



# City of Lawrence

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## CITY COMMISSION

**MAYOR**  
MICHAEL H. DEVER

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

October 21, 2008

The Board of Commissioners of the City of Lawrence met in regular session at 5:30 p.m., in the City Commission Chambers in City Hall with Mayor Dever presiding and members Amyx, Chestnut, and Highberger present.

### **EXECUTIVE SESSION:**

It was then moved by Chestnut, seconded by Amyx, to recess into executive session for approximately 45 minutes to meet with attorneys for the City on matters which are deemed privileged under the attorney-client relationship and to discuss possible real estate acquisition. The justification for the executive session is to keep attorney-client matters confidential at this time and possible terms and conditions of real estate acquisition confidential at this time. Motion carried 4-0.

The Commission returned to regular session at 6:25 p.m. at which time the Commission took a short break until 6:35 p.m.

Commissioner Hack arrived following the end of the executive session.

The regular meeting resumed in the City Commission Room at 6:35 p.m.

Commissioner Amyx pulled from the consent agenda, Ordinance No. 8331, a rezoning located at 1420 Crescent Road.

### **CONSENT AGENDA**

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the City Commission meeting minutes from October 7, 2008. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Public Transit Advisory Committee meeting minutes of August 12, 2008 and September 9, 2008; the Mechanical Code Board of Appeals meeting minutes of June 16, 2008; and the Community Commission on Homelessness meeting minutes of September 9, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 376 vendors in the amount of \$1,926,758.73. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment Licenses for Bullwinkle's, 1344 Tennessee. 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 Scott Criqui to the Traffic Safety Commission, to a term which will expire April 30, 2011. Motion carried unanimously.

The City Commission reviewed the bids for the 2008 Weatherization Program for the Planning and Development Services Department. The bids were:

<b>BIDDER</b>	<b>Storm Windows</b>	<b>Weather Stripping of Doors</b>	<b>Attic Insulation</b>
Kennedy Glass, Inc.	\$47,209.04		
T & J Holdings, Inc.		\$2,955.00	
Midwest Insulation			\$26,652.00
Staff Estimate	\$48,603.00	\$4,350.00	\$26,150.00

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to Kennedy Glass, Inc., for storm windows, in the amount of \$47,209.04; T.J. Holdings, Inc., for weather stripping of doors, for \$2,955; and Midwest Insulation, for attic insulation, for \$26,652. Motion carried unanimously. (1)

The City Commission reviewed the bids for 190 Trees for the Master Street Tree Project for the Parks and Recreation Department. The bids were:

BIDDER	BID AMOUNT
Arbor Masters	\$40,470.00
Rosehill Gardens	\$40,850.00
Green Touch Inc.	\$42,655.00

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to Arbor Masters, in the amount of \$40,470. Motion carried unanimously. (2)

Ordinance No. 8336, authorizing 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, 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. (3)

Ordinance No. 8297, incorporating by reference, a text amendment (TA-03-01-08) to amend Article 4 of the Development Code relating to uses permitted in the GPI District, 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. 8339, establishing the Bauer Farms Development Transportation Development District, generally located at the northeast corner of the intersection of West 6<sup>th</sup> Street and Wakarusa Drive, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (5)

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 25<sup>th</sup> Terrace to Community Commercial and change the Land Use Description in applicable areas to reflect the change, 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 adopt Resolution No. 6808, authorizing the execution of a Development Agreement for the Bauer Farm Transportation Development District, northeast corner of 6<sup>th</sup> Street and Wakarusa, and approve the Development Agreement. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve request for a 6 month extension of the site plan (SP-12-93-06) approval for an office building at 501 Rockledge Road. Motion carried unanimously. (8)

Commissioner Amyx pulled from the consent agenda Ordinance No. 8331, rezoning (Z-05-10-08) .48 acres from RMG to MU, located at 1420 Crescent Road. He said last week when there was discussion regarding the bookstore, he asked the City Commission to consider that any change in the use of the property described in section 2 of the ordinance should be approved by the governing body. He said he wanted it understood that any change in the mixed use zoning that was applied would automatically trigger a site plan review by the City Commission.

Scott McCullough, Planning Director said they could alter the condition to meet that requirement.

Commissioner Amyx said he wanted to make sure that it was understood that was the intent of the City Commission.

David Corliss, City Manager, said in Section 3, Condition No. 2, accomplished last week's direction of the City Commission.

Commissioner Amyx asked if it would be a two step process if someone wanted a change in use they would come before the City Commission for a change in use and then go through the site planning process or was it understood both of those processes would be dealt with at the same time.

McCullough said he was not sure staff thought about the actual implementation, but there were probably two ways to implement the process. The vehicle to change use in the code was the site plan. The applicant might want to get the answer in the change of use first before spending money on a site plan effort or if simple enough, it might be that the change of use was the issue. The site plan was the vehicle to change the use for any property per the code.

Corliss said up until the change in the development code, the City Commission approved all site plans. In that situation, there were any number of changes in uses in the same zoning district, but also had changes in the physical footprint of the property that routinely came to the City Commission where the Commission dealt with it in one instance, the change of use and change of footprint. Unless the applicant and/or property owner did not want to have any expense at all, they would write a letter, show up, and notify the change of use, but he thought that was unlikely. He said they could make it a two step process, but it should be a one step process.

McCullough said it should be through the site plan process. If that particular site was redeveloped and structures were replaced, there might be tenant change outs. The structure and parking might not change, but the way that was accomplished now, was by letter. A likely scenario was bringing that issue back to the governing body for approval after staff exercised checking parking requirements and making sure it was valid otherwise.

Commissioner Amyx said the site planning process before the City Commission was to make sure there was that notification process. He said he wanted everyone to be on the same page and that the property owner understood that if there was a change in use, it would go

through the site planning process and that site plan would come before the City Commission. He asked if the language in the proposed ordinance accomplished that idea.

McCullough said that he thought it accomplished that goal.

Commissioner Highberger said the language seemed broader. He said it was broader than just requiring a site plan review.

Commissioner Amyx said as long as the process included that idea, it was fine.

Mayor Dever said there was a requirement that said any change in use would be approved by the governing body.

Corliss said to keep in mind that a change in use could happen in two different ways. It could be a rezoning, which would come before the City Commission, but a change of use could also be a change of use that was allowed within the zoning of the district and the City Code required that a change in use, even within a zoning district, required a notation change to the site plan. If it required any physical changes to the site plan, then the physical changes had to be documented as well on the site plan document.

Commissioner Amyx said if a change in use was going to trigger a change in the site plan, the site plan would come before the City Commission. He said he did not want it to be a two step process.

Corliss said the only reason it would be a two step process was if the applicant made it a two step process.

Mayor Dever asked if anyone had opposition to the proposed language at this time.

Vice Mayor Chestnut said since he opposed this ordinance the first time, he would vote against it because he thought they were introducing process that was not necessary.

Mayor Dever called for public comment.

Jane Eldredge, attorney for the applicant, said that this was an unprecedented move the City Commission was about to make. On another occasion, this body wanted to make sure it had the authority to look at site plans and how things might change and affect neighborhoods.

In that case on Ordinance No. 8293, the language used was any site plan for the property described in Section 2 shall be approved by the governing body. If the governing body wanted control of the site plan, that was the language that should be used. What the implication was of the language proposed, was that there were no uses of right in this district other than the existing one, and that was what made it a two step process because no one would spend money on a site plan unless they knew the use was a use of right. She said when the mixed use district was brought to this body after a year and half of hard work by staff and by Planning Commission, the motion was made by Commissioner Amyx and seconded by Commissioner Chestnut to pass the mixed use district, with the uses that were permitting within, which happened in July 2008. In September there was an amendment to that district and there was a motion made by Commissioner Amyx and seconded by Commissioner Chestnut, both motions were a 5-0 vote. The first chance out of the box to use this district, the Commission was essentially gutting it and it was wrong and should be reconsidered. If there was a compromise that had to be made, it should be with the site plan language because that gave notification and the public hearing without gutting the district.

Commissioner Amyx said there were uses allowed in a mixed use district. If one of those uses came in as a different development to this property, a site plan would be required and the site plan needed to come before the City Commission.

McCullough said that was correct.

Commissioner Amyx said he did not understand the word "gutting" of this ordinance. He asked if this language was accomplishing what Eldredge was saying.

McCullough said where this condition strayed from the current development code was that it did imply a question of whether or not any of the uses in the mixed use district were going to be approved in the future. One of the basic tenants of zoning was zoning to a district. Unless conditioning specific uses out of the district, it provided expectation to the current and future owners about what they could expect to have approved by the code. One of the things the

language meant, in his interpretation, was that they needed to bring those changes of use to the governing body to hold that public debate about whether a use in the mixed use district would be approved by the governing body. It took some of that expectation of the base zoning district away from the owner.

Commissioner Highberger said in theory they were changing the decision maker. He thought the Commission would be applying the same criteria as staff administratively approving.

McCullough said the governing body would appear to be bound by the code and the mixed use district. There might be issues the public brought to the table that would give consideration to the site plan elements. Staff had deleted by condition two uses the mixed use district permitted. He said in the future any other use allowed in the mixed use district was something they believed staff and the governing body needed to consider in their deliberations.

Mayor Dever said one of the reasons they elected to insert item 2 in section 3 was because they wanted to somehow have some control over what happened to that part of the neighborhood. He said he felt it was not a problem and they would be willing to exclude some uses from consideration. He thought that was volunteered last week in front of this body and they did not have a problem with this language. It could be revamped and as items A and B were listed, the Commission could try to decide those uses.

Commissioner Amyx said this was not about the use, but the procedure and who was going to make the final decision on the site plan. He said if there was a difference of opinion on the language, he suggested taking Eldredge's language and making a comparison between the two.

Commissioner Highberger said he disagreed with Eldredge's analysis. He said they were not taking away any uses by right. The uses by right had to be considered by staff and if staff was administratively approving the use, the uses by right had to be taken into consideration when the City Commission was approving the site plan.



Commissioner Hack said the language was a concern because it had the appearance of being far more restrictive than the intent. She said she needed a chance to review the City Commission minutes from last week and have conversation with Corliss and McCullough.

Commissioner Highberger said the downside was the neighbors had to come back and make their case again.

Corliss said the neighbors needed to be notified of change because this was an important issue.

Commissioner Amyx said this issue had nothing to do with the uses of the property as written in the ordinance, but to make sure people were notified of this process based on public comment a week ago and that individuals had the right to come before the City Commission to speak about this piece of property.

Mayor Dever asked if it could be stated in the ordinance that a public hearing had to take place, but that the governing body did not need to decide.

Corliss said yes, but his recommendation was to consider that during regular agenda next week and notify the property owners in that area, or at least the people who came and spoke because they left the meeting understanding what Commissioner Amyx wanted in the ordinance. He said neighbors wanted to be participatory in the discussions and they would not want to change the rules on this property without letting the neighbors in on that discussion. He said staff would work on options for the language. The intent was if the use changed, the site plan had to be approved by the City Commission applying the criteria in the development code, not on a whim as to whether or not they wanted to rezone the property, but in criteria of the development code.

Vice Mayor Chestnut said he wanted to be clear that the language would not really matter because he disagreed with a principle for two reasons. The first was he agreed with Eldredge on one point that mixed use, by definition, was broader, had more uses in it, and was the way it was designed. He thought in every case they would find it to be extraordinary

because it was going to be inside the City with mixed use residential and there was going to be high interest in whichever one they did. They were setting a precedent that every MU that came up, would have the same discussion because they would have interested neighbors that were very contiguously located and a lot of concern that they had a broad set of uses, defined by the code. He said it did minimize it. He agreed they needed to provide notice because they could not change language on the fly.

**Moved by Amyx, seconded by Chestnut,** to defer for one week, the adoption on second and final reading, of Ordinance No. 8331. Motion carried unanimously. (9)

#### **CITY MANAGER'S REPORT:**

During the City Manager's Report, David Corliss said the Assistance to Firefighters Grant application was not successful in applying for a ladder truck; the Street Department completed stripping projects; the City partnered with the School District on a District Employee Wellness Program; and, staff and City Commission participation in the United Way Picnic. (10)

#### **REGULAR AGENDA ITEMS:**

**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.**

Amy Brown, Planner, presented the staff report. She said this item was on the September 23<sup>rd</sup>, 2008 City Commission meeting. Direction, at that time, from the City Commission was to add location criteria concerning high quality agricultural soils. That language specifically applied to the general location criteria on Page 7-5 that sites had minimal areas of non-irrigated capability class one and two soils as defined by the National Resources Conservation Service (NRCS). Staff made that change as well as changes to corresponding policies. In addition, staff added language in the site descriptions that followed the locational criteria. Changes to the document were highlighted in green in the copy of the draft that was part of the packet materials.

The site specific language and acreage calculations were figured by staff by using a GIS layer that was obtained by the NRCS. Staff was recommending that the City Commission directed changes be approved tonight as part of the revised Comprehensive Plan Amendment, CPA-2004-02, as well as first reading revised Joint City Ordinance No. 8283/County Resolution. Approval would require a super majority vote as the language was substantially different than the Planning Commission's recommendation.

Commissioner Amyx said he thought staff did a great job based upon the comments from the City Commission at their earlier meeting. They had talked about a 5<sup>th</sup> bullet point placed on the general locational criteria and believed that it was Commissioner Highberger who made the recommendation on this kind of language change on the minimal areas of non irrigated capability class one and class two soils. He thought that this met the ideas he had for the change for the general locational criteria established for future industrial sites.

Mayor Dever called for public comment.

Mark Andersen said he wrote a letter a few weeks ago expressing his opinion on this subject. Basically his position said that all land was valuable and precious. He did not see the need to discriminate against any form of real estate. He said if the City Commission was going to pass this joint ordinance/resolution, he asked if it would be passed retroactively such that it would apply to any project that would be in the planning process or was the Commission adopting this joint ordinance/resolution prospectively so that it would only apply to future projects. He said he did not think the City Commission should adopt the ordinance. He said anyone who knew him, knew he had a life long interest and involvement in agriculture, but also in the community of Lawrence. He said this was his personal opinion and understood that someone had suggested that he was paid or was present at someone else's request, but that was not the case. He said that was not the case and was present out of self interest because he believed strongly on the subject and believed he had something to contribute to the City Commission in the letter he wrote.

He said he had been to three different meetings in the last month and a half where members of the public, the business community, the development community had asked him to come and asked at every one of the meetings about this topic and to explain why the City was doing this. He said he could not answer that question. The City Commission was taking an action contrary to the Planning Commission's recommendation. Under the circumstances, he asked the City Commission to either not approve this amendment or in the alternative, send the amendment back to the Planning Commission.

Marguerite Ermeling, Lawrence, said she would like to have some knowledge about whether her thoughts, recommendations or suggestions were of any benefit or utilized in the rewrite of the amendment. She said she was requesting this amendment go back to the Planning Commission for the opportunity to be thought through or examined with some of the thoughts and recommendations brought forward.

Nancy Thellman, Citizens for Responsible Planning, thanked the City Commission for bringing the issue of Industrial Chapter General Locational Criteria back to the table for public comment. The second chance of adding protective language for class one and two agricultural soils came as somewhat of a surprise because it was not too long ago the City Commission decided to leave prime soil protection to Horizon 2020 yet to be written in the environmental chapter. She said while she was confident the future chapter would play a pivotal role in this community's future planning, she was not confident it could be written and adopted in a timeframe that met the urgency of this moment. It was an amendment that found the very best farm soils under extreme development pressure.

She said despite protests of some people and protests of people on the Industrial Design Subcommittee, it did make sense to have agricultural language in industrial chapters since it was precisely agricultural land that was most vulnerable to industrial development. Builders of large, flat buildings wanted large flat treeless and affordable land which was almost always farmland. What set class one and class two farmland apart was that it was not only flat

and treeless, but typically river bottom land and was prone to flooding one hand, but extra rich in silt and nutrients on the other. Class one and two soils were rare among soil types and class one soil types made up less than 3% of Douglas County's land and together they made up about 10% of Douglas County's land. They were not asking to protect all farmland but asked to specifically and effectively protect the limited soil types that were set apart by their uniqueness and extreme natural productivity.

She said when the Chapter 7 revision process started, the argument was made that the chapter's tone should be positive and it listed too many negatives in the general locational criteria would act as a deterrent to new industry. In truth, the far greater deterrent to new industry came in real time when the land owner and developer found out too late that the project they spent time, money and reputation on was unworkable from the beginning. When that kind of negative development scenario was played out for all of the public to see, it had a far more chilling effect on future industrial development and only prohibited guideline written into the general locational criteria, which might have prevented the failed project to begin with.

In this community, they needed development success and not failure and had to start with a comprehensive plan that had to give land owners, developers and citizens real guidance that aimed to be neither positive or negative, but accurate and accessible. Adding protective language for class one and two soils gave that clear, objective, measurable and mapable reference. It was good information for a complicated process.

She said the issue of protecting the super productive soils had taken a hold in this community. It was not a backyard cause or rural people versus city people. The circle of interested folks was increasing, the coalitions were growing, and the depth and breadth of resolve on this issue solid. Even the Lawrence Journal World now publicly endorses protecting class one and two soils, as evidenced by yesterday's surprise editorial, which was unsolicited. It was not just a local issue but a discussion that was taking place across the country and around the world. The truth was that there was little prime soil left on the planet and the kind of

soil that could grow food well because it had ample access to water from above and below and was nutrient rich so that it did not need fossil fuel based fertilizers. They, in Douglas County, were extremely fortunate to have some large contiguous acres of this special soil, but its future was in the balance and the vote this evening was a balance tipper.

She said Vice Mayor Chestnut not too long ago at one of those long complicated meetings did a wise thing. She said he harkened back to the original goals of Horizon 2020 to help bring some clarity to the discussion of the role the government played in making decisions about other people's land. Vice Mayor Chestnut was intensely aware at that meeting, as they all were tonight, that it was a very serious thing to talk about let alone take action that impacted other people's land. He reminded everyone that night that Horizon 2020's first and highest goal was to safeguard individual rights. She said she was compelled to read more from that same paragraph that stood like a preamble to the City's Comprehensive Plan where it stated: "It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail."

She said without some significant protective language in place in the City's Comprehensive Plan, this community would loose most of its class one and class two soils to industrialization. The challenge to preserve class one and class two soils which were both rare and finite natural resources, keys to the City's future sustainability and important to the local economy, that challenge rose to the level of protecting public welfare. It was in the community's best interest now and for the future to save the soils before it was too late. She said she respectfully requested the City Commission accept the new draft of Chapter 7, including its protective language for class one and two soils as general locational criteria.

Charles Marsh, Citizens for Responsible Planning, said he was the person in the letter they received from Citizens for Responsible Planning that stated Anderson was a paid advocate in this position, but wanted to apologize to Anderson. He said he saw that on the letterhead and made an assumption he should not have made. He said he was sorry to disagree with that

letter because the letter was well written. He said Anderson asked a good question about a strong and compelling reason to single out class one and two soil for protection. He said in one part of the letter he sent had information from the United States Agency for International Development which stated every year 3.5 to 5.5 million children die because of malnutrition and food shortages. It was the United States Agency for International Development that said they had to find a way to increase food production in tough times. It might be grandiose to say that Lawrence could be part of the solution, but someone had to be part of the solution. He thought it was a compelling reason to protect the best farm land in the world. He said he taught ethics courses at KU and a standard principle of ethics decision making was not to make yourself the exception to a rule which you want others to follow. If they did industrialize development class one and two farmland, he would argue they were making themselves an exception to a rule that they needed others to follow. If their behavior became a precedent and everyone else developed an industrialized and paved, class one and two farmland, the world would not be able to sustain itself.

One person might be the landowners who could sell it for more money than what it was worth for agricultural land. That would change with the growing value of agriculture. The next step would be to look at the landowners and say if the decision did hurt them, what could be done on their behalf.

He said both the New York Times and American Conservative Magazine both had publications that sustaining agricultural land to protect the prime agricultural land needed to be a priority in the coming generation. He did not think it was an issue that everyone could join hands on because it was an important issue.

Ted Boyle, President of the North Lawrence Improvement Association, said the information about prime farmland one and two should be written in Chapter 7. He said the North Lawrence Improvement Association and neighbors of North Lawrence were in agreement with neighbors of CRP and Grant Township. He said he lived in North Lawrence for over 50

years and everyone knew North Lawrence had the best soil around. He said they were delighted prime farmland was being discussed because North Lawrence had 160 homes built in the last 10 – 12 years. He said sometimes the best farmland needed to be saved for future use, not only in North Lawrence but other locations in Douglas County. He said his neighborhood association would like to see the information about prime farmland written into Chapter 7.

Jane Eldredge, Lawrence, said she grew up on a farm and thought agricultural ground was a terribly important resource. If this was a resource they wanted to identify as something that fell into the realm of public welfare, it ought to be as important as a park. If they were going to identify it as important they ought to be able to pay for it. It should not be something that was not considered industrial growth and should not be considered for the extension of the SLT, for the widening of the Kansas turnpike, for the extension of an airport, for a wastewater treatment plant, or the building of a house or business. If it was so important to preserve that land, their conversation needed to be much wider than industrial. It was a wise decision to talk about it in the environmental chapter or perhaps even a chapter devoted to itself. She said if they adopted that type of language in the industrial chapter, she thought there would be some significant unintended consequences and this was the time to be thinking about this issue.

Barbra Clark, Lawrence, said this was extremely important locational criteria and from her perspective, the location criteria were objective criteria. If it took on a negative or positive perspective, it would be because there was some preconceived bias coming to the table. Those criteria could be looked at and objectively answered and whether a site was applicable for development. She said Eldredge felt other situations should warrant looking at capability class 1 or class 2 soils which she agreed. The Planning Commission had already done that to some extent with Chapter 15, the Smart Code, and saw fit to remove two bulls-eyes in the North Lawrence area because of the soils. She said there was already a precedent for looking at soils for other developmental reasons.



She said she hoped the City Commission chose to add this as a criterion and thought there was some authoritative documentation from other sources that might support the Commission's decision. The first would be a statement from United States Department of Agriculture (USDA) that stated prime farmland was of major importance because a supply of farmland was needed and the USDA recognized that a responsible government as well as individuals should encourage and facilitate the wide use of emissions from farmland. She said prime farmland was an extremely open and encompassing statement which was why they chose to narrow that scope down to capability class 1 and 2. Capability Class 1 comprised less than 3% of the soils in Douglas County and there were almost 304,000 acres of soil in Douglas County. The other aspect was capability Class 1 soils were predominately clustered in one area and protecting that area ran no hardship to the selection of other sites. If looking at the new draft of the sites, there were very limited soils in Class 2 on the other sites that should easily be incorporated as green space. She said every minute of every day they lost two acres of agricultural land to development in the United States. That was a statement from the American Farmland Trust. As she talked for 10 minutes, they would have lost 20 acres of prime farmland somewhere in the United States. It was an amazing trend and if it continued to go forward, they would not have soils to feed themselves. The editorial from the Lawrence Journal World stated that preserving high quality agricultural land was a valid development consideration. All things being equal, development on land with little agricultural potential would probably be a better choice for the community's future. She said they were fortunate as a City to have this conversation with the governing body. It was an amazing opportunity and the City was truly at a crossroads. She said Franklin D, Roosevelt stated after having experienced the worst man made soil degradation that North America had seen to date which read: "The history of every nation is eventually written in a way that it cared for its soils." She said they were fortunate to have this conversation and they needed to recognize the extreme value of their soils.

Commissioner Amyx said he appreciated the City Commission listening to him adding the additional locational criteria that dealt with capability Class 1 and Class 2 because it was important in looking into the future. He said this criterion should be added.

Vice Mayor Chestnut looked at the minutes from September 9<sup>th</sup> and mentioned the following: *"It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail."* He said his statement was public welfare was a difficult process that this body struggled with everyday. He said he did not think this was the right language. The issue he had was not about the preservation of Class 1 and Class 2 soils, but how to balance off all locational criteria because one of the things that had not been discussed was how to have successful planning and economic development. He said he was concerned about those, in particular, the fact that it talked about what they defined as "minimal" that was not defined in that document. He said several comments that were heard was using the airport site with the most soil in question and everything else seemed to be less than that, but the document stated "minimal" and he did not know what that meant. He said the soil criteria would be a litmus test and everything else would fall by the way side. He said there were negative impacts.

One of the comments was who would be hurt by this decision. He said it was not the property owner, but if not done right, the citizens of Lawrence. He said it would be the sacrifice of the possibilities of some very good economic opportunities, but again balancing that off with the preservation of soils. Again, he did not think this was the right language. He said they had gone at this language two or three times with this body. He said they started with taking out references to the airport and then on second reading, added back the locational criteria. He said he was uncomfortable moving forward with this amendment and thought it was appropriate as much as he would hear sighs from the Planning Department to send this back to the Planning Commission because now its been bounced around significantly and they wavered fairly far off the intent of what was recommended by that body. He said he was very concerned about the consequences and it was not because he did not believe in preservation of the soil, but because

from his point of view, he was not as concerned about the subject property that had been the biggest part of the discussion, but all the other locations now that came into play. He said they had not wrestled with how to measure this and to some extent had been done in a rapid fashion at this governing body level. He said it was appropriate to send the amendment back and vetted out more.

Commissioner Hack said she struggled with this chapter and was not at all supportive of criteria that were specific to a particular location. She said at that point, it was very much site specific and was not sure if it changed that much which was a concern. She said she was most concerned with the unintended consequences because if those areas were not appropriate for industrial growth and were those areas were appropriate for commercial, residential, or mixed use. She asked if it was appropriate to even be thinking about future development in North Lawrence because in looking at the map, it was North Lawrence that held the most soil. She said a document like this was not meant to define every single word, but because this was such a big part of this particular chapter, they needed to have some sense of what that meant. She said she did not want anything in Horizon 2020 to become site specific. She said a much better way to talk about soils was in the environmental chapter.

Commissioner Highberger said he voted against the first version of this plan and still had serious concerns about that plan. The proposal Commissioner Amyx suggested was a substantial improvement. He said he agreed with Vice Mayor Chestnut in that this body was not the place for drafting language in general, the language used paralleled with language that existed elsewhere in this chapter and all throughout Horizon 2020. The other alternative was writing hard and fast criteria, which was something the Commission did not want to do.

He said the City Commission's job was to protect the public welfare, but they needed to take the long-term into consideration when making decisions. He said they needed to make sure they were not making decisions in the short run. He said they needed to address this issue

in the Environmental Chapter, which was initiated three or four years ago. He said they needed to move forward with this locational criterion. He said he would be in favor of it.

Vice Mayor Chestnut said one place where the word minimal, in this case, disturbed him more was because of the specific locational criteria that had numbers put to them. He said that was not true with the rest of the document where it was measuring the amount of soil. They did not have what defined minimal. If they were going to go through and quantify it and not define what minimal was, it did not make sense to him. He understood that much of the chapter had broader themes and not much analysis by site specific location, and was more comfortable with the language being less precise. In this chapter when they went through and were looking at the maps and saying minimal, he thought they needed to add a number to it.

Commissioner Highberger asked if the preceding criteria on the industrial sites that had minimal to average slopes needed to be altered.

Vice Mayor Chestnut said maybe. He said with the soils it was precise.

Mayor Dever said the criteria in that document were all vague. The terms, feasible, adequate, primarily and minimal were all vague. The primary reason he wanted to get involved in trying to steer through the class one and two soils was people needed to be mindful of development in those areas. This document did not restrict or prohibit any of these criteria, but they needed to meet the general locational criteria. There needed to be language in that document that made people mindful of the value of this type of soil and how considering it important to criteria in deciding to develop for industrial purposes.

He said he had a problem with the fact sites had been listed in black and white where they disregard their own criteria and show that clearly it did not apply. He thought they were creating precedent for changes and disregard for their own rule by showing sites as listed. That was a big problem in using it as a criteria because now they were showing people they wanted to be mindful but showing sites they thought should be developed. He thought it was very important this document contain category one and two farmland and soil, but thought the way

they had done it was imperfect and a perfect reason to disregard the document. He did not want to agree to a document that made the City Commission look like they wanted to contradict their own actions. He said he would like a professional to make it so they were classifying one and two soils as important resources they wanted to protect or consider when picking sites and they as a community and city thought that was important. It was not what it said before and thought they got closer with one and two and went a little bit too far in using it as locational criteria and disregarding their locational criteria in their own document. The document showed several sites that contained class one and two soils. The question of the term "minimal" was a good question, but he had no problem with leaving the door open, because those were recommendations and guidelines as opposed to a hard and fast law.

Commissioner Hack asked if the Mayor was okay with the locational criteria, but not the individual site analysis.

Mayor Dever said he thought it was hypocritical to not list those if they used it as criteria. He said there were examples of the locational criteria to see how those sites met that criteria, if identifying that criteria, then they needed to show what they were and that it was reasonable and normal and followed the pattern of the document. He thought it was important that they use the language in the document, but he was not sure they could use it as locational criteria if they were going to then list it and deviate from it immediately.

Commissioner Amyx said when picking the site locations for that map, they listed sites that currently and potentially existing sites and placed general locational criteria on those pieces of property. He said this should be a guiding document, an amendment to the Comprehensive Plan. He said they were looking at where potential sites might be based on the current criteria. He asked if that criterion was correct or were they concerned about the breakdown of the property listed in that document.

Mayor Dever said it could be. He said he was in favor of using it as a criterion. He said he had a problem with listing and showing sites and not heeding their own guidance document. He asked if there were any other sites that blatantly deviate from the criteria.

Commissioner Hack said if they were concerned about slope, there was slope at the Farmland property.

Mayor Dever said it was important the City Commission make a stand on the value of farmland to their community and be mindful of the value of farmland for commercial and business development purposes. They needed to realize that it was not necessarily the best place to build their warehouses and buildings, but it was not going to be an exclusive factor. If all other things point up and there was some reason that it really needed to happen, then it was not going to exclude it from happening. He thought it was important to point it out and if Commissioner Highberger said it paid lip service that was the last thing he wanted to do.

Commissioner Amyx said their choices were to approve the revised Chapter 7 by a supermajority; return this amendment to the Planning Commission with direction of what the City Commission wanted the Planning Commission to consider; or approve the previous Chapter 7.

Commissioner Hack said the previous Chapter 7 would also require supermajority. If they sent it back to the Planning Commission, it seemed the areas in green would be the areas the City Commission would want the Planning Commission to look at.

Commissioner Amyx said he was ready to proceed with the revised chapter. This issue had been on the agenda in some form for three and a half years between picking snowflakes on a map to general discussion and he thought they were as close as they were going to get.

Mayor Dever said there was a point where the City Commission should decide if they wanted those amendments to be used as the guide to future planning. If that was the case, then Planning staff should look at it because it was something that none of them had a part of. This document could be the predecessor to the addition to other chapters mentioned in

residential development. He said the Planning Commission's job was to help with those decisions.

Commissioner Hack said the purpose of the document was the balance and that balance was so difficult to achieve because no matter what the City Commission did, they were going to make someone unhappy. As it stood right now, she could not approve the amendments and would like the Planning Commission to have an opportunity to look at those amendments along with the green highlighted areas. She said the Mayor was correct in talking about minimal or substantial and have something that was in opposition, was weird for a planning document. She also thought there had to be some acknowledgment for the type of the soil. She asked if it would belong here, in the commercial chapters or other chapters or in the environmental chapter. The environmental chapter was being worked on, but there had to be some acknowledgment from the community. She said the Mayor expressed her same concerns and they might be getting in over their heads.

Mayor Dever said he wanted to know if this should be done unilaterally or if they were going to create this document did they want to set the precedent and then expect the Planning Commission or Planning Department to apply those standards in the future.

Commissioner Hack said industrial development was very critical to the quality of life and future of this community. She said it had taken a long time, but was an incredibly important part of that document.

Commissioner Highberger said in one of the presentations, they demonstrated economic development potential in local food and prime farmlands were critical.

Commissioner Hack said she did not dispute that thinking one bit and that was a part of it. She said she was not saying by putting this in or taking this out they would prohibit that from consideration.

Commissioner Amyx said if the amendments went back to the Planning Commission and came back in November or December with City Commission approval, he asked when it would go to the county.

McCullough said in typical sense, as soon as staff received minutes provided by the City Commission, which would be three to four weeks.

Vice Mayor Chestnut said it had come up from public comment and Commissioners that if they were going to refer this back to the Planning Commission and have them either in the document or discussion about how it applied to current projects. He said Commissioner Highberger referred to the ambiguity about projects that were in process now. He asked if they needed to get direction from the Planning Commission as well because it was still an unanswered question. From his standpoint, he saw two things; one was to consider the language in green and also have a recommendation or something in the document about how they were going to address projects in process. It might not be in the document, but have some understanding.

Commissioner Amyx asked if that was addressed on page 7-5 where it talked about the non exclusive list of sites that substantially met the general criteria illustrated in Map 7-2 and went on to say that the map of the potential locations for future industrial and employment related land use were detailed in descriptions below.

Vice Mayor Chestnut said it did, but that language was written before the fifth criteria was put in and now they had one that clearly did not conform to that. He thought when they wrote that language, it was with the fourth, not the fifth and now they had the fifth and one of the primary locations listed did not conform to that fifth.

He said the reference could be to refer back, based on the new language that had been added, and then re-assess that specific paragraph to see if they wanted to make some exceptions because now there would be a least one site that did not form to the general criteria.



McCullough said at one of the hearing at the Planning Commission, staff asked as the criteria went in and out of the list of criteria, whether or not adding or removing the high quality agricultural land from the list would alter the snowflake map and alter the list of future sites. The Planning Commission's recommendation was that it would not alter their sites. Staff felt the language Commissioner Amyx mentioned was in the chapter as written, even with the fifth and while it appeared to be a conflict, it was the exercise of substantially meeting the criteria. When those criteria were weighed out, the Planning Commission gave a little more weight to the surrounding development of some of the sites, the transportation networks of the sites, the slopes that were conducive to industrial development and while there was recognition that there was agricultural land on the sites, whether or not this was a criteria or not, there was certainly recognition that there was agricultural land on several of those sites and it did not change the Planning Commission's recommendation from Map 7-2 to show the specific sites as industrial or employment centers.

**Moved by Hack, seconded by Chestnut,** to return Chapter 7 to the Planning Commission for consideration of the language in green as added by staff over the last couple of weeks. Aye: Chestnut and Hack. Nay: Amyx, Dever, and Highberger. Motion failed.

Commissioner Hack said since it failed, it would automatically go back to the Planning Commission.

**Moved by Amyx, seconded by Highberger,** to approve Comprehensive Plan Amendment to Horizon 2020, Chapter 7 and to adopt on first reading Joint City Ordinance No. 8283/County Resolution No. \_\_\_\_\_, the revised edition. Aye: Amyx, Dever, Highberger. Nay: Chestnut and Hack. Motion failed for lack of supermajority.

David Corliss, City Manager, said this amendment also involved the County and suggested the County take a look at the amendment to see if they could work something that would be in a supermajority vote both with their building and this building. He said there was also discussion about having a study session with the Planning Commission, City Commission

and County Commission to see if things could be worked out. If it went back to the Planning Commission and the Planning Commission and City Commission agreed but the County Commission did not, it was going to be a challenge as well. The other Commission that needed to be invited to the meeting was ECO<sup>2</sup> because they had been involved in both of those issues as well. He suggested tabling this issue and see if the County Commission would work its will on this issue and report back accordingly.

**Moved by Highberger, seconded by Chestnut,** to table this agenda item. Aye: Dever, Chestnut, Hack, and Highberger. Nay: Amyx. Motion carried. (11)

**Consider changes to the city environmental code pertaining to trash abatement and adopt on first reading, Ordinance No. 8280, amending Section 9-607 of the City Code related to the issuance of notices of violation under the environmental code.**

Brian Jimenez, Code Enforcement Manager, presented the staff report. He said this change to the environmental code was a result of a study session that took place last fall with the City Commissioners, City staff, and the Oread Neighborhood in attendance. Overall, it was relatively minor changes to the current code with bigger benefits through code compliance. Currently, there were two time compliance dates in the environmental code, 15 days or 30 days depending on the situation. This code amendment would cut the time period in half from the current 15 days to 7 days for items that were classified as trash or refuse or item of no worth. It was one of the major concerns of the Oread Neighborhood Association. From the code enforcement standpoint, there was minimal additional time commitment from city staff. Staff always conducted a second re-inspection, but would be going out for that inspection on an earlier date.

He said there were some specific changes to the notification process. The current code required that all notice of violations be sent certified mail and each time those mailings were sent out, the cost was \$5.32. There would be a significant cost saving to the City to eliminate that cost. The proposal was to send notification by regular first class mail and most importantly

post a notice at the time of inspection on the property to give immediate notice to the property owner and/or the tenant. The other change was to reduce the time to request a hearing from 15 days to 7 days if someone wanted to question the City's interpretation of the code.

He said staff researched other cities and how they addressed this matter and Lawrence had a lengthy turn around time compared to other cities. He said reducing the time was a good place to start.

Mayor Dever called for public comment.

Candace Davis, Lawrence, said she lived in the Oread Neighborhood and wanted to thank City staff for their diligence in following through with this trash ordinance. This change was from a follow up on the study session conducted a year ago. The neighborhood was in support of this amendment to the environmental code and hoped the City Commission would also be supportive.

Commissioner Amyx said this was a good idea and the Commission should adopt the amendment.

Commissioner Hack said the City Commission had been very lenient, but it was time to get serious and inform people this issue was important.

**Moved by Amyx, seconded by Highberger,** to adopt on first reading, Ordinance No. 8280, amending Section 9-607 of the City Code related to the issuance of notices of violation under the environmental code. Motion carried unanimously. (12)

**Conduct public hearing to consider the vacation of an unused utility easement located in Lot 1, Block 1, Legends Addition No. 1 as request by the owner Jack Biegler, Ellison KU, LTD.**

Mayor Dever called a public hearing to consider the vacation of an unused utility easement located in Lot 1, Block 1, Legends Addition No. 1.

Chuck Soules, Public Works Director, presented the staff report. He said the utility easement was not being used. The owner had replatted the final development plan to address

his needs and was requesting the utility easement be vacated and the access easement remained. Staff notified the utility companies and received no comment. Staff also notified the property owners within a 200 foot radius and received no comment.

Mayor Dever called for public comment.

Upon receiving no public comment, **it was moved by Hack, seconded by Amyx**, to close the public hearing.

**Moved by Amyx, seconded by Hack**, to approve the Order of Vacation of an unused utility easement located in Lot 1, Block 1, Legends Addition No. 1. Motion carried unanimously.

(13)

**Consider authorizing the Mayor to sign a letter of intent with the University of Kansas regarding transit and receive report from KU/City Transit Planning Committee.**

David Corliss, City Manager, said the City Commission received a letter of intent indicating KU's support. The letter laid out a number of goals and opportunities to coordinate and cooperate and perhaps merge with KU. He said staff could point to a number of successes regarding transit cooperation with KU such as the study that was conducted and joint selection of a vendor and the timing of the vendor contracts, the recent success they had with the reciprocal past program that indicated a lot of opportunities to cooperate as well. There were a lot of details regarding cooperation that were not finalized. Most importantly was the funding; the City did not have any money budgeted for transit next year and the middle of next year was the target date for some type of additional cooperation or merger with KU, certainly jointly planning the routes was envisioned as the City looked at all their routes.

Staff thought it was appropriate the City Commission be briefed on where staff was in discussions with KU. The best way was to memorialize that in writing, which was what they set out and passed back and forth between KU representatives and City staff. Staff recommended that this letter be executed. There were a number of opportunities for further refinement in this regard. In reading the letter, it could be seen that it was not a unilateral or irrevocable

commitment; there were opportunities to step back and say it was not working for either party. He said it was important for the City and KU representatives as well.

Diane Stoddard, Assistant City Manager, said KU and City Transit Planning Committee was working very diligently, on a weekly basis, to look at the variety of issues, but nothing had been decided at this point, but any plan recommended needed approval of various bodies at the University and the City. During the discussions with the planning team, it was important to make sure there was input from the students and the community as part of that process.

Commissioner Amyx said there were obvious safeguards before any consolidation or merging happened because of the amount of approvals that needed to take place. He said efficiencies and operations of both systems needed to be addressed by the City's T System and KU on Wheels. He said anytime the City could work with the University to create efficiencies not only in transportation, but other opportunities were important for Lawrence and the University.

Mayor Dever called for public comment.

Carrie Lindsey, Lawrence, thanked City staff who spoke at their forum and everyone who had been speaking out about the importance of the sales tax issue. She said it was an important step in the right direction to continue the process so that the citizens could see that they were working on this issue, that sales tax was important, and that they continued to seek public transportation.

Commissioner Hack said the letter and work on this issue was moving in the same direction toward efficiencies to make this the best transit system possible. Whether it was a merger, under one name, or two systems that coordinate, she did not think it mattered to the transit using public, which would hopefully increase as the service was improved with hopefully the sales tax vote. She thought it was a matter of semantics and protected both sides.

Commissioner Highberger said he appreciated the work done by staff.

**Moved by Hack, seconded by Chestnut,** to authorize the Mayor to sign a letter of intent with the University of Kansas regarding transit and receive the report from KU/City Transit Planning Committee. Motion carried unanimously. (14)

**Receive City Auditor's Report on Pavement Condition Materials.**

Michael Eglinski, City Auditor, presented his report. He said this topic was important because the City allocated \$5 million a year and this was one of the tools used to determine where those funds went. The City needed the information to be reliable to make the best decisions. The Pavement Condition Inspection was a fairly new measure and completed the first round of inspections, which was how they rated the streets, in 2005. It was early enough that if there was an issue with the reliability it could be fixed. In the Citizen's Survey, pavement condition showed up as a very high concern. It was also the item that the citizens were least satisfied with.

He said regarding pavement conditions, Public Works staff look at the streets, measure and record the different kinds of distresses and placed that information in a database that had formulas that calculate rating and gave scores on a scale of 0 to 100, where 100 was good, for the current condition of the street. That data could be used to compare streets in different areas of town. Staff used that data to plan whether to resurface and answer questions. The result of the information gathered was that the data was reliable and gave a good picture of the condition of the streets. He said he took two approaches in looking at pavement condition and one was looking at the controls, such as the policies, procedures and rules they had for how they rated the streets which were good. There were calculations set up in the computers and were automated, there were programs on the computer to make sure the calculations were consistent and not making errors. He said he also did a sample of street segments, not enough to be statistically significant, and looked if there was a pothole and checked to see if there was a pothole according to the database. He did that for about 40 streets and it matched up fine. He

also looked at work history and matched that up. He said there were some discrepancies and typically they were not important.

He said one of the things that was important about this was for this information to be most useful, staff had to commit to maintain the information in the medium term. Those systems, according to experts, were very good once each street was inspected a couple of times. Right now, staff had inspected the entire City once and about 45% of the City a second time. Staff was getting the data, but it was still a bit rough. By rough, he meant projections into the future, right now, were the best the City had to offer, but after a few more years of inspections, those projections should get a lot better. He said that meant the City had to devote staff time and a few resources. In doing this work, he discovered that 15 -20 years ago the City had a system like this that was not maintained and there were some problems in that inspections were done by interns and there were computer issues back then because the amount of computer power was not available at that time.

He said he was recommending a couple of recommendations on the control side which was intended to make this data easier to use three to four years from now. One recommendation was to write a manual for the computer side of it. There was a really good manual on the inspection side, but the computer side was a little bit more complicated and not well documented in a single place. They also needed to have a policy on backing up data along with a written policy and instructions on how to back up that data.

He said another thing he discovered was a permit for digging up streets, but it had been 15 years since staff issued those permits. Because it was on the books and a reasonable thing to do, he was recommending the City issue those permits or take this opportunity to go back and generally look at the right-of-way practices. Right-of-way management had come a long way since 1976 when this ordinance was last looked at. He looked at what other cities in Kansas were doing and were doing a lot more of the best practices.

He said it was interesting in how City staff looked at the data, which was the staff side, versus how the citizens looked at the data. He said in City Hall staff looked at the data as telling them something about the condition of the streets and the citizens outside think about the condition of the streets told them something about how good the government was performing. He said it was useful to remind himself of that and was why it showed up so high as a citizen concern. He said the City Manager agreed with his recommendations and thought steps were already being taken to address those recommendations.

He thanked Public Works staff because they made his reporting easy to do. He said he picked this project because it was important not because he thought there was something particularly wrong and thought it was noteworthy that the City had a system for measuring pavement conditions. Streets were important and the City had a system for measuring which was noteworthy. He wanted the message sent that it was good and even though there was room for improvements, it was good.

Commissioner Amyx asked about the right-of-way approach and the excavation permit. He said he did not understand the difference, but asked if it had to do with the infrastructure that was beneath sidewalks.

Corliss said it was related. He said the City's code provision which dated back a number of years really needed some attention. Staff moved away from physically issuing permits, but received the permission of the department. Regarding excavation, staff worked with franchise utilities so they were not making cuts in the street itself, but using the right-of-way area adjacent to the street. In many cases, that was of less concern than the actual cut in the street. He said staff needed to work on that issue on an internal basis.

He said regarding the issue of right-of-way management that was something staff had struggled with because state law had changed and continuously took away the City's authority to regulate the use of the right-of-way. The cable industry and telephone industry had gone in and eviscerated the City's ability to do very much in regulation, regarding right-of-way. The City



still had the ability to adopt reasonable right-of-way regulations, but their ability to revoke a franchise or condition certain payments based on that had been very limited. It was good to look at the entire right-of-way management practices, not just the excavation permit.

Commissioner Highberger asked about the data back up. He asked if the data was not being backed up.

Eglinski said the data was being backed up. The recommended practices in Information Technology was not just backing something up, but adding policies to establish accountability and responsibility so that over time, people knew how to do it.

Corliss said staff would come up with a written policy on backing up the City's data, but the data was being backed up. He said staff would come up with a policy that prioritized and established protocols as to responsibility and storage of that data.

Vice Mayor Chestnut said he agreed with the back up policy because the reason for documentation was it mysteriously stopped happening sometimes and did not have any record. He said regarding the continuous update of the data, right now staff was challenged because that updating of data had not been resourced. The task was not a specific responsibility of someone on staff. The City's GIS person moved to another department and was still contributing to that task, but the City did not have someone on staff that was responsible for that task. He said as the City Commission went through the budget cycle, they needed to talk through that issue because it was important data and wanted to make sure that data was being resourced appropriately because it would end up like the database a couple of decades ago. The City had to commit a level of resource whether reprioritizing people who were doing other things because he did not like to add head count. Either way they needed to figure out a way to commit it to someone's job description.

Corliss said Micah Seybold was the GIS Analyst in Public Works and the GIS Coordinator for Information Systems. He was also helping with a lot of his Public Works former functions, but they eliminated the GIS position in the 2009 budget because it was a vacant

position. He said right now there was an intern that would help with that issue which would get at some of those continuity issues. Staff would follow through in making sure there was staffing for that function. He said Eglinski would take a look at the results of this audit and hold staff accountable.

Mayor Dever called for public comment.

After receiving no public comment, it **was moved by Amyx, second by Hack**, to receive the report. (15)

#### **PUBLIC COMMENT:**

Candice Davis said she had a concern about the vacancies on Boards and Commission and the expiration and term dates.

#### **FUTURE AGENDA ITEMS:**

10/28/08 · Employee Service Awards.

- Consider approval of sale agreement for City property to North Mass Redevelopment (received by City Commission on October 7, 2008).

**ACTION:** Direct staff as appropriate.

- Conduct public hearing to establish maximum assessments for sanitary sewer and waterline improvements for the Bauer Brook Court benefit district.

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) [Draft PC Resolution 2008-01](#) [Correspondence](#)

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

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

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

- c) Consider adopting Text Amendment TA-11-24-07 regarding the Lawrence SmartCode and, Pursuant to the provisions of K.S.A. Chapter 12, Article 7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The "Lawrence SmartCode" is an optional development code that is parallel to the City's existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas. Copies of the "Lawrence SmartCode" are available for review at the Office of the Lawrence-Douglas County Planning Department, City Hall, 6 E. 6th Street, Lawrence, Kansas. The "Lawrence SmartCode" is also available at [www.lawrenceplanning.org](http://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.
- West of K-10 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.
- Consider city laws regarding the keeping of live fowl and domesticated hedgehogs in the city limits.
- Consider changes to the sidewalk snow and ice removal ordinance and enforcement program.
- Consider changes recommended by the Eco2 Commission to be adopted into the Eco2 Plan for Douglas County.
- 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)
- 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)

**COMMISSION ITEMS:**

**Moved by Chestnut, seconded by Amyx,** to adjourn at 9:00 p.m. Motion carried unanimously.

**APPROVED:**

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Michael H. Dever, Mayor

**ATTEST:**

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Frank S. Reeb, City Clerk

## **CITY COMMISSION MEETING OF OCTOBER 21, 2008**

1. Bid – 2008 Weatherization Program.
2. Bid – Master Street Tree Program to Arbor Masters for \$40,470.
3. Ordinance No. 8336 – 2<sup>nd</sup> & Final Read, SUP-07-07-08, Countryside Extended Care Facility located at 1216 Biltmore Dr.
4. Ordinance No. 8297 – 2<sup>nd</sup> & Final Read, TA-03-01-08 to amend Development Code, Article
5. Ordinance No. 8339 – 2<sup>nd</sup> & Final Read, Free State, Bauer Farms Transportation Dev District, at NE corner of W 6<sup>th</sup> & Wakarusa Dr.
6. Ordinance No. 8332 – 2<sup>nd</sup> & Final Read, Comprehensive Plan Amendment for SE Area Plan
7. Resolution No. 6808 – Devel Agreement for Bauer Farm Transportation Devel District.
8. Request – 6 mo extension of site plan approval for office building, 501 Rockledge Rd.
9. Ordinance No. 8331—Deferral for one week, 2<sup>nd</sup> & Final Read, rezone approx. 0.48 acres from RMG to MU at 1420 Crescent Road.
10. City Manager's Report.
11. Ordinance No. 8283/County Res\_\_\_\_- 1<sup>st</sup> Read, Comprehensive Plan Amendment to Horizon 2020 Ch 7: Industrial & Employment Related Land Use.
12. Ordinance No. 8280 – 1st Read, Changes to city environmental code.
13. Vacation - Utility easement, Lt 1, Blk 1, Legends Add No. 1.
14. Letter of intent with KU regarding transit.
15. City Auditor's Report – Pavement Condition Materials