



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

August 18, 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 Chestnut presiding and members Amyx, Cromwell, Dever, and Johnson present.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to approve the City Commission meeting minutes of July 28, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to receive the Community Commission on Homelessness meeting minutes of June 9, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to approve claims to vendors in the amount of \$3,104,411.87 and payroll from August 2, 2009 to August 15, 2009, in the amount of \$1,821,508.73. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to approve the Drinking Establishment Licenses for Frankie & Johnny's, 804 West 24th; The Wheel, 507 West 14th; and the Retail Liquor License for University Liquor, 3300 Bob Billings Parkway No. 3. Motion carried unanimously.

The City Commission reviewed the bids for the Kaw Water Treatment Plant Building Envelope and Roof Repairs Year 3 for the Utilities Department. The bids were:

BIDDER	BID AMOUNT
Diamond Everley	\$98,285
Premier	\$116,912 (receipt of addenda not acknowledged)



Sellers and Marquis	\$157,099
Engineer's Estimate	\$120,000

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to award the low bid to award the bid to Diamond Everley, in the amount of \$98,285. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to authorize the City Manager to increase the Purchase Order with Airport Development Group, Inc. (ADG) in an amount of \$22,445 for subcontractor costs associated with the airport property acquisition project; 95% of this expense will be reimbursed by the Federal Aviation Administration. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt on first reading, Ordinance No. 8450, incorporating by reference the Standard Traffic Ordinance for Kansas Cities. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt on first reading, Ordinance No. 8451, replacing Ordinance No. 8426, for the rezoning (Z-4-6-09) of 135 and 137 Pawnee Avenue from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential-Office). This ordinance is being readopted with a new ordinance number because the conditions of approval were not included in the ordinance that was previously adopted on first and second reading and a subsequent ordinance approved on first reading on August 11 has been revised to more accurately reflect the PC recommended conditions of approval. Motion carried unanimously. (4)

Ordinance No. 8442, for the annexation (A-5-1-09) of approximately 4 acres from Pump Station 25, generally located north of 3800 Greenway Circle, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (5)

Ordinance No. 8444, for the rezoning (Z-05-9-09) of approximately 4 acres for Pump Station No. 25, generally located north of 3800 Greenway Circle, from County I-4 (Heavy Industrial) to OS (Open Space), was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8443, for the rezoning (Z-5-8-09) of approximately 4 acres for Pump Station 25, generally located north of 3800 Greenway Circle from OS (Open Space) to OS-FP (Open Space with Floodplain Overlay), was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (7)

Ordinance No. 8445, for a Special Use Permit (SUP-5-6-09) for Pump Station 25, a minor utility serving more than one development, generally located north of 3800 Greenway Circle, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (8)

Ordinance No. 8440, adopting and appropriating by fund the 2010 City of Lawrence budget, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (9)

Ordinance No. 8441, noting the necessity of appropriating/budgeting property tax revenues for 2010 in excess of that which was appropriated/budgeted for 2009, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (10)

Ordinance No. 8416, establishing solid waste service rates for 2010, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt

the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (11)

Ordinance No. 8438, establishing water service and sewage disposal rates for 2010, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (12)

Charter Ordinance No. 39, regarding the transient guest tax, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning (Z-5-7-09) and adopt on first reading Ordinance No. 8447, the rezoning of approximately .735 acre from RS10 (Residential/Commercial) to CS (Commercial Strip), located at 1547 East 23rd Street. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to concur with the Planning Commission recommendations to adopt the findings of fact and approve a Special Use Permit (SUP-5-7-09) and adopt of first Reading Ordinance No. 8448, for the addition of a drive-thru window for an eating and drinking establishment in the CN-2 Zoning District Wakarusa Market Place, located at 1520 Wakarusa Drive Ste: A-B, subject to the following conditions:

1. Prior to the release of the site plan for issuance of building permits the applicant shall provide a copy of the Westar Encroachment Agreement; and
2. An ordinance per Section 20-1306(j) shall be published by staff.

Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to authorize City staff to begin negotiations on a scope and fee with Hernly Associates, Inc., for the Phase I, BNSF Depot Report. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to receive the request from Health Care Access for a lease extension for the City owned building at 1920 Moodie Road. Motion carried unanimously. (17)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to authorize staff to complete Tiger Grant application for the completion of 31st Street from Haskell Avenue to County Road 1057. Motion carried unanimously. (18)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to authorize the Mayor to sign a Release of Mortgage for Kevin Pike and Jennifer Walbridge, 3217 Creekwood. Motion carried unanimously. (19)

As part of the consent agenda, **it was moved by Dever, seconded by Amyx**, to authorize the Mayor to sign an agreement with Grant Township pertaining to the provision of fire services. Motion carried unanimously. (20)

Mayor Chestnut said that consent agenda items numbers 5a, 5b, 8, 9, and 11 would be pulled for a separate vote because Commissioner Johnson had a conflict of interest.

It was moved by Dever, seconded by Amyx, to set a bid date of September 1, 2009 for Project No. PW0915 (City Bid No. B09052), Fairfield East Addition No. 1, Exchange Place and Fairfield Street, Street, Stormwater, and Waterline Improvements. Aye: Aye: Amyx, Cromwell, Dever, and Chestnut. Nay: None. Abstain: Johnson. Motion carried. (21)

It was moved by Dever, seconded by Amyx, to set a bid date of September 1, 2009 for Project No. 09S003 (City Bid No. B09053), Fairfield East Addition No. 1, Exchange Place and Fairfield Street, Sanitary Sewer Improvements. Aye: Aye: Amyx, Cromwell, Dever, and Chestnut. Nay: None. Abstain: Johnson. Motion carried. (22)

It was moved by Dever, seconded by Amyx, to concur with the Planning Commission's recommendations to approve the Preliminary Plat (PP-5-2-09), a 1 lot, 3.083 acres Preliminary Plat for Orscheln Addition located at 1541 East 23rd Street and 1223 East 23rd Street; and accept the dedication of easements and rights-of-way subject to the following condition:

1. Provision of a revised preliminary plat that shows shared cross access easement to the west property line.

Aye: Aye: Amyx, Cromwell, Dever, and Chestnut. Nay: None. Abstain: Johnson.

Motion carried. **(23)**

It was moved by Dever, seconded by Amyx, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning (Z-5-10-09) and adopt on first reading Ordinance No. 8446, the rezoning of approximately .981 acre from CS (Commercial Strip) and RS10 (Single-Dwelling Residential) to CS (Commercial Strip), located at 1223 East 23rd Street. Aye: Aye: Amyx, Cromwell, Dever, and Chestnut. Nay: None. Abstain: Johnson. Motion carried. **(24)**

Hubbard Collinsworth, Lawrence, requested item 6a, adopting Ordinance No 8436, allowing retail sales of alcoholic liquor at the Farmers' Market; and 7a Ordinance No. 8449, SUP-01-02-07, increasing the occupancy of the overnight shelter, for separate discussion.

Collinsworth said regarding 6a, that it would be the first Farmer's Market to serve retail alcohol and would like to know the reasoning behind that request; and, regarding 7a, he said there were numerous requests.

David Corliss, City Manager, said this was not for retail sales and consumption on the premises, but for sales of alcoholic liquor for off-premises consumption.

Jonathan Douglass, Assistant to the City Manager/City Clerk, said there was recent change in the State law that created a farmers market sales permit for Kansas farm wineries only, and there would be no consumption on-premise.

Mayor Chestnut said if Kansas farm wineries were precluded from participating in the Farmers Market before the state law.

Douglass said he assumed so, but this issue never had come up during his tenure.

Corliss said Kansas farm wineries were precluded in Lawrence, but he did not know about the State law change and the Alcoholic Beverage Control regulated that law. It was local produced wine from Kansas farms and had to meet the Farmer's Market criteria on what could be sold. He said from a public safety stand point, it was for off premises consumption.

Commissioner Dever said a state law was adopted to allow Kansas farm winery sales at Farmers Markets and was the reason this issue had not been before the City Commission before. He said as long there was no wine tasting or serving of samples, he said it would be acceptable and legal activity.

Vice Mayor Amyx said there was a big push by the Kansas Winery Association to sell their product at Farmers Markets.

Mayor Chestnut called for public comment.

After receiving no public comment, it was moved by **Amyx, seconded by Cromwell**, to adopt on first reading Ordinance No 8436, allowing retail sales of alcoholic liquor at the Farmers' Market as authorized by Kansas law. Motion carried unanimously. **(25)**

Mayor Chestnut called for public comment regarding increasing the occupancy of the Lawrence Community Shelter.

Mary Green, resident of Lawrence Community Shelter, said with all of the vacant buildings in the community, she asked why one of those building could not be used to help the homeless. She said currently women had to sleep on the streets, which was not safe.

Lawrence Community Shelter had addressed over crowding and safety by banning sex offenders. He said LCS was now addressing overcrowding by placing women on the lottery and placing those women on the streets. The LCS had failed to view this issue as a crisis in a town

of this size which required triage meaning the most vulnerable would be first family and women. She asked for the SUP to be changed so more people could sleep in the shelter and was safer.

James Dunn, neighbor of Lawrence Community Shelter, said that he observed a number of people sleeping in a public parking lot. He said staff from LCS was observing and guarding from the covered patio area, the parking lot across the street. He said it was reality in setting a fixed number of people that could be on LCS property and everyone else would end up across the alley in the City parking lot to sleep at night. He said he was concerned that the patio area at LCS was not being used while waiting for a higher occupancy level and renovations taking place.

Mayor Chestnut said he wanted to address the issue of other buildings in town. The City Commission could not dictate what property owners did as far as accommodating the shelter or any other type of use. He said Loring Henderson, Lawrence Community Shelter, had spent a lot of time and effort reviewing other options and was the reason the Commission was looking into expanding the occupancy. He said it was not a great answer to meet the need but there were limitations in the City Commission's power which they could not force a property owner to decide whether that property owner wanted that type of use.

As far as the allocation, it was a policy and up to the shelter if providing care on some type of hierarchy of needed basis. The Commission did not address those policies as well.

Vice Mayor Amyx said safety was a topic of discussion at many meetings which dealt mainly with the fire code in making sure occupants staying at the facility were protected. The occupancy level was meant to protect the occupants from fire or any type of catastrophic situation. It was important the limitation the City Commission set were done prior to expanding the use of the facility.

Ordinance No. 8449, amending the Special Use Permit (SUP-01-02-07) to increase the overnight participant occupancy at the Lawrence Community Shelter, 944 Kentucky Street, was read a second time. **Moved by Amyx, seconded by Cromwell**, to adopt the ordinance. Aye:

Amyx, Cromwell, and Dever. Nay: Chestnut and Johnson. Motion carried.

(26)

CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report. He said the Lawrence-Douglas County Health Department was coordinating a community effort to develop plans related to potential vaccination of the public this fall in response to the H1N1 flu. The Community Planning Team consisted of individuals representing many sectors of the community. The City of Lawrence was represented by Captain Dan Ward, representing law enforcement; Division Chief Eve Tolefree, representing Fire/Medical; and Diane Stoddard, Assistant City Manager. Additionally, the City of Lawrence was working on the development of a pandemic flu plan in the event that a pandemic flu event affected the community and the city workforce. Staff was also planning to attend the Governor's H1N1 Pandemic Influenza Summit later this month. (27)

Consider approving a request for a 24 month extension of the approval for SP-12-93-06, a site plan for a new office building at 501 Rockledge Drive.

Mary Miller, Planner, presented the staff report. She said SP-12-93-06 was a request to extend the approval period for the site plan of an office building at 501 Rockledge. The site plan was originally approved on May 31st, 2007 for 18 months. A six month extension was granted by the City Commission on October 2008 and this extended the approval to May 31st 2009. The applicant provided a written request for extension prior to that expiration date. A text amendment was initiated in May to revise the approval and extension time frames for projects under the development code and therefore, the extension request was held pending the adoption of the text amendment. With the adoption of this amendment, the extension periods were revised to provide consistent periods for all development projects under the development code. They would be approved for 24 a period of 24 months, with extension of another possible 24 months with the approval of the City Commission. The applicant indicated that the timing is not appropriate to begin work on this project. However, the applicant was interested in

continuing at a later date. No revisions were made to the approved site plan. Therefore, staff recommended approval of the extension request for 24 months.

Mayor Chestnut called for public comment.

Paul Werner, Paul Werner Architects, said that he would like to thank Staff for working on the text amendment. He said the applicant went through the process quickly.

Vice Mayor Amyx said if there was a start date.

Werner said no.

Vice Mayor Amyx said this was a good plan for the area and a good use for that property and the extension should be approved.

Moved by Amyx, seconded by Cromwell, to approve a request for a 24 month extension of the approval for a site plan (SP-12-93-06) for a new office building at 501 Rockledge Drive. Motion carried unanimously. (28)

Consider approving a request for a 24 month extension of the approval for SP-06-54-06, a site plan for Glenwood Apartments located in the southeast corner of the intersection of Wakarusa and Eisenhower Drives.

Mary Miller, Planner, presented the staff report. She said the site plan was approved and processed under the provisions of the 1966 zoning ordinance because it was submitted before the adoption of the development code. It was approved on June 5th 2007 and a one year extension was approved administratively, which extended the approval to June 5th, 2009. The applicant did request an extension prior to the expiration date. The applicant indicated the timing was not conducive to begin the project right now, but they were interested in continuing with the project.

One benefit that would apply with the expiration of the site plan was that a new site plan would be required to be submitted that would be compliant with the provisions of the development code. Staff reviewed the site plan with the provisions of the development code and determined that only minor changes would be required, primarily to parking lot landscaping.

Therefore, staff recommended approval of the site plan, subject to the condition that a revised site plan that was compliant with the standards of the development code be provided to the Planning office.

Commissioner Dever said staff reviewed the site plan and thought it might be better to bring the site plan up to code with the current development code, but there was not much difference except for the landscaping issues and those changes needed to be submitted to the Planning office.

Scott McCullough, Development Services Director, said there was a provision in the development code that required former code projects that were not constructed be brought into today's code. Therefore, Staff believed that it would be appropriate to require a revised site plan of the approved plan. He said the site plan needed modification to fall into the values of the current code.

Commissioner Cromwell said the provisions stated that it must comply with the current regulations regardless of the fact that it was preapproved.

Miller said he expected it to play out, before they applied for building permits, that they had an updated site plan that complied with the then current code.

Commissioner Cromwell said if the applicant was required by current ordinance to comply with current code.

Miller said yes.

Paul Werner, Paul Werner Architects, said he agreed with Staff. He said the site plan was being done at the same time the new development code was being developed. He said he agreed the revisions were minor and reasonable. The extension of 24 months helped the applicant and placed the site plan on track with some small modifications.

Mayor Chestnut called for public comment.

Shari Gerling said she lived around the corner from the new development. She purchased her house for approximately \$200,000 in 2004. The City told her, at that time, the

land was platted for high end townhomes which would not hurt her property value. She said she would have never purchased a home in the neighborhood if she had known that apartments were going to be right down the street. She said one of her neighbors had already moved to Topeka. She said she was highly concerned about the property values of the home, children and families riding their bikes or jogging. She said that apartments and townhomes had already been built down the street by Walmart and would now have another set of apartments directly in the neighborhood. She said she wondered about the neighborhood integrity in Lawrence and did every neighborhood model now, need to include apartments. There was plenty of empty space to the West of Walmart and south of Overland Drive which was a better place to move those apartments versus directly in the middle of their neighborhood. She said she was upset this area was rezoned and changed without the neighborhood being notified. She asked that the Commission and the Mayor to relook at the structure of the neighborhood model.

Mayor Chestnut said an important point to clarify was that zoning was not being discussed and it was a decision made sometime in the past.

McCullough said Miller or Werner had the best history of when those public hearings occurred for the land owners to provide comment. He said the Mayor was correct in that this issue was an extension of a site plan where the zoning had already existed from a previous date. He said he understood it might have been a PCD, under the former code that converted to RM12 under the new code, but the zoning was not changing and had been zoned for several years.

Miller said that area was zoned UR (Urban Reserve) before the site plan was approved, but it had RM12 (Multi-Dwelling Residential) zoning pending the site plan approval. The Staff report was from June 5th, 2007, so the zoning had not gone into effect at that time.

Werner said that he needed to do more research on the timing. Vice Mayor Amyx was on the Commission when the plat came through and the issue, at that time, was with 2 and 3 story buildings. At one time, it was zoned multi-family all the way to Eisenhower Drive, now

there were single family houses that faced Eisenhower Drive and would now be a back to back relationship and it was better than the original zoning plan. He said there was single family zoning on the east side of Eisenhower and east of the single family zoning was multi-family zoning.

Commissioner Dever said if the plat included lots that were zoned for single family residential, RS2, pending.

Werner said yes.

Commissioner Dever asked if those lots were at that location yet.

Werner said the lots were at that location, but no buildings.

Vice Mayor Amyx said he believed the past discussions concerning Eisenhower Drive had to do with two story buildings. He said if there were 8-10 single family homes on the east side.

Werner said there would be 11 single family homes. There was an access point southeast of the intersection of Wakarusa and Eisenhower. There was an entrance to the complex off of Eisenhower Drive and more importantly an exit on to Wakarusa Drive. The main traffic pattern should be leaving on to Wakarusa and heading toward 6th Street. Those two points were set a long time ago with a median off Wakarusa Drive and south of Wakarusa Drive on Eisenhower Drive. He said the plat was better than it was originally.

McCullough said looking back at the City Commission minutes, on July 24th, 2007, the Ordinance 7923 was adopted on second reading to rezone it from Urban Reserve to the RM12 district which then paved the way to approve the site plan.

Gerling asked if research was done regarding the number of apartments in an area in relation to how many were needed.

Mayor Chestnut said the City did not do a "market wide needs" analysis. He said there would be a divergence of opinion about whether or not the public body should do that type of analysis, but it was a policy discussion. He said he did not remember this zoning request. He

said the issue at hand, right now, was the RM12 zoning. If this site plan expired, the developer could present another project that met the RM12 zoning which would be some type of multi-family structure and that zoning was in place and stayed with the property in perpetuity, unless there was an action to downzone.

Gerling said at some point it was not zoned as such, the zoning was changed, and it would not be an impossible task.

McCullough said rezoning requests were typically initiated by the applicant, but could be initiated by the governing body. However, it was rare in the City to do so. The rezonings were analyzed per the City's Comprehensive Plan, Nodal Plan, and other documents that went through the Planning Commission hearing and ultimately to the governing body with recommendations from staff and the Planning Commission. He said staff would be happy to provide the speaker with the full record of what transpired through early 2007 time period where it went through the Planning Commission and who was notified and what neighbors might have spoken at that meeting.

Vice Mayor Amyx said regarding the entire area north of 6th and west of Folks Road was done, not only by the request of applicants, but by planning principles put into place by Staff.

McCullough said that an underlying principle in the comprehensive plan lately was a greater mix of uses and structure types within neighborhoods which included: connectivity of streets and access points, different residential structure types, different mix of uses from commercial office and residential. He said this particular area had received a great deal of effort from the City in the past 10 years and more.

Vice Mayor Amyx said except for the property that fronted the north side of 6th street, between Queens Road and George Williams Way were the last areas that were not planned, approved, or zoned for a particular use.

McCullough said yes, it was one of the few. He said some plats had expired and some property on the west side of Wakarusa Drive, near this property, that was zoned and site

planned for apartments with a golf course which maintained open space and single-family residential, commercial, office, and mixed use projects.

Vice Mayor Amyx said there was a lot of time put into the planning process to make sure there was mixed use of property. Anytime there was a rezoning, staff went through a process of notifying neighbors within so many feet of the area to be rezoned to hear comments.

He said he shared the concern about the number of apartments in the community. It was essential that one area did not have too many of any one type of use. He said when looking at this large track, the zoning uses were spread throughout the neighborhood.

At the time the decision was made on this area, the City Commission took into consideration the applicants proposal and how it worked with the neighborhood based on the professional staff and adjoining neighbors. He said the City Commission could disallow the extension, but the zoning was still in place and an applicant could still make another request. He said his main concern in 2007, about this area, was the height and arrangement of those buildings and a reasonable compromise was made at that time.

Gerling said if there was still a plan for a city park.

Commissioner Dever said south of that property.

Gerling said that it was irritating that she was not notified that the zoning was going to be changed. She said she did not believe that they were considering the neighborhood structure.

Mayor Chestnut said staff had not prepared any information regarding the park.

David Corliss, City Manager, said that the area north of Overland Dr. and west of Wakarusa was purchased by the City in 1995/1996 for park purposes. However, there were no available funds to proceed in making that area a park, to date. There was a State law that established a protest, if the City would ever want to sell any park. He said he believed that it was very unlikely the City would want to sell the park. He said he recommended that looking at the site for a recreation center. However, the Commission approved the path to look at all of the recreational needs, including this site as an opportunity for future park and recreation facilities.

He said from a Staff and Commission standpoint, this property was likely to be in the City's park system at some point, but when it would be developed, he did not know.

He said the Legislature changed the vested rights statute that made it difficult to downzone property in the future. However, it was not the issue that was being addressed at the moment.

Commissioner Dever said he understood Gerling's concerns. He said the previous Commission did a pretty good job of transitioning the land use from a single family residential to a busy street. He said eventually, Wakarusa Drive would be a busy street and the City wanted the higher intensity land uses on the busy street and work away from that high density to a more single family residential. He said this design aligned single family residential across the street from each other, low lying single story four-plexes adjacent, and then the more intense buildings further into the plat. He said it was a good plan and gave up some things to maintain the aesthetic value of the neighborhood.

If the extension was not granted then another developer could pick up the site plan and another Commission could possibly approve a plan that was worse. It was a fair assumption that a more intense land use, like a multifamily land use, was more appropriate facing a busy street. There were worse plans that could arrive if the extension were to be turned down.

Commissioner Cromwell said it was difficult because the land use issues were debated over a couple of years ago with another City Commission. There was a process that included neighbor involvement. It was a free market as far as the decisions that were made about how many apartments were to be built and were seeing a delay as a result of that free market. The park would be a park at some point in time.

Vice Mayor Amyx said the City had never been in a position of selling park property. Some of it was not as developed into a park, but historically the City held park ground forever.

Corliss said that he could not think of any situation where the City had sold park property. He said this area needed a park and eventually it would be a park.

Moved by Amyx, seconded by Dever, to approve a request for a 24 month extension of the approval for a site plan (SP-06-54-06) for Glenwood Apartments located in the southeast corner of the intersection of Wakarusa and Eisenhower Drives, which would permit the site plan approval to remain valid until June 5, 2011, subject to the following condition:

1. The applicant shall submit a revised site plan to the Planning Office which brings the site into compliance with the standards of the Development Code.

Motion carried unanimously.

(29)

Consider approving Comprehensive Plan Amendment, CPA-3-2-09, for revisions to Horizon 2020 Chapter 4 – Growth Management and Chapter 6 – Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County. Initiated by the Planning Commission on April 20, 2009. Requested by Rockwall Farms, L.C. Approve on first reading, joint City Ordinance No. 8415/County Resolution 09-21, for Comprehensive Plan Amendment (CPA-3-2-09) for revisions to Horizon 2020 Chapter 4 – Growth Management and Chapter 6 – Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County.

Dan Warner, Planner, presented the staff report. He said CPA-3-2-09 was an applicant request to amend Horizon 2020 Chapter 4 and Chapter 6 to expand the possible locations of conference, recreation or tourism facilities in the rural area of Douglas County. Chapter 4 currently limited conference and recreation facilities to Clinton Lake while Chapter 6 gave guidance regarding recreational areas solely around Clinton, Lone Star and Douglas County Lake. This proposal would expand the possible locations of conference, recreation and tourism facilities in the rural area beyond County lake locations. Rural tourism, such as the Freedom Frontier Heritage area, was a growing industry and it was appropriate to provide those uses in areas other than around County lakes. The proposal included 3 location criteria which were (a) direct access to an improved arterial roadway; (b) public water supply available; (c) separated from existing conference, recreation or tourism facilities by at least three miles or other appropriate distances as determined by the County Commission. The underlying language was the language added by the County Commission when they approved this item.

The proposal also includes two site design criteria. The first was that the project be designed to preserve and/or integrate the natural resources and rural environment through land use, site design, buffering or other methods. It also included a mandatory minimum two hundred foot natural buffer area or other appropriate distances determined by the County Commission. Proposals would be required to submit a site specific site plan with any rezoning application.

Finally, proposing to expand the possible locations of those facilities beyond County lakes was appropriate. The existing policies were proposed to change, but they were still leaving limits on commercial uses in the rural area.

The Planning Commission approved the CPA and the ordinance on May 18th and the County Commission approved CPA on June 24th. Staff recommended that the CPA be approved, as well as Ordinance 8415.

Commissioner Amyx said regarding the public water supply condition, he asked if the water supply was like a rural water district.

Warner said correct, a rural water district rather than well water. It was in the rural area beyond the urban growth area.

Mayor Chestnut called for public comment.

Paul Werner, Paul Werner Architects, said the CPA came out of a rezoning request that was made for a project off of Farmer's Turnpike. It was not site specific, but they worked with Staff on the language.

Vice Mayor Amyx said in the County Commission meeting, they discussed a 200 foot buffer to read as a mandatory minimum of 200 feet of natural buffer area. He asked if the buffer would be made on a case by case basis determined by the County Commission.

Warner said as it was written initially, it was a 200 foot mandatory natural buffer area. The County Commission wanted the flexibility to make a minimum and then a flexibility to make it larger than 200 feet.

Vice Mayor Amyx said the County Commission would make whatever they felt was a necessary buffer.

Warner said yes.

Commissioner Cromwell said they needed to think in terms of the future of rural tourism, agritourism and historical tourism. He said he encouraged the language to allow this growth.

Commissioner Johnson said he appreciated staff's good work.

Mayor Chestnut said two Planning Commissioners voted against this CPA, but in the minutes, discussion took place about this whole separation and the idea was to avoid a mass aggregation of buildings in one place.

Warner said the three mile separation was not a new concept in Horizon 2020. This application was to keep the urbanization of the rural area to a minimum. Those uses tended to be a little more urban than normal in that area and they did not want those to collocate and become a much larger urban area than necessary.

Mayor Chestnut said if the Planning Commission did not think the language was strong enough.

Warner said in Planning Commission discussions, it was discussed that the policy language was not specific enough.

Vice Mayor Amyx said that it was evident that there has been a lot of work done on this amendment and thought it would work.

Commissioner Dever said they needed to take advantage of the resources and bring tourism to the community and the County.

Moved by Amyx, seconded by Cromwell, to approve Comprehensive Plan Amendment (CPA-3-2-09) for revisions to Horizon 2020 Chapter 4 and Chapter 6, and adopt on first reading Ordinance No. 8415/County Resolution No. 09-21, Commercial Land Use to expand the possible locations of conferences, recreation, or tourism facility uses in the rural area of Douglas County. Motion carried unanimously. **(30)**

PUBLIC COMMENT:

Hubbard Collinsworth asked about the article in the LJ World on the reenactment of the Civil War and the use of blanks.

Mayor Chestnut said the request was made of Staff and did not come before the governing body.

David Corliss, City Manager said Jonathan Douglass, City Clerk/Assistant to the City Manager, received the initial request. The request came a week or so before the event and staff had significant concerns about the scheduling given the proximity to churches and other facilities. There was a wedding occurring at the South Park gazebo. However, if they had asked earlier on and were planning on having blank musket fire for an hour, staff would have suggested Burcham Park. It was isolated enough that staff could have worked with Pinckney Neighborhood Association and it would have worked. The communication was late in the process. Ideally, they should have let staff know about the reenactment so staff could have asked for a waiver from the City's noise ordinance and put it on the Commission's agenda, provide notice to the impacted institutions that staff could identify and public notice in the newspaper and the Commission could have worked its will on that issue. He said there was just not enough time.

Douglass said the City would be happy to work with them in the future.

Commissioner Cromwell said this civil war reenactment happened before and there was live fire at that location before.

Corliss said the 1812 Overture band concert fired a cannon. However, the City had notice of that event. He said staff determined that some level of notice to the public was required ahead of time.

Commissioner Cromwell said he respected the need for notification. He said this was the type of thing to encourage because of Freedom Frontier's and historical tourism. He said a lack

of coordination occurred and he wanted to encourage it in the future but also allow adequate notification for folks around the area.

Elise Higgins, Community Affairs Director, KU Student Senate, said she had questions regarding the hosting ordinance passed on June 23rd. She said Mayor Chestnut was quoted in a Kansan article yesterday about the new hosting ordinance and in that article he talked about when police could enter parties. If the police had evidence of a party, the police had probable cause to enter, but for the most part it was complaint based. She said her question about that particular quotation and the law surrounding it was, what the bright line for when police was when they were allowed to enter parties based upon a complaint versus based upon probable cause and what constituted probable cause that a party was happening.

Mayor Chestnut said he had a lot of trust in the City's law enforcement and the important issue was that legal council and the police force felt the City had limited opportunities and difficulty in enforcing house underage drinking at house parties and there was a neighborhood association that was very discontented with the activity that was going on and some of those residence had been in that area for forty years. There was a state statute that was passed and the City took the opportunity to tighten up those laws.

He said regarding the question about "complaint driven" was that it would probably be complaint driven unless law enforcement came upon a party. He said law enforcement determined probable cause.

Higgins said that the City website included tips for those who were hosting parties. She said what legal recourses were there for people hosting parties and minors were present, not necessarily invited.

Mayor Chestnut said that it would be appropriate to get a formalized response to clarify the information on the website about people hosting parties. There was a very passionate advocate group and the University that had taken a more aggressive policy. He understood and

appreciated the balance of rights so it was an appropriate question. The City was focused on trying to help a situation where staff had not had a lot of success in enforcing the law.

Higgins said why a \$1,000 fine was picked for college students.

Mayor Chestnut said that he did not pick a \$1,000 fine, it was recommended by the ordinance. He said he guessed there was a lot of research done on commencement ordinances in other cities. However, he felt it was important to make the fine significant enough to get peoples attention. He said he was only speaking for himself, but the fact was there was a significant issue that needed to be addressed. He said he would support a more vigorous enforcement and significant penalties after having two fatalities on campus. He said he wanted to give law enforcement the tools to do their jobs. He said he appreciated there was a sense of balance that needed to be cast and it was important to get the education from Staff about what student could do and some of the legal recourses. At this point, it was important to give the tools to law enforcement.

Vice Mayor Amyx said that the discussion on the hosting law that were held earlier this year were meant to give flexibility to the police department to make determination as to whether or not things were going awry. He said the group that looked into this issue made a good decision for the community and researched the number of cases visiting the Emergency Room. He said he had no idea the number of people that were visiting the emergency room, especially with alcohol problems.

Commissioner Cromwell said that it was a good sign if students were discussing the amount of the fine. The City wanted everyone to be concerned about the fine. The Commission wanted the number of alcohol related problems and fatalities to decrease.

Higgins said how many charges had been filed under the new ordinance.

Mayor Chestnut said he guessed none, but he did not know.

Higgins said if the City had a contract with a bottled water company.

Mayor Chestnut said he did not know, but staff could get back to them with the answer.

FUTURE AGENDA ITEMS:

- 08/25/09
- Consider Bowersock Dam Repair Proposals.
 - Consider an appeal of the Planning Commission's approval of a Preliminary Plat for Fifth Street Bluff Subdivision, including variances related to dedication of rights-of-way and frontage, a 0.29 acre subdivision consisting of one lot, located at 427 Country Club Court and accept dedication of easements for PP-04-01-08. Submitted by JMC Construction, Inc., property owner of record. (PC Item 1; approved 7-0-1 on 5/18/09)
- ACTION:** Uphold, if appropriate, the Planning Commission's approval of PP-04-01-08 and the associated variances, and accept dedication of easements for PP-04-01-08, a Preliminary Plat for Fifth Street Bluff Subdivision, a 0.29 acre subdivision consisting of one lot, located at 427 Country Club Court.
- 09/01/09
- General obligation bond and temporary note sale.
 - Consider bids for street, stormwater, water, and sanitary sewer improvements in the Exchange Place/Fairfield Street benefit district (bids are due on September 1 and the recommendation for award will be posted late in the day on September 1).
- 09/08/09
- Public hearing date to discuss the condition of the dilapidated structure at 426 Perry Street and to consider declaring the structure unsafe and ordering its repair or removal within a specified period of time.
- 09/15/09
- Ordinance No. 8387, for the Rezoning (Z-2-2-09) of 1725 New Hampshire Street from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip)
- 10/27/09
- 2009 LEAP Awards Ceremony
- TBD
- City Auditor update on scope and method of performance audit related to solid waste.
 - Consider Electrical Board recommendation to adopt the 2008 National Electric Code.
 - Discussion of financing methods for traffic calming devices.
 - Contracting for Professional Services
 - Fairfield East maximum special assessment hearing
 - Recycling report

- Consider a request from the Oread Neighborhood Association to enact a moratorium that would prohibit permitting Boarding Houses in the City of Lawrence while a text amendment to the Land Development Code to revise standards pertaining to Boarding Houses is processed.

COMMISSION ITEMS:

Commission Chestnut asked for input on 3 appointments to the CCH (Community Commission on Homelessness) and those were important appointments. He said staff could send out some criteria on the CCH because it was structured a certain way.

Moved by Amyx, seconded by Cromwell, to adjourn at 7:47 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF AUGUST 18, 2009

1. Bid – Kaw Water Treatment Plant roof repairs to Diamond Everley for \$98,285.
2. Purchase Order Increase – Airport Development Group for \$22,445.
3. Ordinance No. 8450 – 1st Read, Incorporate by reference STO for KS Cities.
4. Ordinance No. 8451 replace Ordinance No. 8426 – Rezone (Z-4-6-09) 135 & 137 Pawnee Ave fro RS5 to RSO.
5. Ordinance No. 8442 – 2nd Read, annex (A-5-1-09) 4 acres, Pump Station 25, 3800 Greenway Cir.
6. Ordinance No. 8444 – 2nd Read, rezone (Z-05-9-09) 4 acres, Pump Station 25, 3800 Greenway Cir from I-4 to OS.
7. Ordinance No. 8443 – 2nd Read, rezone (Z-05-08-09) Pump Station 25 from OS to FP.
8. Ordinance No. 8445 – 2nd Read, (SUP-5-6-09) minor utility svc, Pump Station 25, N of 3800 Greenway Cir.
9. Ordinance No. 8440 – 2nd Read, 2010 City Budget.
10. Ordinance No. 8441 – 2nd Read, Tax revenues for 2010.
11. Ordinance No. 8416 – 2nd Read, Solid Waste Rates for 2010.
12. Ordinance No. 8438 – 2nd Read, Water & Sewage Rates for 2010
13. Charter Ordinance No. 39 – 2nd Read, Transient Guest Tax.
14. Ordinance No. 8447 – 1st Read, rezone (Z-5-7-09) .735 acres, RS10 to CS, 1547 E 23rd.
15. Ordinance No. 8448 - 1st Read, Special Use Permit – (SUP-5-7-09) drive thru window at 1520 Wakarusa Ste: A-B.
16. BNSF - Scope & Fee with Hernly Associates, Phase 1.
17. Health Care Access – Lease extension, 1920 Moodie Rd.
18. Tiger Grant – 31st St from Haskell to Cnty Rd 1057.
19. Mortgage Release – Pike & Walbridge, 3217 Creekwood.
20. Agreement – Grant Township fire servies.
21. Bid Date – Fairfield E Add No. 1 & Fairfield Street Benefit District, Street & Stormwater – Sept 1st (PW0915)

22. Bid Date – Fairfield E Add No. 1 & Fairfield Street Benefit District, Sanitary Sewer Sept 1st (09S003)
23. Preliminary Plat - (PP-5-2-09) 3.083 acres, Orscheln Add, 1541 E 23rd & 1223 E 23rd.
24. Ordinance No. 8446 – 1st Read, rezone (Z-5-10-09) .981 acre, CS & RS10 to CS 1223 E 23rd.
25. Ordinance No. 8436 – 1st Read, retail alcohol sales (wine) at Farmer's Market.
26. Ordinance No. 8449, 2nd Read, amend SUP-01-02-07, increase overnight occupancy, Community Shelter, 944 Kentucky.
27. City Manager's Report – H1N1 Flu
28. Site Plan – (SP-12-93-06) 24 mo. extension office bldg at 501 Rockledge Dr.
29. Site Plan – (SP-06-54-06) 24 mo. Extension Glenwood Apts, SE corner of Wakarusa & Eisenhower.
30. Ordinance No. 8415/Cnty Res 09-21 – 1st Read, (CPA-3-2-09) expand locations, conferences, recreation & tourism in DG Cnty.
31. Public Comment – Civil War Enactment/Hosting Ordinance.