



# City of Lawrence

DAVID L. CORLISS  
CITY MANAGER

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

6 East 6<sup>th</sup> St  
785-832-3000  
FAX 785-832-3405

CITY COMMISSION  
  
MAYOR  
MICHAEL H. DEVER  
  
COMMISSIONERS  
SUE HACK  
ROBERT CHESTNUT  
DENNIS "BOOG" HIGHBERGER  
MIKE AMYX

October 28, 2008

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

## RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Dever presented the "Employee Service Awards"; and proclaimed Friday, October 31, 2008, to be "Halloween Beggars Night."

The first reading of Ordinance No. 8330, homeless facility text amendment, was deferred indefinitely for further staff review.

## 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 14, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive the Planning Commission meeting minutes of September 22-24, 2008; the Hospital Board meeting minutes of September 17, 2008; and the Traffic Safety Commission meeting minutes of September 8, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve claims to 338 vendors in the amount of \$2,175,955.50 and payroll from October 12, 2008 to October 25, 2008, in the amount of \$1,717,590.92. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve the Drinking Establishment Licenses for The Mad Greek, 907 Massachusetts; and The



Granada, 1020 Massachusetts; and the Class A Club License for Veteran of Foreign Wars No. 852, 138 Alabama. 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 Jim Canaday to the Public Transit Advisory Committee, to a term which will expire December 31, 2011. Motion carried unanimously.

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

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve Change Order No. 6 to the construction contract with CAS Construction LLC for the Phase II Clinton Water Treatment Plant Expansion Project, increasing the contract amount by \$32,749.36. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to approve Final Change Order to LRM Industries in the amount of \$111,207.77 for additional work added to the 2008 Overlay & Curb Repair Program, Phase 2. Motion carried unanimously. (3)

The City Commission reviewed the bids for police uniforms, equipment, and supplies for the Police Department. As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to award the bid to Alamar Uniforms for \$7,294.20; Baysinger Police Supply for \$78,738.65; DeSantis Holster & Leather Goods for \$1,582.50; Express Police Supply for \$3,775.68; Lawmen's & Shooters Supply for \$2,630.56; Matre Ammunition for \$7,320; Sig Sauer Inc. for \$18,270; and; Ultramax Ammunition for \$54,038.80, for the total amount of \$173,650.39. Motion carried unanimously. (4)

Ordinance No. 8280, amending Section 9-607 of the City Code related to the issuance of notices of violation under the environmental code, 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)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt Resolution No. 6807, adopting an identity theft prevention program for the City of Lawrence Utility Department and Utility Billing Operations. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt Resolution No. 6809, adopting an identity theft prevention program for the City of Lawrence Community Development Block Grant (CDBG) Program. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to adopt Resolution No. 6810, setting a public hearing date of December 9, 2008, to discuss the condition of the dilapidated structure at 1207 East 13<sup>th</sup> Street and to consider declaring the structure unsafe and ordering its repair or removal within a specified period of time. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive third quarter report on outreach case management services from Bert Nash Community Mental Health Center. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive request from Brian Kemp of Paul Werner Architects to use eight public parking spaces at 123 West 8<sup>th</sup> Street for construction staging. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive progress report from Lawrence Community Shelter on the Good Neighbor Agreement. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Amyx**, to receive letter from Terence Leibold of Barber Emerson, LC regarding the non-conforming use of 729 New Hampshire Street. Motion carried unanimously. (12)

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

During the City Manager's Report, David Corliss said he wanted to speak on the deferral of Item 7, Ordinance No. 8330, regarding homeless facility text amendments on the Consent Agenda. He said he and his wife were members of the Grace Evangelical Presbyterian Church and Grace indicated a concern with the text amendment, so he was going to be recusing himself from any involvement on the City's behalf. He was not taking the church's side, but thought it would be better not to be involved in any further consideration of that issue. City staff members would be working on that issue, but he wanted everyone to know publicly.

He said regarding the City Manager's Report, the International Code Council had proceeded with requirements for residential fire sprinklers in certain residential buildings, but that did not automatically make it a city law. Staff would have an opportunity to look at those new codes and recommend adoption in 2010. (13)

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

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

Mayor Dever called a public hearing to establish maximum assessments for sanitary sewer and waterline improvements for the Bauer Brook Court benefit district.

David Corliss, City Manager, introduced the item. He said this was the opportunity they had to set the maximum special assessments for this benefit district. They hoped the costs would be less than those maximum assessments, but something they followed through on with all special assessment projects.

John Miller, Staff Attorney, presented the staff report. He said the proposed improvements were to provide approximately 2,000 linear feet of sewer line and approximately 3400 feet of water line to extend city utility services to the recently annexed property of Bauer Brook Estates. The notice of hearing was published on August 17<sup>th</sup>. Mailed notices were sent to the property owners and he understood that staff had not received any comments from the public notice in the paper or mailed notice to the individual property owners. The maximum assessments for the waterline was \$362,858 and for the sewer line \$236,177.

Mayor Dever called for public comment.

There was no public comment.

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

**Moved by Hack, seconded by Highberger,** to adopt on first reading Ordinance No. 8329, levying the maximum assessments on lots, pieces and parcels of land in the City of Lawrence, Kansas, to pay the cost for the construction of sanitary sewer improvements along Bauer Brook Court, west of North Folks Road, including gravity lines within the public right-of-way or utility easements, and related and attendant improvements, property acquisition and other necessary and appropriate improvements as authorized by Resolution No. 6799. Motion carried unanimously. (14)

**Moved by Hack, seconded by Highberger,** to adopt on first reading Ordinance No. 8330, levying the maximum assessments on lots, pieces and parcels of land in the City of Lawrence, Kansas, to pay the costs for the construction of waterline and waterline system improvement within the public right-of-way or utility easement along Bauer Brook Court and within the public right-of-way along North Folks Road from approximately 150 feet north of the center line of Trail Road to approximately 490 feet north of the center line of Bauer Brook Court, including water main, fire hydrant installation, property acquisition and other necessary and

appropriate improvements, as authorized by Resolution No. 6800. Motion carried unanimously.

(15)

**Consider adopting on second and final reading, Ordinance No. 8331, rezoning approximately .48 acres (Z-05-10-08) from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road.**

Scott McCullough, Director of Planning and Development Services, presented the staff report. He said last week the City Commission deferred this item on second reading to direct staff to bring some options on a condition that required some extraordinary process in bringing the site plan or use changes to the governing body, when application of such was made in the future. The memo contained three options which staff believed implemented that direction from the governing body. The applicant's attorney submitted a fourth option that staff did not object to. Staff believed all the options presented would suffice in bringing any future changes to the site commonly known as the Jayhawk Bookstore to the governing body for approval in the MU District zoning standards.

Commissioner Highberger asked if the applicant's proposed language was almost identical to option 2.

McCullough said it was very close to option 2. The intent was to bring forth site plans which included changes of use to the Commission and include that public notice. The notice would be provided to the community per code, and then needed to be considered and approved by the City Commission.

Commissioner Amyx said regarding the discussion several weeks ago on this matter, he believed he owed the Mayor, Vice Mayor Chestnut and Commissioner Highberger, the people in the neighborhood and the applicant an apology because there would be certain uses that would be guaranteed by right except for those that were excluded as recommended by the Planning Commission. He said he suggested if there was a change in use, that it would come back before the City Commission, but the use change had already been adopted by the mixed use

zoning category. The approval of the site plan was the only item that could come before the City Commission and under the Development Code, the site plan would be reviewed by the Planning Director and planning staff. He said if there was confusion about a specific use, the City Commission was unable to address that matter and would need to be addressed by the Planning Commission for their recommendation. He said if they adopted the mixed use as recommended by the Planning Commission, with the exception of the two uses that would not be allowed, if there was another use that came forward that initiated a site plan requirement, then that site plan would come back before the City Commission and the Commission would only discuss the site plan.

McCullough said that was correct. It could include the use and the use could be considered the use in terms of intensity of use on the property and how that affected parking, setbacks, buffer yards, and those kinds of things.

Commissioner Amyx asked if it would fit.

McCullough said any use was limited by the physical elements of the site itself. If there were no code requirements and code standards that would prohibit the physical development of the site, the uses within the use table, by adopting the zoning district, were permitted by right.

Jane Eldredge, Barber Emerson, counsel for the applicant, said following the meeting last week, she drafted option 4. She said to answer the question about the difference between option 4 and option 2, the second sentence in each of those options, in staff's draft it stated "any change in use" and her draft stated "any site plan required as a result of the new use." It was an effort to put the emphasis back on the site plan that was being reviewed rather than the change of use. It was confusing to her and she tried to make it as clear as possible that whenever there was a use change, the site plan would come to the governing body. It was the only difference of the first few words of the second sentence.

Mayor Dever said he thought the language was pretty clear.

Mayor Dever called for public comment.

Bill Mitchell, Lawrence, said after talking with McCullough and Joe the planner, he thought what the problem was with the compromise was that staff's solution was to allow all uses that were not specifically prohibited instead of a public hearing. Option 2, that would be entirely pro forma allowing neighbors to vent to the City Commission, but without having any effect on what uses would be allowed or Option 3, have the public hearing at the site plan stage or a neighbor could not voice objections to any use. Option 3, he said he was confused whether it was 2 or 3, because it was originally identical to Option 3, now there was Option 4. He said in restating the obvious, Options 2 and 4 deny neighbors any real voice in those changes. He said in listening to the language two weeks ago, as restated in the staff memo containing the option in the language, was that the Commission voted to ensure opportunity to comment on those changes. He said that was where the compromise started and the approval or denial rested with the City Commission and not with the Planning administration. Options 2 – 4 did not accomplish that and if he understood staff correctly neither did Option 1 because of its questionable legality. He was not eager to get in the area of questionable legality by adopting Option 1 and Options 2-4 were not in the court either with any previous vote or within the neighbors' wishes. He said he was offering for consideration three possible ways of providing neighbors some voice in preserving their neighborhood. He said his preferred choice was to return to the status quo and leave 1420 Crescent a legal non-conforming use. It was no harm done and it was what the neighbors always had, a voice in proposed changes and what applicant had a legal non- conforming use. The second option was to let the rezoning stand, but without any permitted uses and it solved the problem of legality. The third option was to extend the list of prohibited uses and retain options 3 or 4 for neighborhood voice at the site plan stage. The Planning Commission had some ideas for additional prohibited uses and settled for just two of them. He suggested sending it back to the Planning Commission so neighbors could exercise their voice on uses to be allowed. The downside was the neighborhood voice would be forever stilled regardless of those changes as it was under options 2, 3, and 4 and would be



under great pressure to get it right. Sending it back to the Planning Commission would provide a little more time and few more wise heads in getting it right. He hoped the City Commission would give this full consideration because a residential neighborhood's life depended on it and the City's life depended on its neighborhoods.

Faye Watson, Lawrence, said when she viewed the last City Commission meeting, she heard the conversation between Ms. Eldredge and the City Commission, which was totally out of place. When she heard they were gutting the mixed use rules, it should not have been allowed last week. She said it was okay to pull this item from the consent agenda, but it was not satisfactory to the neighbors because they were not present. A number of the citizens of Lawrence were becoming very disillusioned along with their neighborhood. Their neighborhood felt they were not being heard because they were a group of neighbors and did not have a well informed attorney representing their neighborhood. She said if she understood correctly, this was the first mixed use that came up under the new code.

Mayor Dever said yes.

Watson said she would suggest letting someone else have the first time. There were so many unanswered questions and should not have this dialogue at this time. She said she double checked with the City Clerk last week to see if it was necessary to have neighbors present and the City Clerk thought everyone agreed and it would undoubtedly be passed on the consent agenda. The neighbors thought the language was agreed upon and was a matter of formality to have it approved, but found out that was not the case. The neighbors had not wavered in their position and the neighborhood wanted to be part of the body that decided what happened in their neighborhood. There were a number of uses that could be used on that corner; everything except for a sex shop and a bar. They did not want to have a McDonalds, Pizza Hut, or restaurant that sold beer, resale clothing store, tire repair shop or a second hand pawn shop at that location. All of those uses could happen without neighborhood input. There were over 68 families in their neighborhood group that bought homes in that area and knew

from the very beginning that the bookstore was in a non-conforming use and they did not worry about what was going to happen until the mixed use came about.

Two years ago they had a meeting with the owner of the bookstore and owner begged the neighbors to go along with this change because it made a difference in their cost of insurance, but had never heard the figures. She asked how in the world the first mixed use came to their corner. She said the neighborhood was asking for City Commission assistance in retaining their neighborhood. There was nothing wrong with the bookstore and the owners were good people. The bookstore was clean and well run. There was a lot of traffic and it was almost out of hand, but they could go along with a mixed use if they had an opportunity to have some input on what was going to happen at that location. This ordinance would guarantee notice of use to be given to the surrounding neighbors and give them an opportunity to voice their opinion for the changes of the non-conforming use. This would necessitate that the final approval of such change would come before the City Commission, the governing body of the City. She asked that the City Commission give this matter a lot of thought. Again, she said it might be that a mixed use was too soon for that corner.

Commissioner Amyx said he realized he was placing this matter in a questionable, legal position, but the Commission was approving a mixed use for this location and those uses allowed at that location. The neighbors were left in a position where they thought the use would come back before the City Commission, but he was not sure the Commission could legally do that. He said it was a question of what uses should be allowed at that location.

Watson asked why this could not be a legal action of the City Commission.

Commissioner Amyx said if the zoning changed from RMG, which was a non conforming use that allowed the bookstore to be at that location to a mixed use, the Planning Commission's recommendation was to approve the mixed use which included all uses that was granted by mixed use zoning, except for those two exceptions recommended by the Planning Commission. Everything else would be allowed, but he was not sure the City Commission could deny those

other uses. If there was a question that surrounded the uses, they needed to talk about the uses.

Watson asked if the mixed use zoning was something new that was happening all over the City.

Mayor Dever said yes.

Vice Mayor Chestnut said the troubling part of this whole discussion was he did not think they were going to get where they wanted to go, even if it went back to the Planning Commission to limit uses. One example came up in the Planning Commission where a Planning Commissioner asked if a firearm store would be a permitted use and staff said "yes", under retail sales category. It was probably not a category that would be excluded by use at the Planning Commission. Watson made the mention of the use of resale clothing, which would probably fall under retail sales category. The problem he was trying to get his arms around was even if this went back and the uses were cut, it would get problematic to narrow it down to something because the uses were fairly broad and guaranteed those uses would be permitted uses inside the uses that came back from the Planning Commission that would not be acceptable to the neighbors. He did not know if cutting out the list, they would have three or four left, but even inside of those, they would have some fairly extraordinary circumstances that would be that use that would not be something any of them would like. The fact was that if it was not the right fit, it was not the right fit. He said he did not know if there were uses by right and was something they needed to have more discussion about, but that was something that had been going around and needed to have some dialogue about that issue.

McCullough said part of the initiation of the mixed use district had been the Planning Commission and in part the governing body's direction to get more walkable, traditional types of community elements in and around the City of Lawrence and the mixed use district was a creative way to do that. It had some creative elements that encouraged the mixed uses and creating walkable types of elements into neighborhoods that took advantage of some of the

vanity that existed today in the community, such as transit lines and incentives that could get awarded more density. They talked about more density with the Planning Commission and the governing body and how that was perceived as good because it limited sprawl and helped pay for infrastructure to a greater degree. He said when moving toward their planning documents towards more density and mixed uses and talked about the SmartCode and elements they felt that would be favorable to the City and County, this was one more element created to help accomplish some of those goals.

Mayor Dever said as far as the use by right, it was if something was zoned a certain way, by right the landowner received that benefit by right.

McCullough said the code outlined permitted uses, special uses and accessory uses. If they did not think the zoning district was a compatible fit to a neighborhood, then maybe the zoning district was not good for the neighborhood. Certainly, staff believed zoning could be conditioned and there was a trend and practice to do that where recognizing certain uses were unique enough for an area where they could prohibit those uses or areas that demand extraordinary processing. Staff was confident those were justified in those cases and were implemented as those areas developed. It was more difficult to say that a property owner would be zoned to a specific district, yet still did not know if all those uses were available for development.

Mitchell said Vice Mayor Chestnut's argument in trying to identify uses not allowed was difficult. He said he went back to his 1 and 2 options in rescinding the zoning and let it go back or Option 2, prohibit all uses and let those uses come up as they came up and the City Commission could review those uses at that point and let the neighborhood help in the review.

McCullough said he was not sure the second option was a practical or optional use.

Jim Sherman, Lawrence, said the discussions taken place so far had essentially nullified most of what he was going to argue, but not all of it. The clarification made it clear that if the property was rezoned, they only would be able to consider uses that affected the site planning,

parking, traffic and all of that other stuff, but that was not what the neighborhood was striving for. They were hoping to have an effective voice in the use of the property and how it affected their neighborhood. If the rezoning was passed, he agreed with Mitchell that their voice was permanently stilled as to that issue.

He said when they started this whole thing out the rationale was to bring the property in conformance with some sort of zoning standard. The rationale given was that it would decrease the insurance costs, but apparently that was not the issue and were discussing the use of the property. He asked what the use of the property was going to be and who had control, input and say over it. If the zoning approval passed, no matter the amendments he looked at gave them an opportunity to talk about it, but without having an effect because the decision was already made about the use in this situation. They only had a couple of choices. They could deny the zoning request, leaving Jayhawk Bookstore as a non-conforming use as it had been for a number of decades, quite successfully, and preserved their right to have a real voice in the use of the property. He agreed with Mitchell's proposal, although the thought of approving a zoning without any uses was narrow. Another consideration was to go back and reconsider the changes of rezoning to a mixed use and make a decision on how to receive input from the neighborhoods and how that could be facilitated and whether the permissible uses were included in the mixed use code.

He said the change in the zoning would obviously benefit the owner of the Jayhawk property in a number of ways. It would allow a number of options and would allow any new owner of the property a number of options. It had an economic benefit as well. They also had both an emotional and economic investment in their homes and neighborhoods. He said perhaps in fact it was greater than the owner of the bookstore property just by sheer mass. If they had a use in that neighborhood that detracted from the neighborhood, it not only hurt their emotional investment, but economic investment as well, even to a greater extent.

It was asked earlier if this change was a good one or a bad one, but he did not know and could not answer that because he would have to predict the future, which he could not do. He said he felt it was not good. The neighborhood was happy with the way the situation was now and thought it was a good use. They could imagine most of the other uses not to their advantage and overall quality and value of the neighborhood. Although he could predict what the advantages of the mixed use zoning code would be for Lawrence in general, he was having a hard time seeing how it benefited the neighborhoods and adjoining neighborhoods.

He said he was strongly opposed to the rezoning and arguing that it not be accepted or go back and consider how the changes were done. He said when this issue first started, they had a meeting with a member of the planning staff and were led to believe that whether the mixed use took place or did not take place, they would always have the ability to come before the City Commission and present their viewpoints and have that as more than just a pro forma venting session. He said perhaps they misunderstood, but came away with that impression, which was why they were not concerned about the mixed use because they always had that right. Apparently they misunderstood that and did not take action earlier, but they still wanted that right.

Mayor Dever said he hated to hear people downplay the ability to have hearing on the site plan because that was not, by any means, lip service nor a public venting process, but a real process by which they were allowed to reject a site plan, not necessarily based on its use, but because the Commission did not approve of that site plan in conjunction with that use.

Sherman said it was the way it was worded because it stated there would be a discussion and then approved and did not say approved or disapproved.

Keith Meyer, Lawrence, said he lived approximately a block and a half or two blocks from the Jayhawk Book Store. He said the neighborhood spent almost a year fighting a change in zoning in 1989 and 1990. At that time, the bookstore sought a PUD classification, which was somewhat similar to what the mixed use was. The neighborhood was not opposed to the

bookstore, but opposed to giving it commercial zoning. The Planning Commission and City Commission, at that time, did not grant PUD status, which would have given the property owner the same kinds of things they would get under mixed use. The same issue was now back and the bookstore, at that time, was talking about a variety of things, including credit availability and those things. The bookstore went on and was still able to function.

He urged the City Commission to keep it as a non-conforming use. It had been a non conforming use since 1966 when it was brought into the City. He said in the staff's report, it was an inadvertent change to the current zoning in terms of fraternities, and should have been RS7. He did not think that was a reason to begin changing the zoning.

The other thing was in terms of the main concern he had. He lived in Lawrence since 1969 and this community had been a wonderful community and a mix in commercial and neighborhoods. The neighborhood he lived in was a unique neighborhood and the neighborhood changed when looking east of campus and they did not want that to happen to their neighborhood. It was a slippery slope. Once beginning to give a mixed use, they now had a house for sale southwest of the bookstore and granted a mixed use to one, he asked how they began to tell someone else they could not have a mixed use to their property, which was located adjacent or immediately across from the bookstore.

He said he understood the mixed use was a new concept and thought it made sense in many ways. He heard the City Commission was going to consider it by Johnny's Tavern and heard there was an issue about selling City property, and it made sense in many ways. It was a 0.4 acre and could not talk about the mixed uses in the same way they could from a planning concept. He thought the non-conforming use, while it might be a somewhat outdated concept of planning, there was still a separate article in City Code and gave the City control and did not give the possibilities of all the other things that caused the neighborhood so much concern.

Muff Kelly, Lawrence, said the mixed use designation was coming about for new town growth areas. She asked if that was correct.

McCullough said the mixed use was for infill development. It could be used on the outskirts of town also. Staff anticipated the SmartCode would address more of the green field development.

Kelly said she wanted a clarification on the site approval. She understood that it was only if there was a variance requested that it would have to go through an approval process. Otherwise, if it met all the qualifications, it was automatically approved.

McCullough said there were approval processes at this time and was within the environs of an historic site and would receive review by the Historic Resources Commission. He said depending on the type of development site plan, there would be notice in any change of use to an equal or more intense use for the development, and that would initiate public notice to adjacent property owners and neighborhood associations adjacent or encompassed that property. There would be notice of the site plan process and that site plan process by code was administrative with an appeal process built into it for anyone with certain standing that felt aggrieved by the department's decision on a site plan. Sometimes it was the applicant, a neighbor, or the City Commission on behalf of someone. There was a process established by code that received citizen participation.

Kelly asked if it was an administrative decision.

McCullough said it was an administrative decision that would get appealed to the City Commission.

Mayor Dever said it was automatic and the site plan would not be administrative, but come before the governing body.

McCullough said the proposed language stated that any site plan could be a lesser use and any site plan brought to the department would have to go to the governing body to be approved.

Kelly said with the mixed use they had no idea what they were getting and suggested something be done with that process. It might work out fine, but having a backwards process



instead of having a forwards process put a lot of burden on the neighbors she did not think they should have and would not have under any other circumstances. She said maybe it was the process of the MU itself that needed to be adjusted.

McCullough said the MU process was the typical process of the code and the MU district did not stand alone in the process. It was for any development in the City in the zoning district. What the Commissioners were doing was attempting to establish extraordinary process for this particular site.

Mayor Dever said it was an extra layer of protection for all involved.

Kelly said it was unusual that everything was approved that fell on that list, by administration. It was a little different than normal.

Mayor Dever said it was part of the new code process. It was unusual and something that had yet to happen as much as people would like. There were quite a few permits that went on they did not hear about anymore.

Kelly said the Planning Commission process had been lost.

Mayor Dever asked McCullough if he agreed with that statement.

McCullough said he did not quite understand that statement. He said from the former code, that process was changed. The citizens, in order to participate in the rezoning process by statute, had public hearings in front of the Planning Commission, meetings in front of this body they could participate in, and then there were the other avenues from Historic Resources, variances if needed by the BZA and the site planning process within itself. There was quite a bit of process to get any property in the City developed.

Kelly asked if they were automatically approved uses.

McCullough said every property in the City was zoned to a certain district. Every property in the City by right had certain permitted uses and could come and make application to implement that use. Most of the time there was public notice about that. There had been good developments that have received citizen participation that had not come up to this level because

they tended to address all those concerns on the staff level either by staff or applicant. Staff helped bring those to the applicant's attention, but they were typically not talking about the use because those were uses allowed by the district and that was true for every property in the City.

Vice Mayor Chestnut said there have been many applications for permitted use that had been denied as well because of variances, neighborhood input, and other things.

McCullough said staff's experience was that the appeals that had come close to coming before the governing body were because staff was headed toward denial versus approval. If staff did something contrary to the wishes of the neighborhood, there was that appeal process to the governing body. In this case, if this was approved, typically if staff did something contrary to the desires, they had the ability to appeal that to the Commission, the City Commission would make the final decision.

Commissioner Hack said not just the applicant, but the applicant, neighbors or anyone.

Vice Mayor Chestnut said standing or not there were many situations that had come before when issues were brought that were legitimate.

Commissioner Hack said the City Commission did not deny anyone public comment.

Vice Mayor Chestnut said in a code sense, in a very practical sense, because the City Commission had standing, they could come on anyone's behalf and direct staff to bring that issue in front of the Commission for consideration.

McCullough said the typical process was mail notice to adjacent owners and neighborhood associations and was posting of the property with a sign. He said staff placed a lot of responsibility on the neighborhood associations because the neighborhood associations asked for that responsibility. Obviously, everyone was aware there was a strong network of neighborhoods and most neighborhoods were very active and staff counted on those neighborhood associations to get the word out and help build that participation and was also part of the code. Staff's experience showed that it worked and was a working arrangement. He

said it had been about 2.5 years and had come close to 200 or more site plans that staff processed under the current development code.

Paula Martin, Lawrence, said she was a board member of the West Hills Homes Association, the oldest home association in Lawrence. She said their first choice was for the zoning of this property not to be changed so they could have input if there was going to be a change at that property. She said Joe Rexwinkle, City Planner, came out and met with University Heights and West Hills Homes Association when this started and thought there was a misunderstanding, certainly on the part of West Hills Homes Association. People came away from that meeting with the understanding that they would have a future voice when a change of use was going to be considered; not the site plan, but the use of the property itself. As a result, they did not take any action because they thought they had that future voice. When those had come up in the past, the neighbors had always been active, involved and informed. When the last one came up for the mixed use for the commercial zoning, they had over 55 neighbors that signed a petition before that matter was deferred and changed to the MU. The neighbors were interested and wanted a voice, but because of their misunderstanding at this point in the process with the MU zoning, they had not had that voice. That was their mistake and fault, but asked the City Commission for time to allow the Association to have discussion with the neighbors about their desires. They knew as a board what they wanted, but did not know what the other people in the neighborhood wanted.

She said they were grateful for Bill Mitchell for staying on top of it when the rest of them did not and for Commissioner Amyx for bringing up the issue two weeks ago that gave them the opportunity to address the City Commission when they had not done so before.

She said she agreed with Commissioner Chestnut that the uses were broad and that was one of their concerns. To say retail sales, it did not sound alarming to anyone but to say a gun shop certainly did. This small area, one building at the edge of campus and middle of their neighborhood was not a place to allow that type of broad zoning. She originally wanted to ask

for it to go back to the Planning Commission so they could talk about uses that were permitted by right and see if they had objections to any of those so they could put forth a better plan with more prohibited uses than the adult shops and commercial manufacturing. The more she heard and more she thought about it, it did not work because they were so broad and hard to narrow it to things that would fit in their neighborhood.

She said she requested they had the time to have the discussion in their neighborhood and as an association, had an opportunity to make their position known and go back to the Planning Commission so they could make a more informed decision about the recommendation they would make the City Commission, unless the body stood ready tonight to deny the MU zoning.

Commissioner Amyx asked if her neighborhood association had problems with the original language that was in Section 3 where the change of use would come to the governing body along with the site plan.

Martin said if the change of use came before the City Commission so that the neighborhoods had an opportunity to make their position known to the use being requested, she did not think any of them had a problem with that. They wanted input on the use that was going to be in that location.

Mayor Dever said he wanted to go on record saying that this was not a forum for this change. He wanted to allow everyone the freedom to speak and this was important, but could not have dialogue like this because they had other items on the agenda and people waiting. People's time was valuable and he respected what they were saying and completely understood.

Don Conrad, Lawrence, said not too long ago he learned that he lived in an historic area. He said he had been in the same house for 43.5 years and he had seen this piece of property change several times and could remember buying a suit from a store at that location and a restaurant a long time ago. He said the changes were made in the past and if the person had a

good presentation to the community, it worked before and he did not know why it could not work again. He thought the whole idea of community context and relations was important.

Janet Meyer, Lawrence, said it seemed they had gotten to this place through a series of mistakes. The first was the zoning that happened to the Jayhawk Bookstore that made it into a sorority and fraternity zone and the misunderstanding that happened several weeks ago. It seemed at this point, the better thing to do was to rethink this a little bit because what happened with the zoning were every few years they have been coming for a rezoning and nothing reversed. The way rezoning worked, the applicant made a proposal and the neighborhood reacted and then some compromise was made. The neighborhood could never come and say they wanted to down zone a place. She said everything that happened, happened in favor of the applicant and never happened backwards in favor of the neighborhood.

When they were there in 1989, this applicant on this property was given an opportunity to enlarge that property by 50%, which was as much as he was allowed under the code at that time. At that time, they were promised that this would be the end of it because that was the maximum that was allowed and this would never come up again. A few years later they were there again with different zoning. She asked if the footprint could be enlarged under this rezoning.

McCullough said the footprint could potentially be enlarged.

Meyer asked if the building could be bulldozed and a mini mall be placed at that location.

McCullough said mini mall was not a zoning category, but could potentially be redeveloped.

Meyer said they went through on Saturday afternoons in the fall a littering experience after football games. If there was a fast food place in that corner, they were going to have that litter every day and maybe worse because the littering point of origin would be closer than the football field. What was happening in their neighborhood was the houses closest to the bookstore were deteriorating and that was partially because they were owned by the

Endowment Association who was not keeping those houses up. Those buildings were the ones who got the notice. The University was getting the notice and the neighbors were not because they were too far away and were saying they were not the affected properties. She said that was the problem with the notice.

Sean Williams, Lawrence, said he was asked by several neighbors to come and speak about the real estate use. There were a number of neighbors that had property directly catty corner from this property that was for sale right now. He was very forthright in telling people how the property was going to be used. As the signs came up the neighbors discussed with him what was happening. If there was a change of zoning, they wanted to open options. It seemed it was a very small section of the town and any rezoning would be considered spot zoning. It seemed odd that it was being changed at all. Based on the conversations he had gotten from members in open houses and conversations of people on the street, neighborhood associations, and Historic Resource Committee, a consensus of the concern was the best use of this property was it's current status of non-conforming legal use and opening it up to any rezoning was wrong and not to be considered.

Jane Eldredge said she thought they were talking about options in terms of the second conditions and apparently there was a broader scope being considered. She said she was sorry Rexwinkle, City Planner was not present, but in his absence she would like to talk about the MU zoning category, where it was unique and similar in the scheme of the City's ordinances and asked for City Commission approval.

Mayor Dever said yes, but quickly because everyone was clear on the mixed use, but perhaps the neighbors would like some clarification.

Eldredge said all zoning districts had categories of uses and those were all found in article four of the zoning code. She said every single category had uses. This was no different than any other zoning because of the number of uses. When this land development code was put together, category of uses that were appropriate in each of the zoning categories were

discussed, thought over and finally compromised on after a five year period. The MU district was a result of direction from this body in terms of the more pedestrian friendly, transit oriented facilities. The very purpose of the MU district was to combine residential and non residential uses in pedestrian oriented and transit oriented settings. This location was on the KU On Wheels and also on the T bus routes. She said this was appropriate within a quarter of mile within the designated transit route, which fit this location, near or adjacent to the intersection of arterial streets and within a quarter mile of the university campus. This was the kind of location this zoning was designed to take care of. Any time they were looking at the zoning, it had to be compatible with the existing development, which surrounded the proposed mixed use development. That compatibility in the MU district was best achieved through a transition and building, form, scale and intensity rather than through uses. She had spent a lot of years thinking about what uses were compatible. The MU district had uses, but also had the density of form and scale, which was related to the SmartCode which was why this was a good infill development and good infill development at this location.

When looking at the compatible uses, to the north of the Jayhawk Book Store was RMG, to the east was RMG, which used to be the dormitory designation, but was now the Greek and dormitory uses. To the south and west it was KU. She said the property on the corner for sale was the RS7 and was surrounded primarily by non residential uses, but was on the edge.

She said one of the strengths of the Jayhawk Bookstore was its art supplies and the art and architecture students use this bookstore and count on it for their supplies. She showed the 200 foot notification area and it did not get very many residences because there were not very many residences in the immediately affected area. In terms of the neighborhoods, it was adjacent to the University Heights and West Hills neighborhoods. She said West Hills Heights would not get notification but that was because of the code.

She said as part of the zoning application and part of the final approval of the zoning application, in any MU district, they had to understand and declare where the development

zones were. There were three categories of development zones and the primary zone was the most intense, which was where the greatest activity would take place. There was no primary zoning in this request because of sororities that were immediately to the east would be treated as the primary zone. The designation bounded the Jayhawk Bookstore to use as secondary development zoning so it would never have as great of intensity as the sororities to the east. The tertiary zone was across the street from the single family uses and the uses must be immediately compatible in density, scale and form to those residential uses. Specifically, the development controlled them and within that secondary development zoning, there could be 15 dwelling units an acre and within the tertiary one there could be 12 dwelling units an acre. There were height maximums, how much of the lot could be covered by the building, what types of structures were permitted and what types of uses were permitted. All mixed use development required a site plan review and approval. That meant that any change of use required a site plan review and approval.

She said she thought the confusion came in because with that site plan review and approval there was a requirement to make sure that use and site plan were compatible with Horizon 2020 and was compatible with the adjoining properties. That was part of what they had to do when they looked at the site plans. It was not essentially a rezoning hearing, but a site plan that considered the physical and how it related to the neighborhood.

She said she believed that Commissioner Amyx was correct in his desire to make sure that any change in use was approved by the governing body because that would happen with the site plan. She was concerned about the language not being clear and if through that site plan process it would accomplish a change of use and through the code they had the requirements to the neighborhood associations and requirements for posting. Anyone who lived in the neighborhoods had to work hard to avoid using Crescent at some point or another, but certainly one of the neighbors would see a posting about a site plan review. She also used the City website and signed up for any request that came for the Planning Office in any part of the



City. If there was a concern they would not have enough time, anyone who wanted to could get notice when the applications came in, so they would have as much time as any City staff member would. She requested the City Commission continue with their tentative approval of this zoning designation with the removal of condition 2.

Commissioner Amyx said Eldredge had a concern with proceeding with Ordinance No. 8331 as written. He said because of the problems with the text amendment regarding mixed use, he said he suggested the City Commission look at this request differently and to make a change to that text amendment regarding notification. He said Eldredge's applicants wanted their property to become a conforming use and the applicants stated there was no desire to make any changes to their property, but if that was the case, he thought it was appropriate to keep the current language. In the future, the City Commission could address the text amendment that dealt with mixed use zoning to see if changes were needed.

Greg Hurd, Lawrence, said he agreed with West Hills and University Heights comments. He noticed, by looking at the map, was that the neighborhood would lose their voice in the process which was a big hazard. When looking at 200 feet and West Hills became voiceless because it was past 200 feet, the foot traffic would walk directly through that neighborhood and walk down his street and dropped litter in his yard which affected him personally, along with his property value and each of their lives, whatever went into that space. In the past 43 years, there had been a number of businesses at that location. The zoning as it stood now worked and he saw no reason to make a change. It seemed there was no impetus for change other than opening up possibilities that would be open anyway through discussion and through open meetings. He encouraged the City Commission to rescind this request rather than maintaining the status quo.

Robert Lewis, Vice President West Hills Homeowners Association, said he thought they needed to leave things as status quo. He said the state statute would define this issue as spot zoning, which would make it illegal. He initiated City/County Planning in Western Kansas and

was the one who presented to the county as well as the city commissioners. He said the City Commission created a lot of hard feelings in the community.

Mayor Dever said he did not think the City Commission created hard feelings, but merely listening and moving forward.

Commissioner Amyx said after the comments heard, it would be appropriate to keep the language in Section 3 of Ordinance No. 8331 regarding the mixed use zoning categories. He said staff did a good job in drafting the appropriate language regarding the applicants request and at the same time, it gave the opportunity for the governing body to hear any changes that might happen in the use of that property based on the criteria required in the development code. He said they might have forgotten part of the process that should have been placed in the mixed use category about notification and those kinds of things. Since this was the first request, he was going to error on the side of the neighbors to make sure the neighbors would be heard in this particular case.

Mayor Dever asked staff to respond to the spot zoning allegation.

Corliss said there was nothing specific in state law that outlawed spot zoning. Spot zoning was a label that courts had put on zoning decisions that they found were unreasonable because a jurisdiction or governing body rezoned a piece of property and there was not a strong rationale why that particular spot was zoned something versus its surrounding property. Spot zoning was always illegal just like illegal zoning was always illegal. In this particular situation, staff had gone through the process of approving a new zoning district of mixed uses that had a certain criteria and category and received an application to rezone that piece of property to that use. He said he did not think this was something that the court would say did not have a rational basis for determining if this was the right zoning category. It was not getting at the use issue, but he did not think this was a situation where the court would say the Commission had spot zoned a particular piece of property because essentially what was done was if the zoning proceeded it was zoning the property to its current uses. If zoning that area to an industrial

park, there would be a lot of question, but one question was the basis for that type of zoning, but not in this particular situation.

Commissioner Hack said if there was a situation where a site plan came to the City Commission and proceeded with the language suggested by Eldredge and there was a change in use that triggered that use coming before the City Commission, she asked what was the Commission's ability to deny the use based on the site plan.

McCullough said that would likely be answered at the time of the decision. Site plans were not typically denied because of use issues. Typically, site planning issues were reviewed heavily for access management issues. He said with things that were not necessarily black and white in the code, there were access management guidelines and access was often times a matter of traffic impact studies. If there were hard standards, often those items went to the Board of Zoning Appeals, but typically, the use was not the question.

Corliss said the Commissioners needed to be explicit about what level of review they wanted for a change of use on this property. The language placed in Ordinance 8331, the way staff understood Commission's views at that time, created a presumption that the uses allowed in the MU District were allowed to continue as long as there was that additional check that this body, after public notice provided, to comply with the development code. The City Commission did not have the blank slate to be able and say the use was not going to work after all. That would probably run afoul that the property had been rezoned MU and the uses were the uses of right. If the Commission wanted the ability to say they were not sure of the uses, other than the current uses allowed, the Commission needed to have a more exploratory view of all the MU uses and lay those out and the appropriate body for that was the Planning Commission. The purpose of the MU district was so that those uses were allowed to proceed, except for the few uses they were going to exclude. A good example of that was the O'Reilly Auto Parts Store. It was proceeding through administrative review of the site plan. The property east of Checkers was zoned commercial. The zoning by right allowed some retail store. There were a lot of

issues about access management and what kind of median they would have on 23<sup>rd</sup> Street and would probably see that as a public improvement issue, but was allowed to proceed under the development code. Staff wanted to make sure the ordinance language gave that direction.

McCullough said it was not a light issue to say the site planning process did not mitigate a lot of neighborhood issues. O'Reilly's was a good example of a lot of ways to develop an auto part store site plan. He said they ended up moving parking away from the neighbors because that was a strong issue. While the use was never in question, how the site was developed was an issue and a negotiation between the neighborhood association, owners of adjoining property, staff and the applicant. It could be a very complete process.

Commissioner Highberger said he wanted to make sure all Commissioners had a clear understanding of the ordinance language before voting on it. He said he understood the existing language stated that any change in the existing property described in section 2 shall be approved by the governing body upon the criteria inquired in the development code. It meant that they would apply the same standards staff would it receiving the application and the City Commission could not reject a use by right, but could use all the tools in the site plan to affect the impact of the site.

Commissioner Hack said in essence, the language that was redone by staff and choosing either 3 or 4 actually stated what they could do. If the second one stated change of use according to the development code, then they did not have the authority to say "yes" or "no."

Vice Mayor Chestnut said there were a lot of comments from the neighbors about what their desires were for the property, and that was an important consideration. He continued to go back to the City's planning process which was a balance between the public welfare and the rights of the property owner. The general goal was to achieve a maximum freedom and the intent to meet and safeguard individual rights. They had to keep that in mind as well because it was an important part of this process that had not been discussed tonight in public comment but

part of what the City Commission had to take into consideration because it was the general goal of Horizon 2020.

He said he was in support of mixed use zoning because one of the things this community faced over the last 15 to 20 years was all the services migrated towards the edge of the City and had done that based upon a lot of green field development for retail and the desire from previous Commissions to move toward more neighborhood services. That had been an issue a lot of neighborhoods had talked to the Commission about. He said when discussing walk ability to get services closer to neighborhoods that was the intent and the unintended consequence of throwing mixed use completely out was there would be no incentive, essentially to bring any basic services closer to neighborhoods that were walkable. The zoning code had been difficult up to this point and this was an attempt to achieve that goal and he supported that.

He said regarding legal non-conforming use, one of the problems he had with leaving the status quo was he did not know if what legal non conforming use was defined as. There was a comment over 43 years that has changed 3-4 times. The fact was that it changed up to this point to uses that were desired. He asked what if it changed to a use that the neighborhood did not desire. The fact was there was not a lot of control and could go back and review, but did not have a body of development code as protection to go back and look what was defined as a non conforming use. They all had an understanding of what constituted a change or not, but the fact was there was not a lot of recourse to leave the status quo. Up to this point, there were great owners at that location and people who had good uses at that location, but one of the comments that came was a resale clothing shop. He was not sure he could make the argument that as a non conforming use, if it was retail, that the Commission had the right to say that was a legal non conforming use. There was a lot of confusion and was why they wanted to achieve bringing things into legal conformance with some type of zoning so all the parameters Ms. Eldredge and McCullough talked about with buffer zones and all the different things that were there. He said he had desire to bring this area into compliance because not only was it a

request for the applicant, but it was best going forward to control the process. The problem he had with sending it back to Planning Commission and trying to limit uses was any use the way it was defined in the code was relatively broad. He did not think it was going to accomplish the goal of the desire of the neighbors. Any of those uses that would be a circumstance that might come in that would not be in conformance with what they wanted as a neighborhood.

He agreed with Commissioner Amyx that one thing about MU was they might consider a broader notification area. This whole process depended on trust and a good relationship. He had seen plenty examples since he had been on the City Commission where there was a great outreach between the applicant and neighborhood and come up to a very good consensus. Sometimes it did not work, but there were a lot of safeguards to do that.

He said he felt comfortable with Options 3 and 4 because they offered process. He would like to move forward and from his standpoint of discussion was which one was the more agreeable one. He thought that option 4 language was pretty definitive what the process would be moving forward if there was a change of use that created a site plan. He said he understood there were a lot of uses named in that zoning, but with .48 acres and all the development code, there were very few uses that would move forward. He said there was no way anything much more intense would stand any test of traffic because it was a problematic intersection anyway. He said he would like to pursue option 4 because it was the clearest language.

Commissioner Highberger said he did not have a strong preference for Option 3 or Option 4.

Mayor Dever asked why No. 2 of the ordinance was unacceptable.

Commissioner Highberger said the only difference than from Option 4 stated "change in use rather than site plan." He said "site plan" might be a little clearer.

Commissioner Amyx said the regulation, "Any change in use for the property described in Section Two shall be approved by the Governing Body applying the criteria required in the Development Code", was clear. He said a change in use would trigger a site plan and

obviously they were going to be approving the change of use. He said they needed to use the criteria required in the development code.

Mayor Dever asked Chestnut to explain his concern about option 2.

Vice Mayor Chestnut said option 4 defined very specifically based on what their planning staff's understanding was of what would trigger that event; anything that would trigger a site plan would come back to this body was pretty clear. He said he was concerned because it was a little vague in the existing language.

Commissioner Hack said number two in the original ordinance set up an expectation that the City Commission would be able to deny a use that was clearly allowed in the development code and that could not be done. She preferred option 4 and liked how the site plan had been elevated higher and the wording was very clean. She said the Vice Mayor was correct regarding variances, setback and traffic. There was so much more that went into a site plan and because of that there were many more safeguards and a number of those safeguards were worked out by staff prior to the City Commission.

She also agreed the notification in a mixed use area, particularly in infill, had to be adjusted. She said if mixed use was defined as combining residential and non residential uses, it was already mixed use. She said the insurance costs varied from year to year and the ability to rebuild if there was significant damage was a real burden on the property owner. It did not mean the property owner's rights supersede the neighborhood's rights, but the balance of those two was critical. She said she was sorry if people were offended, but Commission was doing what they believed was right. It was the hard part of this.

Vice Mayor Chestnut asked if there was a change to include option 4 but also stipulate a broader notification to include neighborhood associations and perhaps and broaden the notification area to 400 to 500 feet.

Mayor Dever said the nature of this mixed use category was not going to be unique to this area. The unique attribute of a mixed use area was going to be an unusual mixture of uses

in that area, so with KU being on one side, it was going to make it difficult to get the proper notification involved if they used their standard notification distance. He said last time they talked the things he heard the most was that people wanted to know when things were going to happen and that they did not have standing. Given the nature of the mixed use application, he thought it was only fair to expand that radius and offer the opportunity for more people to weigh in on the subject. He thought it was only fair to protect the neighborhood and rights of the owner. It was a simple request and the owner had talked about it for years. Leaving the status quo was irresponsible and unacceptable in his opinion and had a category they felt was applicable.

He said if the KU Endowment Association was letting their houses deteriorate, then the neighbors should go before the KU Endowment as they had in front of the City Commission and tell KU Endowment to get their properties in order. He said that was a big impact because the neighborhood was eloquent and organized.

He said he thought there were flaws in the mixed use basically on notification and the realm of possibilities of use. He thought the public was under selling the amount of work and planning put into the codes. He said it was interesting how much regulation was on those properties and most people thought they were too highly regulated. He said he was okay with changing item 2 if it was made better.

Commissioner Highberger said he mostly agreed with Vice Mayor Chestnut. The primary reason he supported the proposed rezoning was it preserved the interest of the property owner. It was a courtesy the Commission tried to do with other property owners. He said some of the residential properties were rezoned to RS5 from RS7 because the owners of those properties lot size were too small for the previous zoning districts. Now if something happened to those properties since those properties were rezoned to RS5, if their house burned down the property owner could build. He said the zoning category was appropriate. He said the location of this property was going to make most of the uses extremely unlikely.



This was not a new concept and was standard practice until made illegal about four years ago. In all the neighborhoods, there were mixed uses and some were conforming and some were not. He thought this had potential to make things better, not worse. He would not normally vote for an action that would have an impact on the neighborhood. He said he was leaning toward option 4 and would support expanded area of notification requirements for mixed use.

Mayor Dever asked what was a reasonable expanded radius.

McCullough said there was 200 feet for rezoning applications and might double it to 400 feet.

Vice Mayor Chestnut asked in the motion should they specify the neighborhood associations that would be notified.

McCullough said University Heights and West Hills.

Commissioner Amyx said he supported the mixed use. He said he did not think the City Commission had the right to make a determination for a specific use at a specific location.

Mayor Dever said earlier Commissioner Amyx indicated the City Commission could not legally disallow a use.

Commissioner Amyx said until McCullough mentioned the City Commission had the ability to conditionally zone, once he heard that statement, it made it work.

Mitchell asked if there was a way to prohibit uses such as campus bars or fast food.

Mayor Dever said if they started into the process of trying to disallow uses, they would mess up possibly a good thing.

**Moved by Hack, seconded by Chestnut,** to adopt on second reading amended Ordinance No. 8331, rezoning (Z-05-10-08) approximately .48 acre from RMG (Multi-Dwelling Residential-Greek Housing) to MU (Mixed Use), located at 1420 Crescent Road with the amendment to change the Section 3 condition 2 language to read as stated in option 4 in the Eldredge October 27<sup>th</sup> letter and with the condition of expanded notification to property owners

within 400 feet of the affected property and to include notification to the West Hills Neighborhood Association and the University Heights Neighborhood Association. Aye: Chestnut, Hack, and Highberger. Nay: Amyx and Dever. Motion carried. (16)

The City Commission recessed at 8:50 p.m.

The City Commission resumed its regular session at 9:00 p.m.

**Consider approval of Agreement for Purchase and Sale of Real Estate for excess City property, generally located north of the Kansas River, adjacent to the Kansas River levee west of N. 2<sup>nd</sup> Street, to North Mass Redevelopment.**

David Corliss, City Manager, introduced the agenda item. He said the agreement had slightly changed as staff refined the wording. He said the agreement still followed through on the concept that the City was selling the surplus property it owned adjacent to the Kansas levy, not the levy itself, but the adjacent property to it, subject to the City's confirmation that it was not infringing on the function of the levy.

Commissioner Highberger asked how staff arrived at the purchase price.

Corliss said an appraisal was completed by a qualified appraiser in which the square footage value was determined. Staff did not know the exact square footage that would be transferred because additional survey work was needed to determine what specifically the City owned. The City was not selling the right-of-way. It was going to be a City maintained road until the sale was consummated and the redevelopment plans proceeded and anticipated with the development, new roads would be platted in that area or perhaps private drives, but the City was not selling the City right-of-way for the road right-of-way.

Mayor Dever called for public comment.

Ted Boyle, North Lawrence Improvement Association, said they would still like to see the property sold behind Johnny's and in this particular area this mixed use would work very well and hopefully a grocery store could be constructed in that area. This type of development in North Lawrence was welcomed instead of warehouses. The neighborhood was 100% behind this development and would like to see the money received for the sale of that property spent in

North Lawrence, possibly to off-set the cost of North 2<sup>nd</sup> and Locust Street widening in spring 2010 when the turnpike closed down.

Dan Watkins, attorney for the North Mass Redevelopment Group said the safeguards in this agreement protected the City. The City had power over approving the redevelopment and it had to meet all the requirements of the Corps of Engineers. The City was protected and City participation allowed for some redevelopment opportunity along the riverfront that could benefit North Lawrence, downtown and the entire city. He urged the City Commission to enter into an agreement and looked forward to developing that property.

Commissioner Amyx asked if anything special had to be considered in selling City property.

Corliss said Toni Wheeler, Legal Services Director, looked at the statutes closely as to how to dispose of property and there were no special procedures to follow. The County had a bunch of procedures for surplus property, but the City did not. He said if there were any proceeds from the sale and the transaction was consummated, he suggested using those resources back into storm sewer work associated with the North 2<sup>nd</sup>/Locust Street Project. The timing might work very well. He did not want to spend the money before the City had that money.

**Moved by Highberger, seconded by Amyx,** to approve the agreement for purchase and sale of real estate for excess City property, generally located north of the Kansas River, adjacent to the Kansas River levee west of North 2<sup>nd</sup> Street, to North Mass Redevelopment. Motion carried unanimously. (17)

**Consider accepting 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 approximately 1.07 acres located at the intersection of Frontier Road and Fireside Drive.**

Sandra Day, Planner, presented the staff report. She said this was a preliminary plat the Planning Commission considered and forwarded to the City Commission with unanimous recommendation for approval. The preliminary plat would address the area just north of 6<sup>th</sup>

Street. It would take 20 or so individual lots that were currently developed today and replatted into three larger lots in preparation for redevelopment of the vacant area that was a result of the fire and opportunity for future redevelopment of the balance of the property. She said there were a series of structures on the south side of Fireside Drive that was included in the staff report as a vacation of right-of-way.

She said the preliminary plat showed the existing improvements, how they related to the property lines. An overall concept plan was provided to give an understanding of what long term redevelopment would look like for this property. The vacation of the right-of-way allowed for structures to move forward to that property line creating more distance between development and the abutting single family residential lots on that far east side. With redevelopment of the third lot, they had the opportunity to do some closure of existing driveways and provide internal circulation to that driveway as it redeveloped in phases.

She said staff recommended approval of the preliminary plat, the vacation of the right-of-way and a series of new easements to support the new lot configuration. There were a few conditions the applicant met. The Planning Commission took their action on September 22<sup>nd</sup> and made a unanimous recommendation. The City Commission's action was to accept the easements and vacation of right-of-way for Fireside Drive.

Paul Werner, Paul Werner Architects, said he did not really have anything to present. He said this was not the most creative of what they would like to do but had a street to work around and different setbacks and buffer yards. He thought they had addressed all the conditions and concerns they had from public comment.

Mayor Dever called for public comment.

Michael Clover, an adjacent property owner to the Addition, said he was in favor of the vacation and right-of-way contingent upon the contract he and Todd Thompson and the owners of the Boardwalk property entered into for his property. He said there was also a second part of the vacation that included part of the driveway in front of his house. He said he had no problem

with the vacation as long as the purchase of his property went along and would be in favor as long as it was done as part of his closing, otherwise he did not want the street to go away from public domain for the simple fact of snow removal and upkeep that was done by the City.

Commissioner Highberger said his biggest concern was the vacation of the right-of-way. He asked if there was anything on the plat that precluded or ensured future access to the private road.

Werner said it was platted as a 30 foot wide access easement following Fireside Drive continuously through to where it hit the public street. It was on the plat and planned on staying.

Commissioner Highberger said he would support this subject to the condition of requiring a public access easement.

Corliss said there were not a lot of code provisions or experience with the definition, but he interpreted a public access easement as a property right the City owned. An access easement was something that two or more private property owners could share access among themselves, but it did not guarantee the public could access the easement. He said the City Commission interest was for the public to have access.

Mayor Dever said by definition, the City was deeding over access. The land the street was presently on was public right-of-way.

Corliss said state law allowed vacating right-of-way through the platting process and that was being proposed with reservation of an access easement.

Mayor Dever said the land itself was then transferred.

Corliss said all of the property interest in the land would be transferred to the plat owner. He said if Commissioner Highberger wanted the public to have access, in his opinion, they needed to clarify who owned that access easement.

Werner said if the area was platted as one large lot for an apartment complex, for instance, that area would not be called an access easement and it would be very unusual to plat. He said since their area was being platted as three lots and those three lots would help

develop the portion that burned, when construction was underway, their hope was to demolish the other building and redevelop the entire parcel. He said there was no desire to put up gates and he suggested this discussion was probably a site plan issue. He said he would like to go on record that as far as he knew with where they were today with the site plans that were submitted, it was an access easement to a public right-of-way on both ends and the intended purpose was to leave it open and nothing was shown on the site plan to limit access. He said they see it functioning as a public street.

Corliss asked if Werner's client had an objection to it being a public access easement.

Werner said he needed to ask his client, but he did not think so. He said there was always a worry about putting more terms on a plat because to get rid of it, that entire area would need to be replatted. He said he would rather look at it as a site planning issue.

McCullough said the subdivision regulations defined access easement as an easement created for the purpose of providing vehicular or pedestrian access to a property which left it vague, in his opinion.

Day said regarding this particular property, a portion of that property would still remain. There were two corner properties and access was still to those public streets. There were many examples where access easement was used throughout the community. Staff had started to engage in that discussion because there were a number of types of easements. She said in terms of overall access, that access would still be maintained throughout the project and to the abutting lots.

Corliss said it was accurate to say that if it was the desire of the City Commission to allow the public to access Fireside Drive, then it needed to be dedicated as a public access easement. He said if it was the Commission's goal to continue with the removal of the right-of-way, it was not going to be a public street and the City would not maintain, own it, and would not have the setback issues of a right-of-way which was all agreeable with Planning Staff and the majority of the Planning Commission.

Werner said he did not think that was a problem, it seemed to him to be a moot point. That was one of the reasons to show the concept plan. The City built a brand new street last year and the goal was to use it. He said if they wanted to call it a public access easement, they could, but it was the same thing one way or the other.

Commissioner Highberger said one of his concerns was the invasion of public space and from an access easement standpoint, if someone wanted to have a protest march, with an access easement they could probably say no, but with a public access easement you could not say no. He said his preference would be to approve it contingent upon a public access easement at Fireside Drive.

Mayor Dever said the City was basically taking land that was in the public domain and giving the land to the developer and it was a quid pro quo where the City would get something in return and the City would be protecting the access rights which made sense.

Commissioner Amyx said if the area was made a public access, he asked if there were other steps this individual needed to go through before this property could be built upon.

McCullough said it would be interpreted as an easement and the setbacks did not affect it.

Corliss said there was a contract for the sale of the property and he was not sure how it fit into the issue. The request from the property owner was to not execute the final document approving the vacation of right-of-way for Fireside Drive until the sale of that property was closed.

Werner said there was about a 20 – 30 foot section north, but technically there had been no public hearing to vacate that northern section of Fireside Drive that touched Michael Clover's property that would happen after closing on his property. He said they had intentions of closing. There was a ration of inspections and were working out those details. He said he did not want to see the closing of that property held up. There were more people being affected by this and it might go back to this being a public access easement. There was a brand new road opened to

the public and no one was asking to close that road. He said there was no understanding that they would not close on that property, but they were not able to get Clover's attorney, their attorney, and the landowner agreed on what was being asked in the contract. He said he wanted to point out again that small piece for property they were talking about would still come before the City Commission for a vacation of 25 or 30 feet on Fireside Drive which gave Clover some comfort there was another chance. He said he did not want to speak for Clover's attorney, but the site plan has not been approved yet and if they were doing something with the site plan that the neighbors wanted to bring up, there was still the appeals process and reviews of that document.

Mayor Dever said since it had not been vacated, the City still had to take care of it and it did not impact Clover at all because it was not part of this agreement and that portion of the street was not included in the approval.

Werner said correct.

Corliss said he wanted to make it clear that the City Commission was not going to vacate the final northern portion of Fireside Drive until there was a satisfaction from Clover. He said there was discussion earlier about not vacating that property adjacent to Clover's property.

Mayor Dever said it seemed they would become part of the negotiation of a real estate transaction. He said Clover stated earlier only allowing it if he put in a satisfactory end to the negotiations of his property.

Clover said the reason was because, before the City Commission was a preliminary plat that covered all four sections of that property. There were 3 or 4 different plats and that top section which was 20 or 30 feet was part of his property as well as up into the drive. It covered basically up to the existing fence line as well as the 20 feet. The vacation of the property and agreeing to the entire plat, with the changing of all those property lines, they were agreeing to that section being changed and that was why he mentioned contingent upon that side of his property.



Mayor Dever said he was looking at the plat and it did not include Clover's property.

Clover said where the driveway existed now was part of his property and was going across his property line.

Mayor Dever said that explanation was reasonable.

Werner said the City Commission did not want to get into the middle of real estate negotiations. He said what was technically in front of the City Commission did not include that hatched area. The hatched area would come before the City Commission some time in the future.

Mayor Dever said if none of that property was included in the preliminary plat the City Commission was approving and they were going to dedicate a public access right-of-way, then he preferred not to include agreements subject to those real estate negotiations.

**Moved by Amyx, seconded by Hack,** accept the dedication of easements and rights-of-way for PP-07-08-08, a Preliminary Plat for Boardwalk Addition, subject to the condition in the staff memo and with the additional condition of requiring a public access easement. Motion carried unanimously. (18)

**Consider the following items related to the Lawrence Douglas County Metropolitan Planning Organization (MPO) Re-Designation Agreement:**

- a) **Consider approval of and authorization for the Mayor to sign the Lawrence-Douglas County Metropolitan Planning Organization Re-Designation Agreement for Cooperative Transportation Planning.**
- b) **Consider selection of voting members for the re-designated Lawrence-Douglas County Metropolitan Planning Organization.**

Todd Girdler, Senior Transportation Planner, presented the staff report. He said before the City Commission was a re-designation agreement of the MPO, Metropolitan Planning Organization, for the Lawrence area. Since 1982 that function had been filled by the Joint City/County Planning Commission, an appointed body, and this designation re-designated the MPO to a new style of MPO comprised of elected officials, which was more consistent with the

current federal regulations for MPO planning. The first part of the item was to consider approval of the agreement and authorize the Mayor to sign the agreement. The second half was to consider selecting two new members to this body, as outlined in the agreement that was to be done at a regularly scheduled meeting by a majority vote of the City Commission.

Mayor Dever called for public comment.

Commissioner Hack said this would put the City in the same league with what was practiced in many communities and placed those individuals on the MPO who actually had spending authority, which was critical as part of any transportation plan. Crafting this agreement took a lot of time and appreciated moving towards this item.

**Moved by Hack, second by Chestnut,** to approve the Lawrence/Douglas County MPO Re-Designation Agreement and authorized the Mayor to sign the agreement. Motion carried unanimously. (19)

**Moved by Amyx, second by Hack,** to approve the selection of Mayor Dever and Vice Mayor Chestnut for the Re-Designated Lawrence/Douglas County MPO. Motion carried unanimously. (20)

**Consider the following Traffic Safety Commission (TSC) items:**

- a) **Consider denying a request to establish additional traffic control at the intersection of Arrowhead Drive and Peterson Road.**
- b) **Consider approving recommendation from the Traffic Safety Commission to establish no parking along the north side of Eisenhower Terrace.**
- c) **Consider approving recommendation from the Traffic Safety Commission to permit parking along the east side of Jana Drive between Harvard Road and Holiday Drive.**

David Woosley, Transportation/Traffic Engineer, presented the staff report. He said the Traffic Safety Commission suggested staff getting together with the neighborhood to provide a more specific request, which was why Planning Commission voted to deny the request. The request would be heard later in November by the Traffic Safety Commission for that area.

The second item was a request for no parking along the north side of Eisenhower Terrace. The request came from the property owner who owned all the duplexes along that street. With all of those occupied duplexes, there was considerable parking in the area and with cars parked on both sides of the street caused traffic to come to a virtual stand still. The vote was 7-1 and the Planning Commissioner who voted against the request was because the requestor was not present.

He said the third item was a request to reinstate parking on Jana Drive. Parking had been officially removed from that street back in the 1990's, but it was unclear if the signs were never installed or installed and disappeared. Their records were lost in a computer upgrade a few years ago. Earlier this year, they were not in place and the City found out the area was not in compliance with code and installed signs. It prompted people in the neighborhood to ask that the signs be removed because they had not had a parking problem before.

Mayor Dever called for public comment.

Mayor Dever asked if anyone had any problems with the denial of the first item.

Commissioner Highberger said regarding the first item, it was his understanding that they wanted a safe pedestrian crossing. If they were on the November Traffic Safety Commission meeting, he had no problem denying it.

**Moved by Highberger, second by Amyx,** to concur with the Traffic Safety Commission's recommendation to deny the request to establish additional traffic control at the intersection of Arrowhead Drive and Peterson Road. Motion carried unanimously. **(21)**

**Moved by Hack, seconded by Chestnut,** to concur with the Traffic Safety Commission's recommendation to approve the recommendation to establish "no parking" along the north side of Eisenhower Terrace; and, directed staff to prepare the appropriate ordinance. Motion carried unanimously. **(22)**

**Moved by Chestnut, seconded by Highberger,** to concur with the Traffic Safety Commission's recommendation to approve the recommendation to permit parking along the east side of Jana Drive between Harvard Road and Holiday Drive; and, direct staff to prepare the appropriate ordinance. Motion carried unanimously. (23)

**PUBLIC COMMENT: None**

**FUTURE AGENDA ITEMS:**

- 11/04/08      ·      The City Commission Meeting will start at 5:30 p.m. and end no later than 6:30 p.m. due to Election Day.
- ***This is a consent agenda item.*** Approve rezoning Z-08-15-08, a request to rezone a tract of land approximately .134 acres from U (University) to RM32 (Multi-Dwelling Residential), located 1232 Louisiana Street. Initiated by City Commission on 8/12/08. Adopt Ordinance No. 8343 on first reading for Z-08-15-08, a request to rezone 1232 Louisiana Street from U to RM32. (PC Item 1; approved 8-0 on 9/20/08)
- 11/11/08      ·      ***This is a consent agenda item.*** Approve Comprehensive Plan Amendment CPA-2008-04 to amend Chapter 6-Commercial Land Use – Lawrence- New Commercial Areas and Map 6-1 to correct inconsistencies between map and text. Initiated by Planning Commission in April, 2008 as part of the annual review. Adopt Ordinance No. 8341 on first reading for CPA-2008-04, to amend Chapter 6-Commercial Land Use. (PC Item 2; approved 8-0 on 10/20/08)
- ***This is a consent agenda item.*** Approve Comprehensive Plan Amendment CPA-2008-5, to amend Chapter 6-Commercial Land Use – to correct policy numbers under Goal 3 (duplicate numbers). Initiated by Planning Commission in April, 2008 as part of the annual review. Adopt Ordinance No. 8342 on first reading for CPA-2008-5, to amend Chapter 6-Commercial Land Use. (PC Item 3; approved 8-0 on 10/20/08)
- ***This is a consent agenda item.*** Approve revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)
- ***This is a consent agenda item.*** Accept dedication of easements and rights of way for PP-08-10-08, a Preliminary Plat for Alexeis Addition, a one-lot, 0.16 acre subdivision, located at 825 Illinois Street. Submitted by Dean Grob for Paula Minetti, property owner of record. Variances are requested from Section 20-810(d)(10)(ii) to permit an alley with less than the minimum required right-of-way width of 20 feet and from Section 20-810(d)(10)(iii) to permit an alley that does not comply with the construction standards of the city. (PC Item 9; approved 6-0 on 10/22/08)
- ***This is a consent agenda item.*** Approve Text Amendment TA-08-15-08, an amendment to Section 20-403 and 20-1766 of the Development

Code to permit Light Equipment Sales/Rental uses, which includes car rental agencies, as a permitted use in the CN2 (Neighborhood Commercial) zoning district, and to clarify that this use includes an accessory wash bay and storage of vehicles onsite. Initiated by the Lawrence City Commission on August 26, 2008 at the request of Murl Westheffer of The Malls Retail Center/American Real Estate & Investments, Inc. Adopt Ordinance 8344 on first reading for Text Amendment TA-08-15-08, an amendment to Section 20-403 and 20-1766 of the Development Code. (PC Item 11; approved 6-0 on 10/22/08)

- Consider approving Comprehensive Plan Amendment CPA-2008-6, amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the West of K-10 Plan. Adopt Ordinance No. 8340 on first reading for CPA-2008-6. (PC Item 5; approved 6-2 on 10/20/08)

**ACTION:** Approve CPA-2008-6, a Comprehensive Plan Amendment to Horizon 2020, Chapter 14 Specific Plans, and adopt on first reading, Ordinance No. 8340, if appropriate.

12/09/08

- Conduct public hearing to discuss the condition of the dilapidated structure at 1207 E. 13<sup>th</sup> Street and to consider declaring the structure unsafe and ordering its repair or removal within a specified period of time.

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 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)
- Consider approving Text Amendment TA-12-27-07, 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 its July 2008 meeting. (PC item 9; approved 7-0 on 9/24/08)

**ACTION:** Approve Text Amendment TA-12-27-07, 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), if appropriate.

**COMMISSION ITEMS:**

Moved by Chestnut, seconded by Hack, to adjourn at 9:55 p.m. Motion carried unanimously.

**APPROVED:**

\_\_\_\_\_  
Michael H. Dever, Mayor

**ATTEST:**

\_\_\_\_\_  
Frank S. Reeb, City Clerk

## **CITY COMMISSION MEETING OF OCTOBER 28, 2008**

1. Sale of surplus vehicles on Gov Deals.
2. Change Order No. 6 – Construction contract, CAS Construction, Phase II Clinton Water Treatment Plant Expansion Project for \$32,749.36.
3. Final Change Order – LRM Industries, 2008 Overlay & Curb Repair Program Phase 2 for \$111,207.77.
4. Bid – Police Uniforms to various vendors for \$173,650.39.
5. Ordinance No. 8280 – 2<sup>nd</sup> Read, amend Sect 9-607 of City Code, Environmental Code.
6. Resolution No. 6807 – Identity theft prevention program, Utility Dept & Utility Billing Operations.
7. Resolution No. 6809 – Identity theft prevention program, Community Devel Block Grant.
8. Resolution No. 6810 – Public hearing date Dec. 9, 2008 for dilapidated structure 1207 E. 13<sup>th</sup> St.
9. Report – 3<sup>rd</sup> Quarter from Bert Nash Community Mental Health Center.
10. Request – Brian Kemp, Paul Werner Architects, use of 8 public parking spaces.
11. Progress Report - Lawrence Community Shelter on Good Neighbor Agreement.
12. Letter -Terence Leibold, Barber Emerson LC, non-conforming use, 729 New Hampshire
13. City Manager's Report
14. Ordinance No. 8329 – 1<sup>st</sup> Read, Max Assess Bauer Brook Ct, W of N Folks.
15. Ordinance No. 8330 – 1<sup>st</sup> Read, Max Assess Bauer Brook Ct.
16. Ordinance No. 8331 – 2<sup>nd</sup> Read, rezone .48 acres from RMG to MU at 1420 Crescent Rd.
17. Agreement for Purchase & Sale of Real Estate for excess City property, N of KS River
18. Prelim Plat – (PP-07-08-08) Boardwalk Add., 1.07 acres at Frontier Rd & Fireside Drive.
19. Lawrence Douglas Co. Metropolitan Planning Organization Re-Designation Agreement.
20. Voting Members – Re-Designated Lawrence/DG Cnty MPO.
21. TSC – Deny additional traffic control, intersection of Arrowhead Dr & Peterson Rd.
22. TSC – Approve “no parking” N side of Eisenhower Terr.



23. TSC – Permit parking, E side of Jana between Harvard & Holiday.