



# City of Lawrence

DAVID L. CORLISS  
CITY MANAGER

City Offices  
PO Box 708 66044-0708  
[www.lawrenceks.org](http://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

January 20, 2009

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

## **RECOGNITION/PROCLAMATION/PRESENTATION:**

With Commission approval, Mayor Dever proclaimed January 24 – 28, 2009, as the, "150<sup>th</sup> Anniversary of John Brown's Last Trip to Kansas;" and proclaimed January as, "Everybody Counts Month."

## **CONSENT AGENDA**

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to approve the City Commission meeting minutes of January 6, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to receive the Board of Zoning Appeals/Sign Code Board of Appeals meeting minutes of December 6, 2007, February 7, 2008, April 3, 2008, May 1, 2008, June 5, 2008, July 10, 2008, August 7, 2008, September 4, 2008, October 2, 2008, and November 6, 2008; the Lawrence Cultural Arts Commission meeting of November 3, 2008; the Board of Electrical Examiners and Appeals meeting of October 1, 2008; the Neighborhood Resource Advisory Committee meeting of September 25, 2008; and the Community Commission on Homelessness meeting of December 9, 2008. Motion carried unanimously.



As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to approve claims to 324 vendors in the amount of \$1,851,246.13 and payroll from January 4, 2009 to January 17, 2009, in the amount of \$1,747,033.97. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to approve the Drinking Establishment License for 8<sup>th</sup> Street Taproom, 801 New Hampshire; and Jo Shmo's, 724 Massachusetts. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to concur with the recommendation of the Mayor and reappoint Jim Carpenter to the Board of Zoning Appeals, to a term which will expire September 30, 2011; reappoint Jeanette Collier, Robert Mosely and Charlotte Knoche and appoint Sandra Winn Tutwiler to the Community Commission on Homelessness, to terms which will expire December 31, 2011; reappoint Lori Tapahonso, Deb Taylor, Sarah Terwelp, Chris Keary, Mike Monroe, and Luis Otero to Lawrence Alliance, to the Lawrence Alliance, to terms which will expire November 30, 2010; appoint Gary Calton to the Lawrence Bicycle Advisory Board, to a term which will expire December 31, 2009; appoint Thomas Weso to the Lawrence Citizen Advisory Board, to a term which will expire March 1, 2011; appoint Susan Craig, Kathy Porsch and Christie Dobson to the Lawrence Cultural Arts Commission, to terms which will expire January 31, 2010 and appoint Joanne Renfro to a term which will expire January 31, 2011; reappoint Kelly Barth and appoint Joe Caldwell and Andy Clayton to the Parks and Recreation Advisory Board, to terms which will expire December 31, 2012; reappoint Howard Hill and appoint Alan Black to the Public Transit Advisory Committee, to terms which will expire December 31, 2011; reappoint William Keel, Andrew Tsubaki, Gina Ross, Richard Ground, and Michael Kennedy to the Sister Cities Advisory Board, to terms which will expire December 31, 2011; reappoint Daniel Poull to the Sustainability Advisory Board, to a term which will expire December 31, 2011. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to approve purchase of 2009 software maintenance from SunGard HTE, in the amount of \$89,180. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to waive bidding requirements and approve sole-source purchase of 15,435 pounds of Polymer Magnafloc 110L for the Utilities Department from CIBA Chemical, in the amount of \$36,580.95. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to waive bidding requirements and approve sole-source purchase of 8,800 pounds of Tramfloc 1110 Anti-Foamer Chemical for the Utilities Department from Tramfloc, Inc. for \$18,040. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to waive bidding requirements and approve sole-source purchase of ACISS Case Management Software from ACISS Systems, Inc., for \$40,000. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to adopt on first reading Ordinance No. 8361, adopting the 2009 edition of the Code of the City of Lawrence. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to adopt on first reading Ordinance No. 8367, ordering the condemnation of appropriate interests in real property for use by the City for the location, construction, operation and maintenance of a public sanitary sewer pump station, sanitary sewer main and equipment and facilities appurtenant thereto. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to adopt Resolution No. 6819, providing City approval for the request of Tenants to Homeowners,

Inc. to receive low income housing tax credits from the Kansas Housing Resources Corporation (KHRC). Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to authorize the Mayor to sign the City/State Agreement for the Burroughs Creek Rail Trail Project. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Highberger, seconded by Amyx**, to authorize the Mayor to sign a Subordination Agreement for Marilyn Figuierras, 2044 Emerald Drive. Motion carried unanimously. (9)

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

During the City Manager's Report, David Corliss said the Census Bureau provided a recent community survey. The survey included demographic, income status and other interesting information.

Also, he said the City's Public Works Department implemented an anti-idling policy for vehicles. That policy was a way to educate the workforce about fuel use and environmental impacts.

One of the strategies, in looking at expenditures, was to look at larger ticketed items such as fuel. The Vice Mayor asked for a report and staff would look into fuel hedging and buying fuel in larger bulk. Staff thought good progress was made in terms of their usage of fuel.

He said with the fluctuation of fuel prices last year, staff would track that information more frequently. Steve Stewart, Central Garage Superintendent and other City staff in that Division, did a good job of keeping record to date. (10)

#### **Consider the following items related to the Lawrence SmartCode:**

**a) 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 a comprehensive zoning regulations and other land use regulations. Consider adopting Ordinance No. 8286 on first reading regarding TA-11-24-07 for the Lawrence SmartCode.**

**b) Consider adopting on first reading Ordinance No. 8288, for Comprehensive Plan Amendment CPA-2007-6, to amend Horizon 2020 by creating Chapter 15 – Place Making to ensure property comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence.**

**c) Consider adopting on first reading, Ordinance No. 8289, for Comprehensive Plan Amendment CPA-2007-7, to amend Horizon 2020, Chapter 14 Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan**

Dan Warner, Planner, presented the staff report. He said Article 3, Greenfield Development, would be reviewed by the CRC with final approval by the City Commission. The notice requirement was expanded to Articles 3 and 4 to include property owners within 500 feet instead of the original 200 feet, for consistency sake.

He said staff provided three options regarding architectural standards which were:

1. Leaving the current standards in place and review those standards after a few projects were online to see how those projects worked;
2. Leaving the current standards in place but proceed with revising those standards with local assistance. A text amendment to the code would be initiated after the standards were revised; or,
3. Removing those standards and direct staff to revise those standards with local assistance. A text amendment to the insert those standards back into the code would be initiated after the standards were revised.

He said staff preferred the first option, but would like to put those options in practice to see how those options worked before making changes. Staff's recommendation was to approve the SmartCode and adopt the text amendment ordinance along with the two ordinances regarding the comprehensive plan amendments.

Commissioner Amyx asked about staff's recommendation of Option 1.

Warner said Option 1 was staff's preference, but staff wanted to see how a few of those projects worked to see if those projects would be problematic for local use or not.

Mayor Dever asked what the method would be to work around, regarding architectural standards, with items staff perceived as problems.

Warner said if someone proposed a project that did not fit with the architectural standards the project could be approved through a warrant process, but under Article 3, the project could be approved through the City Commission. If the project was under Article 5, the

project could be approved by CRC for architectural review. He said there were other options if a project did not fit the standards currently and that would be one way to deal with it through that warrant process. Staff would make note of what was not working and come back with a discussion item.

Commissioner Hack asked if Warner had heard any other concerns about the architectural standards other than the letter that was in the City Commission's packet.

Warner said no, the letter was the first hint staff received that those architectural standards were not well accepted.

Commissioner Amyx asked if the concerns expressed in the letter had more to do with whether someone would use the code because of the architectural standards rather than go through the regular development code process.

Warner said he thought the concern was not as much flexibility with the standards as perhaps there should be. He said it was not a choice between using or not using the code, but that the flexibility was not present as it should be and it was a little too rigid.

Commissioner Highberger said just for the record, Gwen Klingenberg made some comments about the architectural standards at the last City Commission meeting.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Highberger said he appreciated staff's recommendation, but he preferred the second option to direct staff to work with local architects and meet with concerned citizens to try and address those concerns before a project came into play.

Commissioner Amyx said he agreed with Commissioner Highberger. He said he wanted a code that would be used and if the flexibility was too rigid on what should be common practice that was the wrong way to go. He said local assistance from local architects made good sense.

Commissioner Hack said she agreed with the second option. She appreciated the notification, City Commission approval, but hated to have a project not move forward because

opportunities to see how it worked might not be present and would become more complicated. She said it was better to do some of those things up front. She appreciated staff's position, but she hated to see those standards stop someone from doing a SmartCode project.

Vice Mayor Chestnut said he agreed, but had questions about how the process would work. In other words, the City Commission would adopt an ordinance on first reading, but if there was some stipulation about working out some of the architectural standard issues, he was not clear how that worked.

Scott McCullough said the City Commission would adopt an ordinance on first reading with an effective date of July 1, 2009 which gave staff time to work on those text amendments.

Mayor Dever said he agreed with the other Commissioners and hoped the changes incorporated comments from local architects and members of the community who found fault with some of the architectural standards and could publicly determine how to come up with those changes in the next few months and have a meeting or study session with the interested parties to receive input and move forward.

**Moved by Chestnut, seconded by Highberger** , to approve text amendment (TA-11-24-07) and adopt on first reading, Ordinance No. 8286, incorporating by reference, Chapter 21, the Lawrence SmartCode of the City of Lawrence, Kansas, January 20, 2009, "Edition" and directed staff to proceed with option 2 in the January 15, 2009 staff memo (leave the standards in place but proceed with revising the architectural standards with local assistance. A text amendment will be initiated after the standards have been revised.) Motion carried unanimously.

(11)

**Moved by Chestnut, seconded by Highberger**, to adopt on first reading Ordinance No. 8288, a Comprehensive Plan Amendment (CPA-2007-6), to amend Horizon 2020 by creating Chapter 15, Place Making, to ensure property comprehensive plan language is in place for the proposed SmartCode in the City of Lawrence. Motion carried unanimously.

(12)

**Moved by Chestnut, seconded by Highberger,** to adopt on first reading Ordinance No. 8289, for Comprehensive Plan Amendment CPA-2007-7, to amend Horizon 2020, Chapter 14 Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan. Motion carried unanimously. (13)

**Consider approving revised CPA-2004-2, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading revised Joint Ordinance No. 8283/County Resolution No. \_\_\_\_\_, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7.**

Amy Miller Brown, Planner, presented the staff report. She said this item was last before the City Commission at the October 21, 2008 meeting. Staff brought the comprehensive plan amendment and its associated ordinance before the City Commission that evening with changes the Commission requested from the September 23<sup>rd</sup> meeting. Those changes included adding to the general locational criteria on page 7-5 that sites have minimal areas of non irrigated capability Class 1 and Class 2 soils. Staff made that change along with changes to the corresponding policies.

At the October 21<sup>st</sup> meeting and after a lengthy discussion, a motion to send the item back to the Planning Commission failed. A motion was then made to approve the revised CPA and that failed as well. Both of those items needed a super majority vote. Ultimately, the CPA was tabled pending input from the Board of County Commissioners.

There were three versions of the document that have been discussed since the Planning Commission recommendation in May. The first was the Planning Commission's recommended version, which contained two paragraphs on page 7-8 that referred to the need to balance the preservation of soils with industrial development. Option 2 removed the first two sentences of the second paragraph on page 7-8 that specifically referenced the airport site. Option 3 added a fifth locational criterion that talked about prime soils.

At the November 12<sup>th</sup> Board of County Commissioners meeting, that Commission engaged in a lengthy discussion regarding the options that were in front of them. Ultimately, the



board unanimously approved the Planning Commission's recommended version of the comprehensive plan amendment.

Staff was recommending the City Commission vote to approve the Comprehensive Plan Amendment as the Planning Commission's recommended version and adopt on first reading ordinance No. 8283. If the City Commission did not choose to approve anything other than the Planning Commission's recommended version, a super majority vote was required.

Also of note, staff received information that afternoon from the County Administrator, Craig Weinaug, it was likely that he would be asked the next day by at least one member of the County Commission to place this item back on their County Commission Agenda on January 26<sup>th</sup> for reconsideration.

Commissioner Hack asked what would happen if the County Commission adopted a different version than the City Commission.

Miller Brown said ultimately both governing bodies needed to agree.

Mayor Dever called for public comment.

Barbara Clark said she was a small farmer in Douglas County. She said one of her concerns was that consistency throughout documents would be a very advantageous thing for anyone making decisions concerning land use. She saw that ECO<sup>2</sup> was going to be coming before the City Commission after this item and they also had new language that addressed capability Class 1 and Class 2 soils. She was not sure how that would be done procedurally, but it was a good idea to have some consistency for Chapter 7 of Horizon 2020 and ECO<sup>2</sup> document and how those documents addressed soils in Douglas County and their preservation. She said if that was not done, she had a few suggestions that she hoped would be taken in respect that her suggestions had been thought through.

She said on page 7-2 on Horizon 2020, the second to last bullet addressed the natural environment and things that were going to be addressed in Chapter 16. In that paragraph there was nothing addressing capability class 1 and 2 soil preservation. She said the only change

was the italicized wording. At prior meetings they had been told the preservation of their soils would be looked at in Chapter 16, the Environmental Chapter. She thought that this language addressed the other aspects of Chapter 16 but excluded capability class 1 and 2 soils.

She said the other change was the last two paragraphs that were on page 7-8 of Chapter 7. She said this change might have been mentioned in another meeting the City Commission discussed. The very last paragraph said that at least one of the sites of the identified above airport had some high quality agricultural land. She suggested looking at predominance rather than some amount. If looking at the version that actually had the green language in there, that site had at least 90% capability 1 soils and 10% 100 year flood plain. She said some amount was not as specific as it could be.

The other aspect to that same paragraph was the beginning of the next sentence that said, "Aggregate industry businesses." Her concern was without fairly extensive and comprehensive definition, they could be looking at future brown sites down the road and looking at livestock containment operations and things she did not think they were hoping capability class 1 and 2 soils would be used for. She had some concern that it was too vague, too undefined, and could lead to greater issues down the road if that language was left in.

Mayor Dever asked what specific language she was referring to.

Clark said it was the last paragraph on 7-8, Agri-Industry Business. She said she did not think agri-industry businesses would be discernable from any industry, but it could say "sustainable agriculture." She said she was concerned this would not preclude another Farmland site.

Charles Marsh, Citizens for Responsible Planning, urged the City Commission to table this item or send it back to the Planning or County Commission, for reasons Clark mentioned. He said as Chapter 16 was emerging from the Planning Commission, it was clear how closely that chapter had to work with Chapter 17. He learned moments ago that the County Commission asked to see this item again. In the interest of productive use of the City

Commission's time, he suggested that this item be tabled or referred back to the Planning or County Commission.

Mayor Dever asked what would be gained by tabling this item or sending it back.

Marsh said if the County Commission would like to see this item again, he wondered if they would have alternate versions proceeding. The primary reason he wanted this item to be sent back or action delayed before he found out it was going to the County Commission was that he was trying to understand Chapter 16 better. He understood the point made several months ago about how closely this Chapter had to work with Chapter 16 and seeing those two move forward together, made better sense.

Ted Boyle, President, North Lawrence Improvement Association, said his association concurred with the Citizens for Responsible Planning. He said it was new news that the County Commission was going to review this item again. He hoped the County and City could agree on something that would benefit this area. He said in North Lawrence, the Type 1 and 2 soils had more benefits than just agricultural. He said that area was their drainage system until 150 homes were built in North Lawrence in the last 10 – 12 years and those vacant lots were sucked up by clay being brought in to build homes and businesses in a flood prone area. This soil was very valuable asset to North Lawrence and they did not recommend paving that soil over with asphalt, concrete and rooftops. The residents in North Lawrence were not against development, but to take more of their drainage system away, even with the possibility in three to five years they might receive a \$5 million pump, that pump only helped existing residents at this point and would not take care of any new development that might occur in North Lawrence.

Commissioner Amyx said there seemed to be a lack of consistency and the County Commission might or might not look at changing this particular chapter. The City Commission tried to come up with language that would address the capability class 1 and class 2 and whether or not everyone agreed, the majority would win. He said the City Commission and

County Commission needed to meet to come up with a decision because it was important to have an industrial chapter in place with consistent language.

Commissioner Hack asked Amyx if he was suggesting a deferral.

Commissioner Amyx said the City Commission had a study session scheduled next week with the County Commission and suggested this item be added to their agenda.

Commissioner Highberger said he agreed with Commissioner Amyx. He said if the County was shifting, it would be good for everyone to discuss this item and come up with a solution.

Mayor Dever said the County Commission tried to send the City Commission a message of support with a 3-0 vote last time. He asked if there was some idea there would be some changes.

Commissioner Highberger said that was before the last election. He said this issue was an important issue during the last election. He said despite the County's strong message, he preferred a stronger statement than what was in the Planning Commission's draft.

Vice Mayor Chestnut said his concern with deferring this item was that the City Commission had an election coming up and if getting to a point, especially in land use issues, where there were staggered elections between the County and City, the City would be rendering themselves to a point where they could not take action on anything 60% of the time. He said this chapter had been evolving over 3 – 4 years and the City would continue developing regardless if Chapter 7 was adopted or not.

He said the problem was since the County Commissioners could not talk to each other, the City Commission did not know if there was a majority or not and did not know what the makeup of the City Commission was going to be 4 months from now. If that started to become a formation of how policy was created, there would be infinite guessing of who was going to be sitting in what chair, at what time, in the future. He was not sure that was the best way to form policy.

In helping him with his decision regarding more precise language, he looked at the introduction of Horizon 2020 and realized that it was not designed to be a zoning code. He said if the City Commission was involved in defining agricultural business or anything else, 1) they would be trying to create zoning before it existed; and 2) there were plenty of stakeholders in the community that were going to want to jump into that discussion to figure out that definition. As a result, they would end up with about 4 different views about that definition and the fact was that the time for that consideration was at a zoning request, annexation or other things. If they had this discussion now, it would be forever and the problem was that he did not think that was what the document was designed to do. He agreed that there was some ambiguity in the wording, but there was a lot of ambiguity in the chapters and the wording to some extent, but because it was a long range document, and could not define what 5 – 10 years from now what the definition of an agricultural business was or anything else. He was concerned when talking about sending a message, the communication of how process was done between the City and County with staggering elections. He said anytime one, two or three seats change over; they might be revisiting policy all of the time. It was a unanimous recommendation from the Planning Commission and 3 – 0 vote from the County. He said he understood there was a change by County Commission, but right now they had seen probably five different wordings of this chapter and it all surrounded class 1 and class 2 soils. This was a scenario that could be amended later, but at this point they ought to at least consider if there was a majority that would approve this at this point. He said after a lot of definition and a number of different scenarios, this was as close to a consensus as they were going to get on the subject until further notice.

He said there was language that he did not like and did not think the airport comment was appropriate because it was the one piece of ground that was isolated out and did not make any definitive conclusions about it, but was an example. He said he recognized there were always tradeoffs and agreed the locational criteria were appropriate. He agreed there was another chapter coming along and did not think they needed to integrate all the language in the

chapter. It was industrial, had the sensitive lands chapter, and all of those had to be integrated in the decision making. If they started folding over on each other, it was going to be the ongoing process that would never end. He understood that some of it never ended anyway because it was always evolving, but he was willing at least to look at this and see if there was a majority that was willing to move forward and recognize the County was going to operate in whatever way they saw fit.

Commissioner Hack said she agreed with the Vice Mayor. She said originally she was willing to defer the item but if this was what the City Commission believed in and believed those paragraphs were placed at the end of page 7 and 8, in terms of looking at specific land uses and soil quality, it took a lot of work on the part of the Planning Commissioner's and several others. She said they had to have some starting place and the way it was now, she agreed they would never agree on every word and it was not how Horizon 2020 was designed. There were a lot of different ways of interpreting and was not sure that was a bad thing. She would rather move on with the version the County Commission passed unanimously at the time.

Mayor Dever asked how many votes were needed on this item.

Corliss said 3 votes were needed to send it back to the Planning Commission and 4 votes to change it.

Commissioner Hack said she would support moving forward with it as presented.

Mayor Dever asked about Clark's comments and the language she suggested.

Miller Brown said the specific recommendations presented tonight were the first time she had seen those recommendations. She said adding the language to that bullet point put in some strong protections for prime farmland and was not sure that discussions had taken place yet.

Mayor Dever asked how it was worded exactly and asked if that was a substantial change.

Commissioner Hack said that wording was pretty parallel in terms of intensity and things that needed protected.

Vice Mayor Chestnut said there was another place in the document that referred to Class 1 and Class 2 and it was not introducing a different term.

Commissioner Hack asked Miller Brown if she thought that was a substantial change.

Miller Brown said yes because she believed there was a corresponding policy that would then also need to be changed.

Vice Mayor Chestnut said given the amount of intertwining of documents he would rely on staff on the wording of the substantial changes.

Mayor Dever said if he received some feedback or comments from the County Commissioner's directly that made it sound like it was going to be a huge change in focus, he would be more inclined to defer this item, but the City Commission just heard about the change today. He said there would be nothing wrong with putting this item off for a little bit, but he was not sure he wanted to put in back in the County Commission's court and wait for their decision. He said he was not sure he would be in favor of deferring indefinitely because there was a lot of work put into this item. He felt like there was a lot of staff time put into this at the City and County level and they were spinning their wheels. If they wanted to protect something they cared about, they needed to act like it and move forward with it. He also understood people wanting to make sure there would not be massive changes or changes in the County level. He said if they really wanted to do those things, he did not see how they would benefit by putting it off to see if the County acted upon it. He asked Corliss if he had heard anything from the County about this item.

Corliss said he talked to the County Administrator, Craig Weinaug, and what Miller Brown read was exactly the status. He said Weinaug thought he was going to get the request tomorrow to talk about it on Monday, but did not know for sure and did not know if there was majority support.

Vice Mayor Chestnut said if there was a majority that supported this item tonight and the County took it up, he asked what would happen from that point. He asked if the County Commission could refer it back to the Planning Commission and then start over again.

Corliss said if the County Commission acted on the document before the City Commission adopted an ordinance on second reading, the City Commission was essentially directing the City Clerk to publish the ordinance then the item became effective upon publication. If the County Commission acted before the City Commission took final action, staff would stop the second reading by pulling that ordinance off the consent agenda and notify the public there had been a change in the documents and they would need to confer with the County counterparts to proceed.

This was a guide that spoke toward the City and County as to how they were going to develop industrial property. One of the things they knew about industrial property was that the initial requests were likely to come from undeveloped property outside the City. It was unlikely that someone would seek property in the City and ask it to be rezoned for an industrial park. A large industrial park was likely to involve property that was currently outside the City so it was important the City and County had the same language. He said if this was one of the City's top priorities, there should be a land use document that reflected the City's top priority and get it correct in the comprehensive plan so when there were requests for industrial sites there were clear and reliable marching orders as to how to facilitate that request. He thought it was very important for the City and county to speak with one voice in a document. He said the City and County needed to make sure they agreed on this document. He said that was why the County Administrator felt it was important to let the City Commission and City Manager know there was a possibility the County was going to consider a change.

Mayor Dever said the question was what type of changes. The City Commission had been evaluating this document and had hesitancy in getting into the specifics that were in the document because of the apparent conflicts, but the City had worked hard to be more protective



and more specific with capability class 1 and 2 soils and not to just say prime farmland, but define it clearly, protect and hold high the desire to consider that as a criteria for development. It was something they had gone back and forth on and did not understand the potential changes and if they were substantial, he would be in favor of deferring it but did not know what possibly more they could do to change it. He felt like the italicized words were directed although not specifically. He said this was a guide and not the law or specific citation. He did not know adding emphasis would add any more teeth to the document but by doing this, they were putting on the record they were holding that prime farmland, specifically class 1 and 2, was important. He said if someone could explain the major changes, he might be willing to defer this item, but if this was the only conversation the City Commission had and it was not a huge burden to wait for a week, and if the County did not move forward, staff would do another reading and did not have a problem with moving forward.

Commissioner Amyx said this issue came down to the class 1 and 2 soils and whether or not it was important to develop ground that contained a majority of the class 1 and 2 soils. It also came down to discussing the specific criteria on the site plan and whether or not language should be added. He said if trying to preserve those two classes of prime agriculture property that needed to be added. If the County was going to discuss this item, the County would be discussing the same items as the City.

Corliss said the City Commission was analyzing this item with late afternoon discussion with the County Administrator. He said it would be the City's opinion that if the County Commission had approved and executed the document, but the City had not acted upon the document, that the County Commission could rescind its vote prior to the City Commission taking its action. He said the City Commission stated what they wanted in Chapter 7 regarding the particular issue of the type of soil where industrial parks should go and staff would try and work that into a document prepared for a study session next Tuesday. He said the County might not move in which case the City could proceed.

**Moved by Highberger, seconded by Amyx**, to defer consideration of CPA-2004-02, for two weeks, pending further discussion by the County Commission. Aye: Amyx and Highberger. Nay: Dever, Chestnut, and Hack. Motion failed.

**Moved by Hack, seconded by Chestnut**, to approve the Comprehensive Plan Amendment (CPA-2004-02), an amendment to Chapter 7 of Horizon 2020 and adopt on first reading Ordinance No. 8283/County Resolution No.\_\_\_\_\_, amending the Comprehensive Land Use Plan "Horizon 2020" by amending Chapter 7, Industrial and Employment Related Land Use in "Horizon 2020" and repealing the existing section and incorporating by reference the "Chapter 7" Industrial and Employment related land use October 2008 Edition. Aye: Dever, Chestnut, and Hack. Nay: Amyx and Highberger. Motion carried. (14)

**Consider changes recommended by the ECO<sup>2</sup> Commission to be adopted into the ECO<sup>2</sup> Plan for Douglas County.**

Larry McElwain, Chairman of the ECO<sup>2</sup> Commission, presented the report. He said the City Commission received a copy of the amendments. He said they developed those amendments at the end of September. The amendments were approved the first Thursday in October, and were hoping to get in front of the City Commission with these amendments so they could come into play at some point. They presented those amendments to the Douglas County Commission in the last week of October. The Douglas County Commission accepted the amendments, but did not act upon those amendments. What needed to happen eventually was a joint meeting.

McElwain said he would read a letter that he distributed earlier. The letter read:

"Dear Mayor Dever and City Commissioners, thank you for allowing the ECO<sup>2</sup> to present to you some suggested amendments to the ECO<sup>2</sup> Plan that was adopted by the Lawrence City Commission and the Douglas County Commission in 2007. Now that the Plan has been adopted and in place, we have received several questions that lead us to look again at the

document. In the copies that have been distributed to you, you will find the suggested amendments shown in red ink.

Several of the amendments are “housekeeping”, “minor changes”, or “type” amendments, but the three substantial amendments are as follows:

1. Page 6, Section C, deals with the Selection and Ranking Process. The original plan was oriented towards I-70 access to the exclusion of other four lane highways. One of the County Commissioners was concerned about this, so we took the question to heart and discussed it thoroughly. Therefore, you will note that the amendments reflect an equal orientation to divided state highways and divided U.S. highways. That will give equal weight to K-10, US 59, and I-70. Please look at Page 8 for further detail. We had to change the ranking points.

2. Page 13 – 14, Number 3, deals with a specific definition of Prime Agricultural Land. When viewing Kansas Biological Survey slides, it was evident to us that a very high (approximately 75-85%) of the land in our county is prime agricultural land. We learned through talking with each other and listening to others that there are more criteria to defining Prime Agricultural Land than just the primary definition. See the second paragraph on Page 14 for some additional factors. As stated in the Amendment, we used USDA definitions of Class I & Class II soils. We know that this issue will garner additional discussion until a final definition is adopted. We look forward to being involved in that discussion.

3. Appendix F, By-Laws Section 2, Re: Terms. This changes the appointment of ECO<sup>2</sup> Commissioners from staggered four year terms to two year terms. We feel that this is more in line with what we can expect in the way of commitments from future Commissioners. Each Commissioner can serve three full terms of two years each.

We look forward to scheduling of a joint meeting with you, the County Commission and us to discuss these proposed amendments. We also look forward to their eventual adoption.”

Mayor Dever asked if McElwain's group was satisfied with the broader definition of prime agricultural land.

McElwain said the process that came out of the Open Space Subcommittee and was passed through the Industrial Space Committee meeting by email. He said it then went to the ECO<sup>2</sup> Commission where it was approved unanimously.

Commissioner Amyx asked if the County accepted the document with the changes.

McElwain said the County received the documents with the changes, but did not act upon those changes. He said the County Commission knew that eventually it would come down to a joint meeting with the City Commission for adoption or change.

Commissioner Amyx asked if they wanted the City Commission to take similar action to the County Commission's action and establish a study session date with the County Commission to come to a consensus.

McElwain said that was correct.

Commissioner Highberger asked when the USDA made their classification did they take a soil sample and test that sample to get their information or did the USDA also consider some of the factors included in the definition such as erosion and drainage.

McElwain said the prime agricultural definition from the USDA included more than Class 1 and Class 2 soils. The USDA took soil samples and looked at all the other variables to make soil classifications.

Commissioner Highberger said if that were the case, he asked why it was necessary to reference that in the City's document.

McElwain said the soil classification was just the soil quality and it was rated, but there were other variables that went in to it as far as capabilities and factors of Class 1 and Class 2 soils.

Mayor Dever said his understanding of the most current methodology was that there was a soil type based on random sampling, geographic areas, and a certain number of cores in an

area, then there was a rating that they were inferring was too implicative to have both Class 1 Class and 2 which were generally defined by the same parameters as the listed items below it. Specifically if looking up Class 1, it stated it was minimal slope, had certain permeability ranges, certain capability classification, and other variables that were put into a formula and rated. The soil type by name was then thrown in and all the attributes were considered and then categorized. He said that was how he understood the computer model worked and how they came up with the most recent ratings of the soil.

He said what McElwain was getting at was if defining Class 1 and Class 2, he asked if it was necessary to indicate slope, drainage, and erosion which were all part of the formula where he thought Class 1 and 2 were defined or by those categories.

Bob Rhoton said he and Rex Buchanan were co-chairs of the Open Space Committee. He said the Mayor was correct in what he was saying; Class 1 and Class 2 soils were based upon a soil quality and testing. He said like the Baker Wetlands were all under water, in his opinion that was not a prime agricultural land because that area would need to be drained and put back into production for primary agricultural ground. It was the same way with excessive slope or erosion. If they were not maintained, those properties would not meet the ECO<sup>2</sup> definition of prime agricultural land because of other factors that came into play on that farm. A prime example would be the East Hills Business Park. The property to the east had water problems certain times of the year. If they were going to look at preserving properties utilizing the prime agricultural definition, they had to look at other factors other than what USDA said the soil quality was. They needed to look at the other variables that involved capability production and other things.

Mayor Dever called for public comment.

Barbara Clark, Douglas County, said she wanted to make some clarification on that Class 1 and 2 soils were predominant amount of soils in Douglas County.

McElwain said that was what he was told.

Clark said that was the only thing she wanted to clarify so they knew they were not going to try and preserve a large proportion of Douglas County.

McElwain said he stood corrected, prime agricultural land was predominant.

Clark said Class 1 soil was 2.8% of the soils in the Douglas County, less than 3% and Class 2 was 8.2% of soils in the county, so it made 11% total of 304,000 acres in Douglas County.

Ted Boyle, North Lawrence Improvement Association, said he served on the ECO<sup>2</sup> Subcommittee with Larry McElwain. The soil issues derived from that subcommittee because they thought the current regulations for industrial business park were only things such as accessibility to the highway which was not enough and there was disregard to the agricultural and soil part of that issue. He said he had seen North Lawrence studies conducted by City staff about how this development would not negatively affect the neighborhood, but asked why North Lawrence currently had a storm drainage problem and needed a \$5 million pump. The soil in their area did not need any fertilizers. He said it would be a problem in the future because food commodities needed to be locally grown. He said it was not the airport business park, but because of the shortage of this type of soil and agricultural diminishing because of development expanding out into rural areas.

Mayor Dever said the prime agricultural definition was the most substantial change along with the chart indicating the formula for the selection of sites. He said he was encouraged by focusing on the farmland because that area would be a good candidate to set aside and it might be a good way to focus. He said it seemed to be a very specific definition and one that would assist in making it a prospect for preservation which was probably not clear before.

Commissioner Highberger said the changes recommended made sense and he appreciated all of the effort on this issue. He said he was not sure why a study session was needed, but if that was the next step in the process, that was fine with him.

Commissioner Amyx said he agreed with Commissioner Highberger. He said he was concerned about the 75 - 85% of the prime agriculture if that was all Class 1 and 2, but knew from the comments they had several months ago, he thought they were talking about 10% of the property.

David Corliss, City Manager, said as he understood the ECO<sup>2</sup> request was to have a study session with the County Commission.

Commissioner Hack asked for what outcome.

McElwain said ECO<sup>2</sup> wanted the changes adopted into the plan. He said he thought there was an issue that they wanted to make sure that ECO<sup>2</sup> could still be relevant and not be in conflict with everything else when it came to the soil issue.

Mayor Dever said he did not see it as being in conflict. He said Clark stated it well that if it was under 10% of approximately what was available that should be made clear. He said because there was a question over the category or Class 1 and 2 being specific in one document and not the other.

Commissioner Amyx asked if the language changes in the document from ECO<sup>2</sup> conflict with the Chapter 7 discussed earlier.

Scott McCullough, Director of Planning and Development Services, said in his opinion “no” because staff used the elements of ECO<sup>2</sup> values to create Chapter 7, but did not strictly use all of their other guiding principles. It was their first chapter that they had ECO<sup>2</sup> to work with and began introducing it into the comprehensive plan for the community. He did not personally believe there was a conflict in what ECO<sup>2</sup> was introducing with their revisions and what staff did with Chapter 7.

Commissioner Amyx said as going through the process in establishing industrial property, he asked if McCullough saw any conflicts.

McCullough said as he understood the ECO<sup>2</sup> program, it was not necessarily a tool that determined land use. It was a tool to ensure some equity in industrial development and open

space preservation as the community moved forward with either type of land use. In his opinion, those two documents did not conflict and worked hand in hand to give that Commission some idea on how to weigh projects and Chapter 7 gave the City the land use support to determine whether or not it was an appropriate rezoning.

Commissioner Amyx said with the ECO<sup>2</sup> Commission and the current document, as long as there was no potential for conflict between the two documents as future Commissions try to decide where industrial development would occur, it went back to consistency in going up the ladder. He said he did not want the City or County to battle with the ECO<sup>2</sup> Commission over a document that they could have made changes to.

McCullough said he saw the two programs as separate but complementary. There was a debate or position that ECO<sup>2</sup> documents could be used to affect land use decisions and vice versa. Staff did not see that as the document they sought to support for the land use comprehensive planning type of issues.

Mayor Dever said he saw the documents as complementary, especially with the additional language as using the City's desire to protect the soil and specifically calling out category Class 1 and 2. It also allowed for the preservation of that land and association of potential taking of that land. It added an opportunity to set aside not just wooded ravine properties, but also prime agricultural land.

Corliss said that this was a good discussion. He thought it was important for staff to understand that if they received a request for industrial space that was not a snowflake on some map somewhere, the guiding document was still Horizon 2020 because it incorporated those values. Whether or not the ECO<sup>2</sup> Commission commented on that was up to whether or not it was referred to ECO<sup>2</sup>. They were only looking at one document, the comprehensive plan. If there was public funding involved in that industrial project, then they would look at other components of the adopted ECO<sup>2</sup> Plan as to whether or not that triggered public involvement in purchasing open space. It was important there was a clear set of rules and expectations as



how to work that type of request. Hopefully, they would have another request in the future that everyone could agree upon and it would run smoothly. It was his understanding of the discussion that they were not looking at two documents, but one document. He asked if that was accurate.

Mayor Dever said yes. One document equaled everything and in the event there were public funds involved, then they would move over to that route and must consider those items and do certain things.

Corliss said it was not meant as a reduction of what was in this document, but one guide on how to evaluate industrial zoning request for the community.

McElwain said they always saw ECO<sup>2</sup> as being a tool and not the law.

Mayor Dever said it was one that might have a private funding opportunity that might help solve some of the land use issues, set aside land and allow them to be thoughtful and respectful of the land and preserve others. He thought this a tool that would allow them to do that.

Commissioner Hack said she agreed.

Commissioner Amyx said that was why he brought up the question of documents that would compete with one another and had one overriding document that would be the law. He said he appreciated the work of ECO<sup>2</sup> Commission and their countless hours spent on those definitions, which was helpful.

Vice Mayor Chestnut said one of the points the City Commission made was they could not take action in the study session even if they wanted to. He said he would suggest making proper public notice and publishing an agenda that discussed the action the City Commission took at that study session.

Mayor Dever said on this agenda it was to consider recommended changes and direct staff if appropriate.

Corliss said the City Commission could make those changes, wait for a study session, make those changes and still have a study session, and most importantly make sure everyone understood that they were all on the same page with moving forward on this issue. He said the City and County and the community needed to agree on how to deal with industrial space requests and how to show fidelity to their desire to have additional open space.

Mayor Dever said he agreed and hesitancy or lack of action would once again infer the City did not value this issue and a swift motion to adopt the changes and also study what was created, but use the tool together with Chapter 7 to come up with the best possible plan for the future.

Vice Mayor Chestnut said if the Mayor thought it was important to adopt this plan, but discuss with the County what they would like to do in which the County might want to also have a study session.

Corliss said that was a fine solution as well. He said he was not sure what the value of a study session would be other than a continuation that they agreed those were appropriate changes.

McElwain said they were just trying to make sure the impetus for that study session came from the ECO<sup>2</sup> Commission. He said they felt that it was significant enough to deal with prime agricultural land and open up the door for a joint meeting if necessary. He said the County did not act upon that issue that night and did not voice any objections.

**Moved by Highberger, seconded by Hack,** to adopt the changes as recommended by the ECO<sup>2</sup>. Motion carried unanimously. (15)

**Receive a status update on the Baldwin Woods Open Space Project.**

David Corliss, City Manager, said there was a request for an update on the Baldwin Woods Open Space Project. As a reminder, the City Commission received information from ECO<sup>2</sup> earlier about their audit process which resulted in the identification of one site commonly known as the Baldwin Woods. Some dollar amounts were associated with it for the purchase of

a conservation easement. He said as they had talked about budgets and similar issues, they did not budget for that purchase in 2009. He thought it was unlikely they would be able to do so in the near future, but it did not diminish the request. He said it would be appropriate, if there were public funds involved, that they would have an ample discussion about the value of buying a property itself versus simply a conservation easement. He thought there was a great value in the City buying property and having a conservation easement placed on that property whereby a third party held the City to the restriction that the property would not otherwise be developed and that was done on a number of properties in the community. It was not an opposition to conservation easements, but that the public's money acquired the property, so the City could own that property and have that additional level of control in the future. He said the main point was they had been a little delinquent in advising on the ability to fund this request. It was not in the budget and he did not see it as a high spending priority given the significant challenges the City had in the coming months.

Mayor Dever called for public comment.

Jason Fizell, Kansas Land Trust, said the idea of ecological protection and economic development happening hand in hand was a good discussion to have with the inauguration happening today. The idea of doing things a little differently and reaching out and working together was something Lawrence was known for at times and other times not, but this was a good opportunity to have that discussion.

He said he realized the budget constraints, but thought ECO<sup>2</sup> just wanted people to know they were present. He said Corliss indicated that this plan would be triggered by an industrial space development that would need bonds issued. They wanted to make sure that when that happened, the open space was dealt with at the same time. Originally, the idea among the people involved was to do an open space projects first as a matter of good will, but he understood with the budget situation that might not take place now.

He said Baldwin Woods was a historic 3,000 plus acre remnant of eastern deciduous forest and kind of the farthest reach in Kansas. He said Kansas was known for being a prairie state and they did a lot of their work as a land trust out in the Flint Hills on the native tall grass prairie, but they had those significant stands of oak hickory forest that made it into the state and they were looking to preserve another chunk of that land.

He said they did a lot of their early work in Douglas County and now were more focused out west because the funding was in that location. They did work around Fort Riley with Army Compatible Use Buffer Program and the Farm and Ranch Land Protection Program. Those were both federal government easement programs where they purchased easements from people. A lot of the early easements were donated, but he thought people had to realize that landowners were not always able to just donate the easement on their land. This was a case where the City and County would be getting a very good value. They had a qualified appraisal done on this property by a local appraiser who was one of five in the state certified with federal standards for buying conservation easements. To buy this land outright, significantly more would be spent. Their interest was preserving the land and they had a property outside of Lawrence that the Lichtwardt's donated to the land trust that they placed a conservation easement on would become a city park and they were willing to work with the City in any way possible. They just wanted to make sure this plan was on their radar screen and hoped as they developed industrial spaces, they looked to protecting this property.

Commissioner Amyx said the request was to keep the current property owner apprised of the process. He asked if there was any direction because he did not know the property owner's situation.

Fizell said Kansas Land Trust put in the proposal for the RFP, and were acting to work with the land owner in finalizing because it was something they did all the time in terms of putting an easement on the property.

He said they had an appraisal done on this property which was now almost a year old so the value could change and the appraisal should be updated. The other issue the land owners had as part of the funding mix as part of the proposal submitted in response to the RFP was putting forward some of their own money in terms of considering the stewardship fund that would go to the property and a bargain sale associated with it. There was some cost share involved in the bottom line. Kansas Land Trust would communicate with the land owners and keep them apprised of the situation.

Commissioner Amyx said he appreciated Fizell's comments about putting this on the radar screen when moving ahead with an industrial project. The City's commitment to ECO<sup>2</sup> and the changes in the plan showed their commitment to the future open space projects, but as of right now, the City had not budgeted money, times were tough, but in looking in the future for industrial development, that would be the discussion they would be having with open space and as it related to ECO<sup>2</sup>.

Mayor Dever said it was important in moving forward with ECO<sup>2</sup> and that the public, whose dollars would be spent on this plan, understood the value and difference between the difference between an outright purchase which was not that common and the conversation easement and the values associated with it for the owner of the land and the value to the City. He said a lot of people did not understand they were not buying the property, but stopping the property from being developed. He suggested a public meeting to discuss this plan now that they knew it was a viable option and the public could have an opportunity to speak out on and if they felt like conservation easements were the way they wanted to spend those dollars or outright land acquisition, protection, and ownership. He wanted to make sure that was clear to everyone before discussing spending money on a conservation easement.

Mayor Dever said he would like a primer on the benefits and the real availability of straight out land acquisition versus conservation easements, what was more likely, what was better for the community which would be a good discussion in moving forward.

Fizell said he would be happy to communicate with the Mayor individually in the mean time and as a group when appropriate.

Barbara Clark, Lawrence, said she had been fortunate enough to be sitting in on the Planning Commission's Comprehensive Plans Committee (CPC) meeting on Chapter 16. She said she brought forward the idea of a mechanism called a transferrable development right. She said the beauty of it was that it was market driven, planner derived and self funding. What brought it about was they would designate sending areas and receiving areas, which was what she hoped they could do. They already had the sending areas defined through the industrial mapping of future industrial sites. If they could map areas like the Baldwin Woods and other areas they would like to see preserved, it could work without public money and instead developer money. It was an incentive driven mechanism. They had the legislation in the State of Kansas to make that happen, but did not have the mechanism in place yet. She thought Lawrence would be a great pilot place for it to happen.

Commissioner Highberger said a year ago he would have said they had a proposal for an open space project and to find an industrial project to go with it, but times were different now and he did not think that could be done. He thought they needed to remain committed to the concept of going forward with open space preservation and if they were going to use public money with industrial space acquisition, they needed to go forth with open space acquisition at the same time. He said he liked Clark's comments about transferrable rights and thought it would be a great concept to explore. Right now, zoning was a lottery and every land owner wanted their land zoned at the use for highest return; some people win and some people lose. TDR's were a way to let them keep the return for individual land owners out of the land use decision and do the right thing and then the market adjusts for it.

Commissioner Hack said she was sorry they could not move ahead, but because of the current budget situation, there was no way it could be done. It was a beautiful piece of property

and eventually something could be done to preserve that property. She said she had faith that would happen, but it was a matter of when and how. (16)

**Receive staff report on the structure at 617 West 4<sup>th</sup> Street.**

Brian Jimenez, Codes Enforcement Manager, presented the staff report. He said on November 11, 2008, the City Commission heard a resolution declaring this structure unsafe and dangerous in its current condition. At that time, Darryl Graves, Attorney, representing the property owner, Jeanette Denton was in attendance and the City Commission heard from Graves. The City Commission adopted the resolution and gave the property owner until December 12<sup>th</sup>, 2008 to come up with a plan of either repairing or removing the structure.

On December 12<sup>th</sup>, staff received e-mail from Graves giving three estimates for repairs. He said he expressed concerns regarding the timeliness in receiving those bids; the tree removal estimate being the most expensive bid; the estimates not adding up with the conditions of the property; and, no general contractor was identified. At that time, the City agreed to give the property owner additional time to procure a general contractor and at least, apply for a building permit.

He said on January 9<sup>th</sup> he received a second e-mail from Graves which stated that Klinkett Roofing Company contacted Denton on January 8<sup>th</sup> and roof repairs would start the week of January 12<sup>th</sup>. An estimate was also produced from Chris Wright, Topeka, Kansas in the amount of \$14,875 to repair the exterior, caulk, prime, paint, sand, re-glaze the windows, etc.

Staff visited the Denton property late afternoon and nothing had been done to that property except trees being half removed and it appeared the property was much worse. It was his opinion that all the supporting structural members underneath the structure were failing. He said there had been no attempt to seal up that structure temporarily. He said it was fair to say the roof was deteriorating quickly.

He asked that the City Commission note that currently, the applicant estimates were a total of approximately \$23,000 and that he would go out on a limb to say that amount was a small percentage because it did not include inside repairs.

Also, a representative from Fritzel Construction Company contacted the City to find out what was going on with this property and assumed Denton or Graves made that contact. He said a representative from Fritzel Construction Company indicated to City staff that their company had no interest in proceeding with any repairs for various reasons.

He said since they last discussed that dilapidated structure on 4<sup>th</sup> Street, staff was looking at a new case, an abandoned structure located at 426 Perry, owned by the Denton's, that would probably go down that same road. He said he anticipated City staff taking action on that property in the near future.

Coincidentally, he was contacted by a builder that was currently constructing two homes in the neighborhood. The builder approached one of the sisters of the deceased owner and inquired about purchasing their property and demolishing the house, but was told they were not interested.

He said a letter written by Graves stated that a general contractor bid could be obtained in three weeks. He said in his opinion, staff had done as much as possible regarding this property. If the City decided to give the property owner more time, he suggested a small time frame to get everything in order.

Commissioner Amyx said he understood in the memo that the roofing contractor was to begin yesterday.

Jimenez said in the January 9<sup>th</sup> letter, it stated that Denton was in contact with a roofing contractor on the 8<sup>th</sup> and anticipated the roofing project to begin next week, which would have been January 12<sup>th</sup>.

Vice Mayor Chestnut asked if the property owner could pull a building permit regardless of weather.



Jimenez said that was correct and thought that was what the City Commission agreed upon. The roof, in its current condition, could not be repaired and the type of work needed required a permit. He said he did not know what the roofing contractor thought could be accomplished without first repairing the sheathing, the rafters, etc. It was possible the shingles could be taken off on the southern slope to determine if it was okay and begin at that area, but that was not the real issue.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Amyx said no changes were seen regarding this property other than the property getting worse. Enough time was allotted to obtain necessary contractors and/or building permits for this property. If the Commission concurred to remove this property due to unsafe conditions, the necessary resolution was already adopted by the City Commission. It was never easy removing a property, but ample time was given to procure the necessary permits and work to begin.

Commissioner Highberger said he thought the City Commission bent over backwards to allow an opportunity to save this property. He concurred with Commissioner Amyx.

Commissioner Hack said she agreed. She thought staff had done a great job keeping the City Commission updated. This property had to be removed and was in the process of removing itself as it fell apart. She thought it became more and more of a hazard, which was exactly what the City Commission determined that property was on November 11<sup>th</sup>.

**Moved by Amyx, seconded by Hack,** to receive the staff report and direct staff to take the necessary steps to remove the structure. Motion carried unanimously. (17)

**PUBLIC COMMENT:**

A member of the public asked why the property owners were against selling the property to a company that wanted to buy that property.

Mayor Dever said one of the property owners was in the back of the room and might be able to comment on that.

Jeanette Denton, property owner of 617 West 4<sup>th</sup>, said she had not been contacted by anyone and that the reason they could not fix the house was because no contractor wanted to start in the winter time.

Mayor Dever said the City Commission appreciated how difficult it was and that communication was important, but those comments needed to be directed to Jimenez so those comments could be considered. Also, there was an opportunity to speak to the City Commission before a decision was made. He said he apologized things did not go the way as anticipated, but it was important to the community and neighbors to continue to move forward because the structure was not safe and was a major eyesore for the neighbors.

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

- 01/27/09      ·      Consider approving Text Amendment TA-12-27-07, revisions to multiple sections of the City Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. TA-12-27-07 with revisions to Sections 20-1101, 20-1109 & 20-1701 PC; item 18; approved 7-1-1 on 7/23/08 meeting. TA-12-27-07 with revisions to Sections 20-701 and 20-702 to maintain consistency throughout the Code; PC item 9; approved 7-0 on 9/24/08)

**ACTION:**      Approve Text Amendment TA-12-27-07, revisions to Sections 20-701, 20-702, 20-1101, 20-1109 and 20-1701 of the City Development Code to revise Protection Standards for Environmentally Sensitive Areas and provide more precise definitions, if appropriate.

- Receive City Auditor's [report](#) on Small Purchases.

#### **02/03/09      CONSENT AGENDA ITEMS:**

- Adopt on first reading, Ordinance No. 8364, for Text Amendment TA-10-17-08, amendments to Section 20-804, 20-805, 20-807 and 20-815 of the joint Subdivision Regulations revising standards for Build Out Plans. Initiated by the County Commission on 10/29/08. (PC Item 5; approved 7-0 on 12/15/08)

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

- Discussion of panhandling issues.

- TBD      ·      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)

- Adopt on first reading, [Ordinance No. 8300](#), incorporating by reference, a Text Amendment (TA-04-03-08), to Chapter 20 of the Lawrence City Code (Land Development Code) to define and permit various homeless facilities. (Text Amendment approved by City Commission on 10/14/08).
- Receive minutes and recommendation from Community Commission on Homelessness discussion on homeless camping.
- Rental Registration Program.
- Conduct public hearing for the dilapidated structure at 1207 E. 13<sup>th</sup> Street. Consider adopting [Resolution No. 6815](#), declaring the structure unsafe and dangerous and ordering property owner to repair or remove the structure within a specified period of time. Should the property owner fail to comply, the City would contract for the removal of said structure.

**ACTION:** Conduct public hearing. Adopt Resolution No. 6815, declaring the structure at 1207 E. 13<sup>th</sup> Street unsafe and dangerous and ordering the property owner to repair or remove the structure within a specified period of time, if appropriate.

- Consider approving revisions to Downtown Design Guidelines and adopt Ordinance No. 8363 on first reading regarding revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)

**ACTION:** Approve revisions to Downtown Design Guidelines and adopt on first reading, Ordinance No. 8363, regarding revisions to Downtown Design Guidelines, if appropriate.

- ***This item was deferred from the January 6, 2009 City Commission Meeting.*** Consider the following items related to Maple Leaf Square.

- a) Consider Planning Commission's recommendation to approve a request to rezone a tract of land, Z-10-17A-08, approximately 6.14 acres from RS-7 (Single-Family Residential) to RM-12D (Multi-Dwelling Residential Duplex), located at 4145 Seele Way. **Note: The applicant has submitted a request to amend the application, using the Table of Lesser Change, to replace a portion of the requested RM12D zoning with RS5 zoning per the attachments.** Submitted by Landplan Engineering PA, for Doolittle Farms, LLC property owner of record. (PC Item 3A; approved 6-2 on 12/15/08). ***Because a valid protest petition has been received, a supermajority vote (at least 4 votes) is required to approve the rezoning approved by the***

***Planning Commission. Applicant is requesting the City Commission act on an amended zoning request permitted by code under the lesser change table. Because the lesser change would be considered contrary to the Planning Commission's recommendation, approval of the applicant's amended request also requires a supermajority vote (at least 4 votes) of the City Commission.***

**ACTION:** Approve the rezoning of approximately 6.14 acres (Z-10-17A-08) from RS-7 (Single-Family Residential) to RM-12D (Multi-Dwelling Residential Duplex), located at 4145 Seele Way, and direct staff to prepare an ordinance, if appropriate.

- b) Consider approving a request to rezone a tract of land, Z-10-17B-08, approximately 3.57 acres from RS-7 (Single-Family Residential) to RS-5 (Single-Family Residential), located at 437 Seele Drive. Submitted by Landplan Engineering PA, for Doolittle Farms, LLC, property owner of record. (PC Item 3B; approved 7-1 on 12/15/08)

**ACTION:** Approve the rezoning of approximately 3.57 acres from RS-7 (Single-Family Residential) to RS-5 (Single-Family Residential), located at 437 Seele Drive, and direct staff to prepare an ordinance, if appropriate.

- c) Consider acceptance of dedication of easements and rights of way for PP-10-13-08, a Preliminary Plat for Maple Leaf Square, 10.24 acre subdivision consisting of 41 lots, located at 4145 Seele Way. Submitted by Landplan Engineering PA, for Doolittle Farms LLC, property owner of record. **Note: The applicant has submitted an amended plat consisting of 42 lots that will need review and approval by the Planning Commission prior to acceptance of dedication of easements and rights-of-way** (PC Item 3D; approved 6-2 on 12/15/08)

**ACTION:** Accept dedication of easements and rights of way for PP-10-13-08, a Preliminary Plat for Maple Leaf Square, if appropriate.

- d) Consider approval of a waiver from the requirement in Section 20-811(c)(1)(i) of the Subdivision Regulations that sidewalks be constructed on both sides of the street for Maple Leaf Square Addition; a 10.24 acre, 41 lot subdivision which is a replat of Lots 1 through 29 in Block

One, Lots 1 through 12 in Block two and Tracts A and B in Doolittle Subdivision; located north of Overland Drive between Monterey Way and Eldridge St. (PC Item 3C; approved 7-1 on 12/15/08)

**ACTION:** Approve waiver from the requirement in Section 20-811(c)(1)(i) of the Subdivision Regulations that sidewalks be constructed on both sides of the street, if appropriate.

- 01/27/09     ·     Consider approving Text Amendment TA-12-27-07, revisions to multiple sections of the City Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. TA-12-27-07 with revisions to Sections 20-1101, 20-1109 & 20-1701 PC; item 18; approved 7-1-1 on 7/23/08 meeting. TA-12-27-07 with revisions to Sections 20-701 and 20-702 to maintain consistency throughout the Code; PC item 9; approved 7-0 on 9/24/08)

**ACTION:** Approve Text Amendment TA-12-27-07, revisions to Sections 20-701, 20-702, 20-1101, 20-1109 and 20-1701 of the City Development Code to revise Protection Standards for Environmentally Sensitive Areas and provide more precise definitions, if appropriate.

- Receive City Auditor's [report](#) on Small Purchases.

#### **COMMISSION ITEMS:**

**Moved by Highberger, seconded by Amyx,** to adjourn at 8:50 p.m. Motion carried unanimously.

#### **APPROVED:**

---

Michael H. Dever, Mayor

#### **ATTEST:**

---

Frank S. Reeb, City Clerk

## **CITY COMMISSION MEETING OF JANUARY 20, 2009**

1. Purchase – 2009 software maintenance, SunGard HTE for \$89,180.
2. Purchase – 15,435 lbs Polymer Magnafloc 110L, CIBA Chemical for \$36,580.95
3. Purchase – 8,800 lbs Tramfloc 1110 Anti-Foamer Chemical, Tramfloc, Inc. for \$18,040.
4. Purchase – ACISS Case Mgmnt Software, ACISS Systems, Inc. for \$40,000.
5. Ordinance No. 8361 – 1<sup>st</sup> Read, 2008 ed. Of Code of City of Lawrence.
6. Ordinance No. 8367 – 1<sup>st</sup> Read, condemnation of real estate interest for public sanitary sewer pump station, sanitary sewer main & equip & facilities.
7. Resolution No. 6819 – City approval for request of Tenants to Homeowners, Inc. to receive low income housing tax credits from KS Housing Resources Corp (KHRC)
8. City/State Agreement – Burroughs Creek Rail Trail Project.
9. Subordination Agreement – Marilyn Figuieras, 2044 Emerald Dr.
10. City Manager's Report.
11. Ordinance No. 8286 – 1<sup>st</sup> Read, Chpt 21, Lawrence SmartCode, Jan 20, 2009 Edition.
12. Ordinance No. 8288 – 1<sup>st</sup> Read, CPA-2007-6, create Chpt 15, Place Making, comprehensive plan language for SmartCode.
13. Ordinance No. 8289 – 1<sup>st</sup> Read, CPA-2007-7, Chpt 14, Specific Plans, add reference to SmartCode Infill Plan.
14. Joint City Ordinance No. 8283/County Resolution No. \_\_\_\_\_, 1<sup>st</sup> Read, Comprehensive Plan Amendment to Horizon 2020, Ch 7.
15. Proposed changes to ECO<sup>2</sup> Plan for Douglas County.
16. Status update – Baldwin Woods Open Space Project.
17. Staff report – Structure at 617 W. 4<sup>th</sup> St.