopment, the existing structure on the secondary zone could not go into the tertiary zone.

Rexwinkle said it could be the same structure, but would have to step down in height.

Chestnut asked if they could build in the tertiary area.

Rexwinkle said they could, but it would have to be detached residential structures.

He said in terms of development review of any proposed redevelopment of the property, in which there was not any redevelopment at this time but if that were to come forward, a site plan review would be required, just as it was with development proposals in any other district. The zoning district also required the buffer yard requirement, which was required in all other zoning districts as well. It was the landscape buffer between this property and

surrounding properties. The Planning Commission's recommendation was for approval on a 5-3-1 vote, subject to prohibiting the two uses he mentioned before. Staff's recommendation was also for approval of this.

Commissioner Amyx asked if redevelopment review would be administratively approved or come back to the City Commission.

Rexwinkle said all site plans were administratively approved unless it was for a nonconforming use. So rezoning this would make the uses conforming, so it would be a site plan approved by the Planning Director. However, this property was located within the environs of the Chi Omega sorority house, so that meant a Historic Resources Commission review would have to occur with a public hearing at that meeting.

Vice Mayor Chestnut asked staff to go through the administrative process and what would have to go through variances and what notice was required, even at administrative review and what appeal process there was.

Rexwinkle said the site plan process would require mail notification to adjacent property owners and neighborhood associations. It would also require sign posting on the property and anyone who was notified in mail notice were allowed to appeal the Planning Director's decision on that site plan, including the applicant if the director were to deny it. That appeal would come to the City Commission.

Jane Eldredge, Barber Emerson Law Firm, counsel for Jayhawk Bookstore, said this property was built in approximately 1948 and at the time it was built it was outside of the City limits. It had been built as a mixed use and had existed from the time it came into the City limits as a nonconforming use. Nonconforming uses have distinct disadvantages and the disadvantages have to do with obtaining loans and selling the property. Its nonconforming use meant that in the event that property was destroyed, they did not have a right to build back what was preexisting. They would have to conform with the underlying zoning district. Before they adopted the land development code, in the staff report provided the property

was zoned RS2, which was true for the whole block between Crescent and University. They were all parking lots that supported the sororities and fraternities. When they rezoned and created new zoning districts, one was the RMG for the Greek housing system. The RMG then was assigned to the sororities and fraternities and to the parking lots for them. The RMG was also assigned to the bookstore. The bookstore went from RS2 to RMG. Neither use permitted any retail uses. Following the land development code and changes that were made to the community neighborhood was the initial conversation with the planning staff that started in May or June of 2007. As a result of the land development code, this property was now appropriate for neighborhood commercial zoning. As a bookstore that served the adjoining University campus, it seemed to be an ideal zoning category. Staff was very helpful in analyzing that and initially the thought was appropriate, but at the same time staff was working on a mixed use district. They recognized in this community the need to have a desire to have uses that combine residential and retail, particularly those that were pedestrian oriented. Nothing was more pedestrian oriented on a university campus than apartments. There were two apartments on the top floor and a bookstore that sold textbooks and related college items. At the time the mixed use district was going through the process, it was not designed to support it but designed with the idea that this may be similar to other spots in town where they might want to maintain a neighborhood use and have the mixed use residential above and retail below. She thought staff did a wonderful job in both creating the district, which took her a long time to get her head around because it was not dictated by use but by density and intensity of use so that it would provide transitions where necessary. In this case, they clearly had transitions between the varying intense Greek housing and less intense single family housing. The application was changed from commercial to mixed use. The property currently contained the bookstore and the parking lots. Designing the overlapping secondary tertiary zones, part of what they were designed to do and what they did was provide assurance about what would be in the area

and density. The tertiary zones reduce density and there were no plans to change the use of zoning. They wanted to make it feasible to borrow money for inventory and other uses and were unaware of the difficulties that may come down the road and the potential of losing the property and building back into the Greek housing district.

Commissioner Amyx said since Eldredge brought this up, this zoning request was going to make this particular piece of property conforming to a particular zoning district and the mixed use zoning district appeared to be the district that best fit this. There did not appear to be any development in the future. He asked if there was sufficient parking on this property based on the square footage and residential.

Eldredge said there was sufficient parking and did not think it exceeded the requirements.

Commissioner Amyx said what he saw in the parking there made it in conformance.

Eldredge said she agreed.

Commissioner Amyx said any other change in the mixed uses was going to have to go through the entire review.

Eldredge said correct.

Commissioner Amyx said then the parking would have to go into the ground.

Eldredge said if that was economically feasible.

Commissioner Amyx said if there was no other place to develop on the site, it would have to.

Eldredge said the site was consumed with what was there.

Commissioner Amyx said if no development could happen, they could have secondary development zones and tertiary development zones, but really this was about conformance with what was there. The parking there, the building and uses in the buildings there, that was all they were talking about and were not talking about any other development because it could not happen on that site.

Eldredge said that was correct. The Planning Commission members had concern about uses and they had no problem excluding those uses.

Mayor Dever said it had been in a non conforming use since it was annexed by the City. He asked why there was no petition or request to make it a conforming use up until now.

Eldredge said there have been other requests to change the zoning on it and they have been denied.

Mayor Dever asked why they were denied.

Eldredge said because the requirements of the district did not conform to the use of the building. This was the first time there had been a district that was designed for mixed uses.

Commissioner Amyx asked if there had been a request 10 years ago for a commercial use.

Eldredge said it was quite a while ago.

Mayor Dever asked if getting insurance and borrowing money on the building was more expensive.

Eldredge said yes. She did not know what those things would relate to today in this situation. If the building was destroyed, they could not build it back.

Commissioner Amyx said if 50% of the building was destroyed, all that could be built back was a Greek house or expansion of the Greek houses to the east, assuming that it was sold to them.

Mayor Dever called for public comment.

Jim Sherman, a nearby resident, said he personally liked the bookstore. He said it looked nice and served a very good function for students and visitors to KU. If there was some way to assure the use and looks of the property that would stay the same in perpetuity, he would not be here. There was no way of assuring this in his opinion. If the zoning was changed to multi use and the present owner or future owner wanted to change the future use of the property, he would very likely have no opportunity to present either his

objections or his support for the proposed changes. If he understood the process correctly as it was explained, the owner could propose a change that would be permitted within a very wide range of uses even though there were two specific ones excluded. There was still a wide range of uses it could be put to. They could submit a site plan that would be approved by the Planning office and Director of Planning and barring an appeal, the matter was then entirely in the hands of the owner. There were no automatic additional hearings or additional opportunities for public comment. There was an appeal process as was explained. To initiate an appeal, you had to have standing and parties who had standing were adjacent property owners, the applicant or owner of the property, the City Commission, or the neighborhood association that was adjacent to the property, which would be the University Heights Neighborhood Association. Even though he was a member of that, he had no ability to determine the position the association would or would not take on a proposed change in use. If the property was rezoned to multi use, he was essentially voiceless unless someone else did an appeal. He did not have a right to an appeal or standing in the situation. Even if the proposed new use would negatively, in his opinion, affect traffic in the area, parking, general amount of trash and stuff that was blowing around the neighborhood, he would not have a say even though he was part of the neighborhood. He said the traffic in front and around the bookstore was really fairly dense and during certain parts of the day, impassable. This was not the fault of the bookstore or caused by the bookstore, but some type of new use by the bookstore property may well exacerbate an existing problem with considerable severity. He did not want to be voiceless or change the use of the property that would be detrimental to a very busy corner and very nice neighborhood in which his family lived. He strongly advocated the property not be rezoned to multiuse. If the owner or owners wanted to change the use of the property, they should propose that new use and they could discuss it. A change in use should not be permitted for that property and in that location without extensive public discussion and the only way

they could assure that was not rezoning the property. It had been in nonconforming use for many years and should stay that way to protect the possibility of public comment and discussion from the neighbors.

Bill Mitchell, Lawrence, said he would like to help with the history of the site. He said man who owned the place was an operator who went up there right before the City annexed the land and broke ground. It had always been an illicitly conceived item. He said after the Planning Commission he had little hope of derailing the rezoning. The uncharacteristically brief reason did not prevail at the Planning Commission and a sufficient majority was eager to give the brand new zoning, no matter the implications for the fragile, west of campus neighborhood. He did not expect a plea for neighborhood preservation to fly far tonight. There were three or four thoughtful planning commissioners who understood the danger to the neighborhood and the wide range of uses permitted by right with only administrative review should this parcel be rezoned. He thought this was the kind of thing that should be thought about in advance. What he foresaw happening after the present owner got his rezoning and after this City Commission shuffled responsibility to another one, was the fall of all three corners of the Naismith/Crescent intersection. 1420, the northeast corner, was the first domino. The northwest corner, presently single family use, but was rezoned U-KU in the new development code would be sold by KU and rezoned to some campus related commercial use. The larger, southwest corner, would complete the trifecta and west of campus residential would be competing with east of campus residential on an Olympic luge run. The City Commission could prevent this scenario by leaving the non conforming use it had always been to no disadvantage to the present owner.

Bernie Kisch, a nearby resident, said he endorsed the comments of Jim Sherman and Bill Mitchell. He asked who was going to benefit from this rezoning action and how. He said the City of Lawrence, the neighbors, the neighborhood or the specific owners of the property. He submitted that the City and residents of the neighborhood benefited from the

status quo that was retaining environmentally and aesthetically attractive area and arguably one of the most desirable neighborhoods in Lawrence. He said the decision that the City Commission had to make were the desires of the residents of the neighborhood which was to maintain the status quo versus the desires of the individual to seek rezoning.

Commissioner Amyx asked Kisch if he was opposed to the bookstore.

Kisch said he was not. He said his major concern was what would happen in the future.

Commissioner Amyx said their responsibility was to consider and weigh the evidence on both sides. It seemed to him that the owner of this property was asking for a zoning category to be placed on his property that would make it conforming. The concerns that the neighborhood had was what they could do to protect the future that none of them could see but language to be placed in this and take it out of the Planning Director's hands that in the event that a change in use happened at that property, the automatic review did not go to the administrative side, but in this particular case on this property it came to this body and through this process.

Faye Watson, a nearby resident, said they have had good relations with the Jayhawk Bookstore and the owner had done an outstanding job of keeping it clean and well decorated and keeping it attractive and offered services to the students quite well. This was not against the owner himself, but what was happening with the mixed use designation. This was a corner all of them should realize that had tremendous problems. If they designated the mixed use, then a lot of different businesses could go in there and there was not room for a lot of different businesses to go in there. Traffic increased considerably and have done nothing to keep the traffic organized and away from that intersection. It got worse every week. Last Saturday there was nothing done by the City for regulating parking and so forth. Friday afternoon she noticed their street was totally bumper to bumper with cars, and was unusual because normally it was Saturday morning before the games. They noticed there was a huge sale in front of the bookstore so that was drawing people and

there was a car across the sidewalk. She discovered that all the requests from the sororities and fraternities up and down the street to empty their parking lots and charging \$20 to park in their lots while they had all the cars on their street. KU was involved in this because they have eliminated a lot of the parking around the stadium, but there were no regulations for something as simple as parking. She said if the bookstore changed to some of the uses that could go in there and they did not have any ability to talk about that as a neighborhood association. They all bought their homes knowing the bookstore was there and had nothing against the bookstore. They heard constantly that it had to be changed to lessen his insurance, but they've not seen any figures. For the first time tonight she heard that KU had bought the one story homes. They needed City Commission help to help them remain a good neighborhood and be good neighbors.

Commissioner Amyx asked Watson if the use that currently existed on the site was one that was good for the neighborhood.

Watson said yes, they could tolerate it. It was a good business.

Eldredge said it was made very clear that the neighbors did have input. They received notice and because the review was at the administrative level, it did not mean they did not have input. She did not know any citizens that were shy about contacting City staff when they had something they wanted to say. The complaint had to do with the land development code, more than with this particular project. This system of administrative review was what the land development code called for. It was not any special treatment that this project was asking for. Those were the rules that have been adopted. Whatever they chose to do with the rules, they could make that choice. She appreciated the fact that all the speakers had the respect for and appreciated the business and did not have a complaint against the business. They would hope that they would adopt the ordinance that had been prepared and would ask that they consider any changes they might make in dealing with site plans and do that on a uniform basis and not a project by project basis. She had not been

involved with any project that required site plans that this had not come up as a request. She said that was her concern as they moved forward.

Commissioner Amyx asked in the latest development code the reason the administrative approval of site plans was to help streamline the process and they had the opportunity for review of any of those at any time.

Eldredge said absolutely. She said the desire to make the land development process more streamlined was an important one and one they sometimes lost sight of. Land development in this community took a long time to process and this process that had been adopted in the code did not bypass any opportunity to come before the City Commission and was an effort to try to resolve it at staff level, just as everything they did was resolved first at staff level and if that was not satisfactory, then it came to the City Commission. The only thing she suggested was the process stay in place. There was still an appeal procedure in place. She said if they needed to change it on this project, they should, but if they were going to do this on all changes, they should change the code.

Corliss said there were a number of site plans and development plans that have been administratively approved this year. Their Planning Director liked to point out that fact.

Scott McCullough, Director of Planning and Development Services, said they were in the eighties with the number of site plan submittals and was unfortunate that the City Commission was not closer to the process because it was one of partnering with the community when they desired to take an active role in site planning. There were a number of examples that they talked about where they have taken into consideration the neighborhood and community and go through as quick as they do with others that do not have concerns.

Mayor Dever asked if they have had more than 80 plans that have been approved administratively this year.

McCullough said this year they did and last year it was likely over 100. He shared the same concern that when they strayed from the standards of the code, they breed

opportunity for errors in 10 or 15 years when they got an applicant to redevelop the site and did not do the due diligence to look up the zoning condition. If they did not and went by the code standards, they may miss that condition. He agreed that if they were to start discussing formal ways of processing development applications, they needed to look at text amendments to the code.

Vice Mayor Chestnut asked if there was a change in the retail merchandise, ownership or whatever, would the non conforming use proceed forward with a new property owner.

McCullough said the use runs with the land. He said anytime they got an inquiry about changing that use, they needed to do a specific exercise in looking at the code and proposal to determine if it was the same use, legal or nonconforming. If it was not, then they needed to comply with the current zoning of that property. Greek housing was perhaps one of the main uses allowed in that district, but there were others and did not include a lot of retail.

Vice Mayor Chestnut said the nonconforming use went along with the land and really have not defined what the nonconforming use was. It was general retail and for that particular property they had not gone through that exercise. As far as understanding what the future of that land was, if it would change ownership they would be in a negotiating position and would have to define what the nonconforming use was.

McCullough said they would have to do that exercise to determine what that nonconforming use was.

Vice Mayor Chestnut said one of the intents of mixed use was there to preserve mixed use types of projects that already existed and was the purpose of it when it started. He did not think they would have very many MU classified projects in infill projects. It was always going to have a lot of adjacent property owners and situations when they went through this. They were there to confirm what was there already and have input from some kind of self contained dense area. He asked if that was why MU was created.

McCullough said the code lacked a true mixed use district and as they strive to meet goals of pedestrian oriented developments, reduce traffic congestion, air quality and the whole gamut of good land use decisions and policies, mixed use was a vehicle to get there in a redevelopment sense. A lot of their discussion was hinged around how to make that flexible enough to redevelop property and let it exist in some state until it redeveloped or redeveloped in phases.

Cindy Weston, a nearby resident, said what Commissioner Amyx was proposing was an important issue, which was who got notified and knew they had the right to appeal and how that happened. If University Heights and West Hills Neighborhood were not aware of an application for change, then the chance for appeal did not happen. She thought it was important to the neighborhood. If the only people notified were if it went back to Greek or KU because they own the residences adjacent, then the neighborhood would have no chance for appeal.

Vice Mayor Chestnut said the neighborhood associations that were adjacent were notified.

Weston said there needed to be a caveat for neighborhood notification if this changed.

Mayor Dever said this issue did give him a concern. The neighborhood association may agree with it while a neighbor may not and would legally have no standing and could not protest it.

Vice Mayor Chestnut said he had not been here very long, but typically there had not been lack of public comment in any particular situation they wanted public comment on. He was not concerned that there would be in the future a use that was objectionable to the neighbors, they would get plenty of opportunity to appeal that and come before the body because they have chosen to take things before this body at times they did not have to but thought it was best for public good. They were starting to get around to if they were going to

do this, talk about text amendments and go back to a place where a former City Commission did not want to go as far as moving more and more things up to this level.

Commissioner Highberger asked if Commissioner Amyx was suggesting having site plan review come to the City Commission.

Commissioner Amyx said this was about usage of the property. They were probably right in that it would take a change in the way the development code was written now and how they would do business in the future on this site. He said if there was not support to add additional language, proper notification needed to be given to people in the surrounding area that a change in the use was coming in the site or any other site.

McCullough said they felt like the code required that type of notification. They were building a good track record with that kind of process. The code had the appeal process that was good for the neighbors and owner. A member of the governing body could bring an appeal on behalf of someone else. They thought there were many ways to get this in front of the governing body if there were issues. Placing the condition on it may mean that the owner or future owner would have to go through an extraordinary process even if no one had an issue with the change of the property. He said the district was formed appropriately to be infill and restrictions on it for uses found to be inappropriate for this area.

Moved by Amyx, seconded by Highberger, to approve a request to rezone a tract of land, Z-05-10-08, approximately .483 acres from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road, subject to any proposed change in use to be reviewed and approved by the governing body, and adopt on first reading, Ordinance No. 8331, rezoning approximately .483 acres (Z-05-10-08) from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road. Motion carried 3-1 (Vice Mayor Chestnut voted no). (17)

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.

Joe Rexwinkle, Planner, presented the staff report. He said this item was initiated by the City Commission on April 29th for Homeless Facilities and Services. This came before the City Commission on August 12th but was remanded back to the Community Commission on Homelessness and the Planning Commission for additional public comment and fine tuning of the language and there had been considerable changes to the language from that draft.

He said he would talk briefly about the issue of homelessness in Lawrence. The findings came from the Commission on Homelessness Report. He believed it was a snapshot of numbers. There were 273 homeless people of which 79 were families and 111 were children and about 32 were chronically homeless individuals. The main finding from the CCH was that there were no immediate short term housing solutions for families with children. This was one of the reasons why this item was brought to include the shelter and base center which were modeled around shelters for homeless families with children. The CCH said there was a need for one emergency shelter serving 75 individuals. It was the largest shelter, which would be like Lawrence Community Shelter which would be a Type B shelter under the regulations. There were also 100 new temporary housing units, which partially could be accomplished with these amendments and partially a separate program. There were also 35 new transitional housing units. Supporting services recognized the critical aspects of each shelter option.

He showed what the development code currently had regarding homeless shelters and homeless use type of facilities. There was one type of shelter, which was called Homeless or Transient Shelter and defined as providing temporary housing for one or more individuals who were homeless. There was no distinction between a large shelter open to the general homeless population or smaller shelter for families with children. What they found in their research that a number of the communities that address homelessness, distinguish between either the size or type of homeless population served. There were a couple other related uses, a community meal program which was the food service program that were

independent or often related to in some way because they serve the homeless population and general population. Another use was other office uses which was a general office use category and was included because when family problem first approached City staff, they had no use category to classify the day operation since it was technically not a shelter. This was the closest defined use for that.

He said they probably knew the history quite well. The City Commission initiated this in April and was first considered by the Planning Commission on July 21st after being considered twice by the Community Commission on Homelessness in both June and July. The City Commission remanded this on August 12th. They took considerable public comment which was provided to the City Commission following the August 12th meeting and forwarded that comment to the Community Commission on Homelessness. In their meeting on September 9th for about five hours they talked about the public comment received and how best to incorporate that comment and balance that comment with the CCH's goals and visions and the homelessness problem in Lawrence. After that meeting, staff drafted language based upon that discussion at that meeting. They have recommended that language in whole to the City Commission with three specific modifications.

He said he would go over the types of uses. Type A homeless shelters were the small homeless shelters and the only program they knew right now that wanted to use this use was the Family Promise program. These shelters were permitted in any zoning district as an accessory use to religious institutions only. They require registration renewed annually and neighborhood notification as part of that registration application. It was required to have a neighborhood meeting and notification and to have occurred prior to Planning Director approval of the application. It also required a management plan. There were criteria that had to be addressed in that plan. There could be additional criteria as part of that plan depending upon particular property the church was located on, the church itself, the operator or the neighborhood. A lot of that staff assumed a lot of the extraordinary match up

plan would be determined at the neighborhood meeting. There was also an agreement to comply with the standards in the code and the management plan standards. The Planning Commission recommendation on this use was to approve the language with a few modifications which included making the management plan appealable to the City Commission. Any administrative determination the development code authorizes the process of administrative determination being appealable to the Board of Zoning Appeals. On this particular administrative determination, to approve this management plan as part of the registration, the Planning Commission thought it was best for that appeal to go directly to the City Commission.

He said the second modification recommended was to limit the operation of the shelter for 15 nights per calendar quarter so that it could not operate 365 days a year to limit impact on the surrounding property owners and neighborhood.

He said the third modification was to regulate the definition of family, which regulated this use and type of day center use so that only families with children may be served. This would be a unique definition of family rather than what else they had in the code.

He said the Type A Homeless Centers would be permitted in the RO and RSO zoning districts, which were a mix of residential and office uses and in non residential zoning districts. They would be permitted by special use permit in the RM32 district. One of the things that staff did coming out of Planning Commission was to clarify when day centers could be in operation and changed the terminology from daylight to day time to correspond with business hours more. The Planning Commission recommendation on this was to revise the definition of family. The other two specific modifications only related to the Type A Shelter. This use was permitted by right in the RSO and RMO and non residential districts and required a management plan. Since it was permitted by right like the Type A Shelter was, one thing for the City Commission to consider was a management plan be appealable to the City Commission like it was with the Type A Shelters. He thought it was something

the Planning Commission overlooked when they had their motion and when they had their discussion it was in and around the Type A Shelter being accessory to churches. Procedurally, since this was administratively approved in every district but RM32, it may be something the City Commission would want to consider.

He said the Type B Shelters were the larger ones and permitted by special use permit in every zoning district in which they were permitted, which was only the RMO and RSO zoning districts as well as the non residential zoning districts. They were not permitted in any other zoning districts in any other way. They omitted the term overnight from the definition from previous drafts so that Type B shelters could operate and provide services for 24 hours. The hierarchy would be the Type B shelter would be the most intense for all homeless facilities and would include those in the day center aspect of it and in the same structure with the same special use permit. This was offered at day centers and could permit the day time shelter as well. The Planning Commission did not recommend any distance buffer from single family uses based upon the fact that some cities do require a distance buffer but most of those cities were larger cities with larger land area and tended to have larger swaths of area in towns that were zoned commercial and Lawrence was a smaller community and that was not prevalent here. When they mapped out distance buffers, it left very little land in the City where a shelter could go in. He said it was the same thing with the distance buffer from other homeless facilities. Obviously there was a need for homeless facilities to be located in some proximity to one another and there was also a concern about over concentration of these uses in certain neighborhoods, so it would be a balancing act but the Planning Commission's recommendation was no distance buffer. Their recommendation on this was the language that came out of the Community Commission on Homelessness which was to recommend the approval with no modifications as to the type of shelters. It was basically the same with the Type B centers that were permitted in the same

districts as the shelters by special use permit. They changed daylight to daytime just like they did with Type A Homeless Centers and the recommendation of no distance buffer.

He said since the Planning Commission meeting some questions have been raised, both internally from staff and the public from the fact that the development code did not say they had to meet other codes. None of the development code language said that for specific uses. The way they always applied it to other uses that any other city code applied when you submit a request for registration, site plan or development plan and other reviewing departments review it and make sure it applied to the codes they administer. To clarify, other city codes such as the fire code or building code would apply to these uses just like they did with other uses.

He said to summarize the Planning Commission's recommendation, it was to approve the draft language as proposed by staff on the CCH meeting with three specific modifications to permit Type A Homeless Shelters to operate a maximum of 15 nights per quarter, to require management plans governing Type A Shelters to be appealable directly to the City Commission and to revise the definition of families that relate to Type A Homeless Shelters and stay centers so that only families with children may be served. They were asking whether or not a management plan for a Type A Day Center should be appealable to the City Commission since those were also approved administratively by the Planning Director. The draft language would change the definition of family and inadvertently omitted the sentence which limited how many total people could stay in a day shelter. He said what that would mean is a maximum of 15 people would be permitted in a Type A shelter day center.

Commissioner Amyx asked if this meant that only a maximum of 15 persons per night could stay at the particular shelter.

Rexwinkle said that was correct.

Mayor Dever asked if they were pulling out the omission.

Rexwinkle said yes but certainly the City Commission could determine if they wanted that number to be higher or no maximum. That was not the Planning Commission's recommendation that came out of that meeting. It was not a specific discussion they could recall to where they said they wanted to make sure it was limited to 15 people. Their discussion was focused on whether or not this was revolved around families. There was not a discussion on the number of people when they made their motion.

Mayor Dever asked where the 15 number came from.

Rexwinkle said it was the draw line in the sand. When they started working on this, it was the same time that Family Promise had approached staff and thought their maximum was 14 so they set a number along there. Other cities have 20, 25 and some have 10. It was for really small family oriented shelters.

Mayor Dever requested, due to the large number of people wanting to comment on this item, that everyone try and limit their comments to 5 minutes each.

Price Banks, counsel on behalf of Lawrence Community Shelter, said they liked this and thought it had been a long haul and a lot of work put into this, as far as a Type B Shelter was concerned, which was what concerned them. He thanked the City Commission and staff and urged them to approve it as written and applied to the Type B Shelter.

Mayor Dever called for public comment.

Jerry Wells, counsel for Family Promise, said apparently they agreed to be the sole applicant under the Type A application process. He said there were a number of staff and board members present from Family Promise. They lived with all of the restrictions and requirements that have been reviewed up and down the process. They had great concern with Article 5, Section 20-544, Paragraph 5, Subsection iii. It was the management plan appeals. They were concerned that the particular provision was too open ended. Literally if they read those words in that particular provision in that paragraph, they could pass the permit and registration process. They could set up a facility and be up and operating and

six months later someone could appeal their management plan to this body. They thought there needed to be some reasonable restriction for them to operate with some comfort that they would be able to serve the community. They were a non profit and were going to provide a service they thought was desperately needed. They needed some comfort they could operate their facility without a cloud hanging over their heads. They would ask that there be some restriction on time for appeals. It should not be an open ended time period. The other concern they had was that there was no limit upon the City Commission to file the appeal. For example, if they were located on a location east of Massachusetts, and someone on the west side of town who was not impacted from the neighborhood standpoint wanted to file an appeal on their management plan that they were not directly affected by. They thought that was way too open ended and unreasonable. How they approach that limitation was a concern. They may in fact want to be able to define the language in that particular paragraph of what an aggrieved person was and may be someone who was directly impacted from a block radius or neighborhood level. They thought it was unreasonable that they would have to come to the City Commission and did not think they would need more appeals than what they had discussed in prior presentations. He said if they could limit that to a reasonable time period, they could limit those people who will be able to file an appeal from most folks who were going to be directly impacted by the location of their facilities. They thought that was fair and could live with that. He did not think it was fair and reasonable that this organization should have to hope months down the road from the east side or west side of the community say they did not like the management plan even though it was specific and the requirements to meet it were specific and were adequate provisions in the text amendment for input from the neighborhoods. It was not like they had an opportunity prior to the process and registration permit and management plan being approved by the Planning Director. They thought it was a deep concern for their success of their program they limit those to a reasonable area of concern and give some time limitation

to the appeals of the body. They may choose not to have the appeals process and they could go along with that, but if they chose to have an appeals process, it ought to be limited.

Judy Herington, member of the East Lawrence Neighborhood Association, said her observation of this whole issue and the process was that the text amendment started out tied to the main shelter, the Lawrence Community Shelter, and then when Family Promise introduced itself, then most of the staff hours seemed to shift to Type A Shelters which were brand new. It left the matter of requirements for siting the main shelter without so much public discussion as the Type A. At this point, relocating the main shelter, Type B, would require a special use permit in any zoning category in which it was allowed, principally industrial. In East Lawrence, there were a lot of zoning oddities. If the zoning throughout the city were up to date with respect to current use, then they would not likely find such strange zoning packets tucked into residential neighborhoods. The main shelter could be located between two single family homes or across the street or alley from any number of homes. To date, the City was not requiring a buffer between Type B shelters and either residential, multi family or planned residential development. She thought finding an industrial property in a residential neighborhood was not the answer the City would be looking for in getting a shelter re-sited. At a previous meeting, shelter spokespeople said that if required to be 250 feet from private homes it would force them out of the city limits. She said there must be some real estate that would create natural barriers or distances from private homes. She hoped the City Commission would look for those opportunities and in the end the Lawrence Shelter would have more support than protest in getting itself relocated.

She said the point about strange pockets of zoning pertaining to, there was a request made and the Planning Office had a new map that she was introduced to. She asked staff to define it.

Rexwinkle said the yellow represented RS based zoning districts whereas the RO zoning districts were the pale orange color. Every other color besides the blue color was a planned development and some of those planned developments included single family residential but were not base zoning districts. Planned developments were not listed in the use table so they were not inserting uses or taking uses out of the planned development because it would take a rezoning instead of a text amendment. He put that on here because if they were going to talk about any buffer from single family residential uses, they had to consider that there were some uses in that planned development. The blue shadings were the zoning districts and the RO and RSO were non residential zoning districts that would permit that type of shelter by special use permit. On top of that, there were a layer of property lines and should be a requirement that instead of a distance buffer, they could not have a shelter immediately adjacent to an RSO zoning property.

Gwen Klingenberg, Lawrence Association of Neighborhoods, said that the most important thing was that Family Promise was not the typical homeless shelter or program. This document being considered was created for Family Promise, but for everyone which included the typical homeless shelter programs. This document needed to provide direction not only for Family Promise but for all organizations that wished to provide for the homeless in Lawrence. Also they were talking about their day center, their single family area, and everyone was happy. She showed a picture of the brand new day center. They could get online and check just about every Family Promise there was because there were a lot. What they would find was that every one had a single day center in a commercial zone and then they moved from church to church. There have been two towns that she had been able to find that have located in a single family zone. Las Vegas was one. However, it was because they moved into the neighborhood without letting everyone know and the City Commission found out. The City Commission supported them, got on a board, and found a place in a non single family home because they did not want that there. Also they were

located there because the neighborhood was deteriorating. At this present time, they were not looking at putting day centers in single family neighborhoods but they ought to look at IMOs and ISOs. The problem with that was the City, especially east of Iowa Street, was built like a big jigsaw puzzle. They could find RSOs and RMOs at two or three houses worth and completely surrounded by a neighborhood, such as Pinckney, Barker, East Lawrence and other neighborhoods. When the Planning Commission worked hard to try and make sure the day centers were not put in single family homes, they did not take the step to make sure they actually were not in single family neighborhoods. They were asking that it be an SUP. It would take care of Mr. Wells' concerns about reviews and who could say whether or not it was going to be allowed. There were promises being made by Family Promise that were not part of this document and needed to be so that other organizations that use this document could be held to the highest standards as Family Promise promises. She said they were running background checks and those kinds of items were not in this document and should be. Mr. Wells stated at the Planning Commission that they should disregard the statements of the members who talked to the Planning Commission because none of them were from west of Massachusetts and there was not going to be a day center west of Massachusetts at this point in time. The neighborhoods who had spoken traditionally had been neighborhoods who have housed homeless facilities in Lawrence and had first hand knowledge about situations that come from that. Those neighborhoods came before the Planning Commission on a text amendment for homeless facilities. Even though Family Promise was not presently working with those neighborhoods, the neighborhoods were the experts to help design documents on the issues and should be listened to and heeded. She talked to many of her neighbors and they did not have a problem with trying to help the homeless, especially the families, but wanted to know who was living next door. LAN had many meetings and she had continued correspondence with the neighborhoods that understood the issues and were requesting the SUP process for all types of facilities, which

included the churches. She had a document that dealt with the religious organization and institutionalized person act. There had been a hearing and judgment that stated that a city's conditional use permit requirement offered to a homeless shelter in a church district did not violate the First Amendment or the religious land use institutional or personal use act.

Katherine Dinsdale, Community Commission on Homelessness, said she wanted to review where they were and how they got here. A task force was formed in 2003, a task force plan came out in 2005 and a year and a half ago the Community Commission on Homelessness came up with a vision that provided ideas to meet the homeless problem in Lawrence. This City Commission approved that plan unanimously. In it, was a call for private sector involvement, it was made clear to them that there was not going to be a lot more City money coming towards them, so they needed private sector involvement, solve the problems of the community shelter, have one emergency shelter, solve the problems of transitional housing, housing for families, needs of permanent support shelter, there were all kinds of needs, and they were charged with coming up with some kind of idea. The Commission on Homelessness had worked very hard over the year and a half. They have sought a lot of public input and as they began seeking public input on how the community could meet the needs, the Planning Department began looking at code since at least back in April. The draft they had before them now was the 7th edition. She had been very impressed with City staff and knew they have looked at more than 30 cities. They have looked in a very neutral manner of how shelters were operated and situated, how zoning codes were written in communities all over the country. The document before them now was a result of that work. The timing of the first revisions were written specifically for the shelter and Family Promise came about that time because of the plea by the Commission and others who went around and asked for help. This was the plan that was put forth. She was the Vice President of the board for Family Promise. She was excited they had this opportunity. They had the opportunity tonight to get off of dead center and had been on

dead center for a long time. No zoning language perfectly governed any operation and would not perfectly govern the Community Shelter or Family Promise operation. It was not what zoning code did. They had a good start and had reasonable regulations that provided for safety and order for shelters that would be open under this plan. The City had the opportunity to say yes to a large project sector effort that would cost them nothing. They had hundreds of volunteers ready for Family Promise and had a lot of effort going forward with the community shelter to solve problems their community was anxious to solve. She looked forward to seeing this approved tonight and hoped they could take advantage of all the good will and expertise that had gone into the zoning plan, planning for Family Promise, and the Community Shelter.

Orlena Carr, Lawrence, said all the neighborhoods wanted was notification of change before it occurred and when it occurred. As what happened in the Barker neighborhood, per their e-mail September 18th, the Planning Commission members 7 points were addressed with five supporting exhibits on how the neighbors were not notified of what was going on. The policy as it stood was bad for neighborhoods. Special use permits needed to be required and would give the neighborhoods a voice in the changes that would be made. In a pure process, process was also ready for the neighborhoods to be heard. Granted other people in the neighborhood had a say in changes and changes that worked for the neighborhood, which with a special use permit, would be a chance for everyone to have a say before it occurred.

Scott Montgomery, Lawrence, yielded his 5 minutes to Klingenberg.

Klingenberg said they appreciated what staff had done and the Planning Commission in their concerns and specifically appreciated Joe Rexwinkle's work. The organizations were going to be part of their neighborhoods and would become a part by an SUP that would tell them they were going to come in and see how things go, but if there were problems they would not have to deal with it. They were not saying no, but were saying work with them.

She thanked Ryan Henderson for his patience. They understood the distance requirements were not going to work for a community shelter in this town. They asked for the map that showed adjacent or abutting. There were a lot of places where a community shelter could go that way. They hoped they could make the changes to a simple SUP across the board in their codes so that everything was consistent and gave the neighborhoods a chance to get to know who was coming and be part of their neighborhood before instead of waiting until after.

Julie Mitchell, Brook Creek Neighborhood Association, said her Association requested SUP permits for all homeless facilities. She said Type B shelters should not be located near single family residences. Allowing Type A facilities in residential neighborhoods without special use permits opened the door for organizations not as well run as Family Promise. Allowing Type B shelters without a special use permit would allow shelters to locate in small pockets of industrial zoned areas next to residential housing without any public comment. The 13th and Oregon property was an excellent example of an industrial zoned property right next to residential housing. She was excited about Family Promise and liked the code as it was written. She said in her neighborhood and personal life she saw a couple living in a van in a neighbor's backyard Saturday doing the dishes in the bathroom of Brooke Creek Park. Another neighbor of hers lived in his car before him and his son moved into a house down the street from her. She believed that Family Promise could make a huge difference in their community, but she was concerned about the possibility of the Type B shelter moving in near her house.

Wells said he was misquoted by Klingenberg. He said that was not what was said in front of the Planning Commission during the public hearing. What he said and what was accurate was that they had no facilities east of Massachusetts, which was why when the Barker neighborhood all protested against what they were trying to do, he made that point with the City Commission.

Jonathan Groene, Lawrence, said he had one specific point toward the staff recommendation, which had to do with the people staying over night. Family Promise had 14 people maximum and two volunteers that had to be there. Churches regularly have people staying the night. He suggested the language say client or guest so it was not confusing in that regard. He was comfortable with the amount of public notification required. He said the congregation's property abutted his backyard and felt comfortable with the accommodations. As a neighbor, he was comfortable with the language and not adding SUPs.

Hilda Enoch, Lawrence, said the special use permit for the churches that have been in the community would foul up the hope of getting these shelters started before it gets cold. She thought it would be a shame to postpone this again from and keep it from starting.

Christine Winters, First Christian Church, Family Promise Coordinator, said they had 31 people signed up willing to help get this program started. They had 21 people who had already been through training, which Family Promise required and to directly work with the guests they were having. They had people ready and waiting to help neighbors of a number of people in this room or the children that their children go to school with. There were 111 children who were not going to have a home to sleep in tonight and wanted to begin and start small to work with these children and help them get back on their feet and help the families get back on their feet because no one else was around to help them or have a plan to get started. She believed that in the way this was set up, there was already a registration process and meet with the neighbors or anyone who wanted to. They would be more than happy if someone had a complaint to sit down and talk to those people. There were 12 churches that were willing to do exactly the same as she was doing and assist in one way or another. She requested they pass this item tonight.

Commissioner Amyx asked about the notification about the Type A shelters. He said one of the points about appealable to the City Commission and in listening to Mr. Wells'

comment about any person aggrieved and the action of the Planning Director approve the management plan by registering and permitted a Type A homeless shelter may be appealed by any person aggrieved to the Lawrence City Commission. Since they were notifying people within 200 feet, would there be something that they could write in to say that anyone in the area who had to be notified within the 200 foot list be aggrieved and eligible to file an appeal.

Rexwinkle said since this was pointed out to them and the public concerns about that standard language, they've thought about it a little bit. He did not think it would be inappropriate to say that only the people notified within the 200 foot notification area would be eligible to be at that standing. It was the right to appeal so they did not have that issue and that someone not in the neighborhood was appealing it on some arbitrary grounds. He said changing that process would be simple for staff and the reason they left it open ended and broad was because it was something the Planning Commission recommended and they said they wanted the management plan to be appealable to the City Commission. They were leaving it up to the City Commission for it to be more specific if they want it to be more specific about who could appeal that. If it was a site plan, the director had to do that within 9 days of a decision.

Mayor Dever asked if they could explain why the SUP was utilized in one and not the other.

Rexwinkle said the larger shelters tended to offer more services for longer hours and longer periods of time. They saw that as a greater impact to the surrounding neighborhood than a small shelter that was accessory to a church. The very first draft of this language from staff recommended that the Type A shelters only be accessory to churches. It got changed back. The original recommendation had always been to permit the uses as accessory to churches and churches did commonly have a level of activity that was higher than surrounding residential uses. They saw people coming and going occasionally and do

house people overnight for various things like that. They felt comfortable not recommending a special use permit for Type A because of their relatively less impact on the neighborhood than Type B.

Mayor Dever asked about the day center.

Rexwinkle said their original recommendation was no special use permit. However, when they worked through all the drafts and it was added for some residential zoning districts, they said it was like an office use and functioning that way. The only difference between the day center and any other social service office was the population being served as otherwise homeless. They saw that as an office use and would be something very uncharacteristic in a residential area.

Sauny Scott, Lawrence, said it was her understanding at the last City Commission that they added to religious other charitable organizations. She felt that was what the CCH recommended and the City Commission agreed, but then it was changed back. She said she wanted to point out that the use of the word churches instead of religion implied something. She thought it should be changed back.

Mayor Dever said he remembered that conversation occurred at the CCH meeting. He did not think any of them specifically addressed that. He did not recall them ever discussing the items at the City Commission. He knew it came up at the CCH meeting, but did not think they ever discussed that.

Rexwinkle said the CCH did stress and made a motion that they wanted the Type A shelter to be accessory to more than just religious institutions. One of the first drafts that staff had written was for public and civic uses, which was a use category in the development code and that Type A shelters needed to be accessory to those uses, which included more than just religious institutions. He said staff's recommendation changed to the Planning Commission to go back to churches based upon additional comments that were received.

Mayor Dever asked if they allowed the Planning Commission to delineate that.

Rexwinkle said some of the comments received were from the Planning Commission prior to the meeting.

Vice Mayor Chestnut said he wanted to thank everyone's work and that staff had done a great job. They found that they did not have a lot of language on how to handle these different situations. They have to take a step back towards a broader vision of the community and what they were trying to do in the community. He supported the CCH because they worked at this for the better part of five years to make a better vision of what they were trying to do here. He appreciated the comments about what other communities do and thought it was great of Planning staff to do that, but also thought that it was a vision statement that was pretty lofty about how they serve the people in need in their community. He wanted to support both text amendments as written and as usual he was not going to make anyone happy. He was not sure if he was comfortable with who might object to anything in particular. They govern themselves as an at large community. They were all elected at large and valued the citizen input from across the community, and sometimes it was difficult. He would rather be in a situation where he was non exclusive about taking comment about objections from particular things and maybe not knowing the particular citizen circumstances and whether or not they're an adjacent neighbor. Citizens had standing across the board and knew that opened it up to a lot more hassle, but as someone commented in the last subject they heard, they pride themselves in that dialogue. He said the management plan, much like the SUPs, they were created as a guideline and accountability and was not sure they place a lot of restrictions in that they were going to put a management plan in place and not question it for a year. There were possibilities that circumstances change and people were not holding their end of the bargain up, which was true with the SUP. He knew Loring Henderson got a number of e-mails from him when they approved the three year SUP when they got some milestones and follow that up every six months. He appreciated the efforts of everyone that wanted to serve the public. Another

thing they wanted to keep in mind with relative to a management plan versus a SUP, it was a little bit of a different situation and was talking about zoning, code and the spirit of volunteerism in the community. He did not feel much compassion for developers in process, but he did for people who were trying to give a lot back to the community to serve those who had less. One thing that was important to realize was that they were in a position that at the federal, state and local level that funding was going to be less and less to support people with need. That was going to be the case and it was fact. The more they could energize the community and the more opportunities they gave the community to serve the people of need in the community, the better off they were and in particular with Family Promise, that had become the subject. One of the vision statements talked about overcoming the costs and conditions that lead to and foster homelessness, and their focus was how to capture families with children and keep them from falling into places where they go onto public assistance and get into very difficult circumstances. He was comfortable with the management plan and it provided some guidelines. The other reason in the SUP was that it was not quite in the scale of a homeless shelter. He said relative to the other portion of this, he was one of the people who supported the three year SUP for the Lawrence Community Shelter and thought it was the right decision to allow them the ability to look for and procure a site that was better suited than what they had now on Kentucky. They could all agree that was a difficult and challenging site to work with. He was hesitant to place a lot of restrictions on trying to figure out an amicable place for them to reside. He thought there was a lot of process and did not know where that location was going to be, but seemed to him they needed to maximize the opportunity for places to look at and thought they would do their job as a good neighbor to make sure they inform them and bring them into the process. It was going to be some place and probably some place that had adjacent location in a residential area. That might be a 200 yard buffer or 50, but did not know and had to look at as many opportunities as they could to provide a facility to serve that group appropriately, because

right now they were not. He appreciated the neighborhood input and they have to be careful in this. The other thing about the zoning pieces, they were only talking about one big shelter and were not going to have five of them. The zoning was appropriate, but in another respect it was finding the right situation that really was going to provide the right level of service and could not say right now what zoning that would end up in. The more at this point the place where they could look around and find the right thing that was going to fit the neighborhood and community at large was appropriate.

Commissioner Highberger said from looking at this document, it was clear that a lot of hard work, thought and discussion went into it. He thanked everyone who participated in the process. He came into this with the preconceived notion that an SUP ought to be required for every homeless shelter use. After reviewing the definitions of different types of day centers and shelters, Type A and Type B, he was convinced that the current document treated them differently in appropriate ways. He did not think the intensity of the Type A day center use or the Type A shelter use was significant enough to require a special use permit. In reading the minutes, he was going to be living half a block away from a Type A or night shelter. It probably would not be the case everywhere, but he did not expect a notice if they were there because of the level of activity at that facility already and other things happening in the neighborhood. He understood the concerns of neighbors about separation distances for Type B shelters, but he shared Commissioner Chestnut's concern about putting excessive restrictions on the sites that were available. He thought those concerns could be addressed through the SUP process and as long as he was on the City Commission he would do everything he could to minimize the impact of a shelter on the facilities. He was split on the question of the process and was more inclined to go with Commissioner Chestnut's suggestion at this point. He liked the suggestion of clarifying the guest restriction so it applied to 15 guests. He appreciated the work everyone had done on this and hoped it

would be a step forward in helping them as a community and take care of the needs of people who were less fortunate than some of them.

Commissioner Amyx said he had the opportunity to look at Type A and Type B homeless shelters, day centers and thought he had it all down now. It seemed to him that the initiation they were asked to do during the summertime when Mr. Banks came to them talking about the Type B shelter that Henderson ran for the community and to be able to look at in an industrial district, he thought the initiation was followed at that request because they stated they would only consider that under a special use permit. He thought the Planning Commission along with staff took heed in their words and came back as such. During that process, and he knew it had been going on, they had Family Promise come along and appreciated all the work that had been placed in that organization. They had the day center, which people would go and have all kinds of help in trying to place themselves and their children back in housing. They all wanted to be in their own home and did not care about the circumstances that happened, it was unfortunate and he was lucky he had never been in that situation. He thought it was great they had organizations in the community that were willing to stand up and help. This document had done enough to be able to make him feel comfortable with the recommendations that came from the Planning Commission that through the management plan rather than the SUP route he thought they had controls necessary to make the Type A shelters compatible uses in areas. He felt good about that. He said the Vice Mayor brought up an important point with the management appeals process that there were individuals in the community by right that could appeal the management plan and should have that opportunity. One of the concerns he knew that Jerry Wells had was that the management plan was because they were going to issue a registration permit once the management plan was approved. He did not think the opportunity to appeal would go on forever. He said he was comfortable adding a time limit that someone could file that during the first 30 days or some timeframe. The notification

process as in the item they had earlier, his concern was if they were going to have a change of views, he thought it was pretty extensive. They were going to do everything from neighborhood associations to property owners within 200 feet. He felt like that had taken care of that. He said a lot of the direction he had been part of over the last several years have been taken into consideration and placed into this. The only thing he would change right up front had to do with the appeal of the management plan in a reasonable time frame someone would have to appeal back to the City Commission. He said the zoning categories as laid out in the plan, he thought staff and the Planning Commission have done a pretty good job. He knew that in the RSO and RMO districts, there were currently office type settings that existed that had services for all kinds of individuals so they could see if they required a special use permit for this, they had to require it for anyone who had any kind of organization that were running through that. The accessory use to a religious institution was reasonable and the fact that 75 days out of a quarter they were not going to have the clients or guests staying at the location, so he thought that was reasonable. He said since the only thing he had to look at was Family Promise at this time and did not know if there were other organizations that would come along and follow the same type of thing that Family Promise did, he supposed they would follow the same kind of plan that Family Promise did. He felt comfortable with what had been proposed and the specific uses permitted. They could make it work.

Mayor Dever said this had undergone a lot of change and thought everyone had done a great job. He thought they were implementing the wishes of this Commission in an excellent fashion and moving forward and finding places for people in need in the community to have a sense of value and worth. He was excited about implementing this. He did not think there was any perfect plan and things have gone well. He thought they had done a good job listening and reading what people wanted in coming up with a plan. It was not perfect and was sure there were going to be issues in the future, but in general he agreed with what

everyone else had said. He said they needed to add the language that had been discussed and consider moving forward with an adoption.

Commissioner Highberger said there was one issue that Rexwinkle raised about making language consistent and recommended that they do that.

Rexwinkle said related to that, if they talked about changing the management appeal process, he would recommend that language stating that those required to be notified, if they were talking about changing on who could appeal, maybe say that the only people allowed to appeal were those that received notification because the notification procedures for the Type A day center and Type A shelter were different because the Type A day center would be notified via the site plan process which as they discussed earlier were only the adjacent properties and neighborhood associations as opposed to properties within 200 feet. Instead of specifying every property owner within 200 feet, he wanted to make that clear that was to be consistent and that was what it would need to say.

Mayor Dever said they all agreed that they did not want to limit who could appeal, but may want to limit the time they could appeal so they could move forward.

Commissioner Amyx asked McCullough that the management plan shall be combining upon the issuance of the registration permit by the Planning Director and if there was something he had not seen that addressed the revocation of a permit.

McCullough said they viewed the management plan as an enforcement tool so that similar to documents required for a site plan agreement they used as an enforcement tool so they had that record. If they did get a call about misbehavior at a site for example, they could bring up that management plan and see if they were in compliance with that management plan and see if there were resources in code enforcement to work with compliance or revocation and make it an enforcement issue.

Moved by Chestnut, seconded by Highberger, to approve Text Amendment TA-04-03-08, to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities. Motion carried unanimously. **(18)**

PUBLIC COMMENT: None

FUTURE AGENDA ITEMS:

- 10/21/08
- Consider a motion to recess into executive session for approximately 30 minutes to meet with attorneys for the City on matters which are deemed privileged under the attorney-client relationship. The justification for the executive session is to keep attorney-client matters confidential at this time.
 - Consider approval of sale agreement for City property to North Mass Redevelopment (received by City Commission on October 7, 2008).
 - Consider approving revised CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, revised [Joint City Ordinance No. 8283/County Resolution No. _____](#), for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (Deferred from the 9/23/08 CC meeting)
 - Receive City Auditor's report on Pavement Condition Measures. [Report](#)
- 10/28/08
- Employee Service Awards.
- TBD
- 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 SmartC+ode Infill Plan. (PC Item 14; approved 8-0 on 5/21/08) [Draft PC Resolution No. 2008-02](#)

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. [07/07/08 Draft Plan](#)
- West of K-10 Plan [10/06/08 Draft Plan](#)
- Approve revisions to Text Amendment TA-12-27-07 for revisions to multiple sections of the City Development Code to maintain consistency with proposed language recommended for approval in TA-12-27-07 (Sections 20-1101 & 20-1701, Environmentally Sensitive Areas) by Planning Commission at their July 2008 meeting. Adopt Ordinance No. 8304 on first reading regarding TA-12-27-07 for revisions to multiple sections of the City Development Code. (PC item 9; approved 7-0 on 9/24/08)
- 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) [Staff Report](#) [PC Minutes](#)
- Consider city laws regarding the keeping of live fowl and domesticated hedgehogs in the city limits. [Staff Memo & Attachment](#)
- 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. [Staff Memo and Attachments](#)

- Consider changes to the sidewalk snow and ice removal ordinance and enforcement program. [Staff Memo and Attachments](#)
- Consider changes recommended by the Eco2 Commission to be adopted into the Eco2 Plan for Douglas County. [Plan with Changes](#)
- Status update on Baldwin Woods Open Space Project.
- Accept dedication of easements and rights of way for PP-07-08-08, a Preliminary Plat for Boardwalk Addition, a 3 lot multi-family residential plat containing 1.07 acres, located at the intersection of Frontier Road & Fireside Drive. Submitted by Paul Werner Architects, for Boardwalk Apartments, LC, property owner of record. (PC Item 2; approved 9-0 on 9/22/08)

COMMISSION ITEMS:

Moved by Chestnut, seconded by Highberger, to adjourn at 10:55 p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF OCTOBER 14, 2008

1. Sale – Surplus locks & printers on Gov Deals.
2. Bid Opening Date – Nov 18, 2008, Kaw Water Treatment Plant Disinfection Conversion.
3. Purchase – Protective clothing for Fire Medical Dept for \$34,948.
4. Ordinance No. 8335 – 2nd & Final Read, adopt Citizen Participation Plan.
5. Ordinance No. 8333 – 2nd & Final Read, rezone (Z-06-13-08) 44.259 acres, RM-24 & UR to CC-200, E of O'Connell between K-10 & 25th Terr
6. Ordinance No. 8334 – 2nd & Final Read, rezone (Z-06-14-08) 14.784 acres from UR to IL, E of O'Connell between k-10 & 25th Terr.
7. Preliminary Plat – approx 1.86 acres at 1216 Biltmore Dr.
8. Ordinance No. 8336 – 1st Read, SUP-07-07-08, Countryside Extended Care Facility located at 1216 Biltmore Dr.
9. Ordinance No. 8297 – TA-03-01-08 to amend Development Code, Article 4.
10. Sign of community interest – request from Pilot Club, sign at NW corner of 23rd & Harper.
11. Subordination Agreement – Donna Williams & Jean Dixon, 1601 Kenwood Dr.
12. Variance Request – The Exchange at Lawrence, from City Code 19-302(1)(B).
13. Sign of Community Interest – request from KLZR/KLWN for Bras Across the Kaw
14. Ordinance No. 8332 – 1st Read CPA-2008-11 Comprehensive Plan Amendment amending the Southeast Area Plan
15. City Manager's Report.
16. Bauer Farms Development and Free State TDD at NE corner of 6th & Wakarusa.
17. Rezone approx.483 acres from RMG to MU at 1420 Crescent Road.
18. TA-04-03-08, Text Amendment to Ch 20 of Lawrence City Code.