



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

December 9, 2008

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

CONSENT AGENDA

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to approve the City Commission meeting minutes of November 18, 2008 and November 25, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to approve the Sister Cities Advisory Board meeting minutes of August 20, 2008, September 10, 2008, October 8, 2008 and October 29, 2008; and the Convention and Visitors Bureau Advisory Board meeting minutes of August 27, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to approve claims to 542 vendors in the amount of \$3,046,130.31 and payroll from November 23 to December 6, 2008 in the amount of \$1,864,862.85. Motion carried unanimously.

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to approve the Drinking Establishment License for The Bourgeois Pig, 6 East 9th; Buffalo Wild Wings Bar & Grill, 1012 Massachusetts; and Latino Si, 506 Locust; and the Retail Liquor License for University Inn Econolodge, 2222 W. 6th. Motion carried unanimously. **(1)**

Ordinance No. 8359, rezoning (Z-06-07-07) a tract of land 25.97 acres (approximately 31.296 acres with adjacent right-of-way) from PCD-2 (Planned Commercial development) to



PCD-[Bauer Farm] with modifications in the restrictions, located at the NE corner, West 6th Street and Wakarusa Drive was read a second time. As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (2)

Ordinance No. 8356, authorizing the Special Use Permit for Westside Plaza located at 4811 Bob Billings Parkway was read a second time. As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (3)

Joint City Ordinance No. 8357/County Resolution No. _____, amending Chapter 6-Commercial Land Use – Inner-Neighborhood Commercial Centers for Comprehensive Plan, CPA-2008-3, was read a second time. As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (4)

Ordinance No. 8353, allowing the possession and consumption of alcoholic beverages on the sidewalk dining and hospitality portion of City right-of-way for Teapouro, located at 712 Massachusetts Street, was read a second time. As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (5)

Ordinance No. 8337, enacting eligibility requirements and qualifications for members of the governing body, was read a second time. As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (6)

Joint City Ordinance No. 8340/County Resolution No. _____, amending Horizon 2020 Chapter 14 Specific Plans, by approving and incorporating by reference, CPA-2008-6, the West

of K-10 Plan, was read a second time. As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the ordinance. Aye: Hack, Dever, Amyx, Highberger, and Chestnut. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt Resolution No. 6814, declaring the boundaries of the City of Lawrence, Douglas County, Kansas. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to adopt the State 2009 Legislative Policy Statement. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to approve annual increase of \$50 in cemetery fees beginning in 2009 and continuing through 2013. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to authorize the City Manager to enter into an agreement with Douglas County for use of the Douglas County 4-H Fairgrounds Baseball Facilities. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to authorize payment to the KU Kansas Small Business Development Center for \$23,333 from the 2008 Budget. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to approve reclassifications of \$70,000 of general fund expenses, including public safety, parks and recreation, and public works salaries in 2008 to Guest Tax Fund. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Hack, seconded by Highberger**, to authorize the Mayor to sign a Subordination Agreement for Irene Armstrong (Nieder), 1017 Home Circle. Motion carried unanimously. (14)

Commissioner Amyx requested the first reading of Ordinance 8324 be pulled from the Consent Agenda for separate vote. **It was then moved by Hack, seconded by Dever**, to

place on first reading Ordinance No. 8324, pertaining to the requirements for the removal of snow or ice from public sidewalks. Motion carried 4-1 (Amyx voted no). (15)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said they were closing part of the levy trail as the Kansas Turnpike Authority proceeded with their bridge reconstruction project on the turnpike. Jonathan Douglass, Assistant to the City Manager, put together some information in regards to the EPA ozone standards and it would be possible that Douglas County would be considered a non containment area by the EPA and that ozone reduction strategies may be a requirement. There was information in regards to the rental registration ordinance. As they put together the 2009 budget, he recommended an expansion of the rental registration ordinance. The City Commission did not adopt that recommendation, but put in the budget an increase in fees that might be collected if they proceeded with the ordinance adoption in 2009. Scott and other members of his staff put together an outline of a plan. It was important to recognize that it was possible but not adopted by the City Commission. They were holding stakeholder meetings in January to solicit additional input from the community as regards to proposed expansion of the plan and an increase in rental licensing. This was at staff level and not something the City Commission would adopt, but thought it would be something the City Commission would consider in February after the stakeholder comments. They thought that was a good way to flush out the issues and identify concerns. He said there was information on some manhole lowering projects and the monthly report on building permits was included. They have had a good year as far as valuation increase and fee increase, but a noticeable reduction in the single family market.

Mayor Dever asked why they built the manholes up so high.

Corliss said he speculated it had something to do with flooding concerns or may have been cheaper at the time to do it that way or less concern about how it looked and functioned.

They thought this was a better result not only to how it looked, but how it was going to function. Sometimes there were elevation concerns.

Commissioner Amyx said at the time they put those manholes in, it may have been the elevation of the flood line and there was concern about storm water getting in there.

Corliss said that was a likely scenario, but he would find out why. (15)

REGULAR AGENDA ITEMS:

Consider approval of 31st Street Concept Study.

Chuck Soules, Director of Public Works, presented the staff report. He said he was briefly going to go over the background because the City Commission had talked about this a few times. The section was within the City limits or south of the City limits between Haskell and O'Connell. The County and City agreed to extend the project out to County Road 1057. The City received an earmark for approximately \$800,000 for this project in August 2007 and they selected Wilson & Co. to provide the preliminary design. A steering committee was formed and they have had several meetings with the steering committee, city and county commissions. They have also had public meetings. On November 13th, the County Commission formally approved the recommended alignment on the County section from O'Connell east to County Road 1057 and approved a design speed of 45 mph at the intersection on a 2-1 vote. There were a number of people from the community, including the Prairie Park Neighborhood, Save the Wakarusa Wetlands, Bicycle Advisory Commission, representatives from the businesses along 31st Street, the Planning Commission and the City Commission, representatives from the County, the Chamber of Commerce and KDOT. They also had several members from staff who attended the meetings.

He said they developed a website and kept it updated. They allowed people to enlist or subscribe to the website for updates. They developed a survey which they had on the website that people could fill out asking questions on how they wanted the facility. They also presented those at the public meeting. The steering committee looked at a number of options. They

looked at a lot of different attributes of all the different alignments. The recommended alignment on the western half dipped south along the hill. It had horizontal and vertical curves to it that was the recommended alignment. The recommended typical sections between Haskell and O'Connell which would be the top section was a three lane section with curb and gutter that was adjacent to the industrial area that was out there right now. They had a multiuse path on the north side and a sidewalk on the south side. East of the existing industrial area, they went to a two lane divided with a median. There were open ditches, a recreation path, a multiuse path on the north side. They were looking at 120 foot right-of-way width in that intersection and 150 foot width east. The steering committee also recommended a 45 mph design speed. Other considerations included connectivity to Mary's Lake and intersection control at Haskell and O'Connell.

He said speed was one of the factors considered by motorists when inspecting transportation routes. Motorists assess the value of the transportation facility by its convenience and economy. The objective in a design of an engineered facility used by the public was to satisfy the use of the public's demand in a safe and economical manner. The design speed was selected and used to determine the various geometric features of a road way, such as site distance, horizontal and vertical curvature. Design speed should be logical with respect to topography, anticipated operating speeds, driver expectation, adjacent land use, functional classification, economic and environmental quality, aesthetics, and social and political impacts. Posted speeds could be lower than the design speed, providing an additional safety factor. The recommended alignment included vertical and horizontal curvature and access was planned to be restricted. This was a major east/west arterial connection. One of the goals for the project was that they wanted to establish the right-of-way they needed without spending the \$800,000 on the preliminary design; they wanted to start acquiring some of the right-of-way.

Vice Mayor Chestnut called for public comment.

There was no public comment.

Commissioner Highberger said he thought the posted speed limit should be lower.

He asked Soules if there were any anticipated intersections on that segment of the road.

Soules said not at this time. He said between Haskell and O'Connell, they anticipated restricted access. In the industrial area with the three lane section, there were accesses that they would include with any design.

Commissioner Highberger said 45 miles per hour was too high of a speed design or otherwise for an urban roadway. There was very solid data showing that traffic and pedestrian fatalities increase exponentially over 25 mph. At 45 mph, a car/pedestrian interaction results in the death of a pedestrian over 80% of the time. The area east of O'Connell was going to be in the City some day and had an area plan for that area. There would be a park there and children in the neighborhood. 45 mph as a design speed was excessive. They could post a lower speed but they all knew what happened when a lower speed was posted for a roadway designed for a higher speed. People would keep driving that speed limit unless they put in speed bumps. He reminded the Commission of the discussion about Peterson Road a couple of weeks ago. He said if they went for a 45 mph speed, they would create a situation for future City Commissions on what they had to do on Peterson Road. He knew it was for the purposes of determining right-of-way, but once they spent public money designing a road, part of the design for the road that set the ball rolling would be hard to reverse. He said he would strongly argue for a lower design speed road.

Commissioner Amyx said they all had been involved in lowering speed limits throughout the community. They all realized the development to the east of O'Connell was going to happen over time. As they looked at the development the speed was going to be done by a future commission, whether the design happened or not.

He asked Soules if they changed to a 35 mph speed limit, how much design would change. He asked if the alignment would be the same.

Justin Klaudt, Wilson & Company, said if they were to change it, it was going to minimize some of the cuts and fills, but would still have to cut to balance the earth work. The difference was pretty insignificant.

Commissioner Amyx said they should design it at 45 mph and look at the speed limit as needed in the area. He thought it was one of the times they had the opportunity to design and post the speeds at whatever they ought to be as development occurred.

Commissioner Hack thanked Wilson & Co. staff for all of their work getting to this point. She said they have had ample opportunity for public comment and were not having any this evening and this was a very significant east/west connect and the community said an awful lot to get them to this point. She said Soules was a great help in moving them forward as well. They spent a lot of time talking about different designs, speeds, and the way they were going to have the road go in respect to topography. She thought it was designed as well as it could be with challenging terrain and not know if they were going to have money to put it down anyway. It was a great opportunity for them to look at the east/west connector. She felt comfortable with the speed limit because the road was going to be maintained safely and would have better barriers between the walking path and utility path and the road. The additional landscaping was going to give it a sense that it was not an interstate and not designed that way. She was appreciative of the work and looked forward moving ahead with the project.

Mayor Dever said he agreed. The work that had gone into this was excellent and the design reflected a meeting of the minds of the neighbors and the people affected by the taking of land and the county and other interested parties. The road they had currently similar to this was Bob Billings Parkway west of Wakarusa. From a topographic standpoint and geometric standpoint it was similar. That road was 40 mph and had pretty good success with that. There were a couple of issues historically with racing on that road, but generally speaking it kept flowing and the traffic was acceptable. He was willing to consider a lower speed limit but after talking with City staff, they indicated the cost would be minimal, if any, to design it to 45 mph

and from a safety standpoint that would be a good thing. He would be in favor of considering a lower speed limit if that would help with the utility and safety of the roadway.

Vice Mayor Chestnut said he knew they had seen this item a couple of times and seen some public input. That had a good and desired outcome. They were down to design speed and the alignment issue was something that people were pretty much on board with and there seemed to be a good compromise. He agreed with the Mayor that the 45 mph design speed was important mostly because it dictated right-of-way and how much the City was going to claim. He would rather move from a larger to smaller than for whatever reason thinking they should have acquired another 20 feet. As they moved out on US 40 west of the SLT, they were going to find it hard going out there. They had some very difficult challenges there. His preference would be to acquire the right-of-way and as the density increased, they would have to consider it. He agreed with Commissioner Highberger about Peterson Road. The unique aspects of that were that they did not have much density and then came into a neighborhood. He said if there was a lot of density, they would review the speed. The transitions would always be difficult given the fact that the county was going to be 45 mph up to the City limit. There was going to have to be some transition at some point and they would have to cross that road when they came to it. He would rather have the options open than maybe otherwise.

Moved by Hack, seconded by Amyx, to approve the recommended curvilinear alignment as described in the concept study. Motion carried unanimously.

Moved by Hack seconded by Amyx, to approve a design speed of 45 mph for 31st Street from Haskell Avenue to O'Connell Road. Motion carried 4-1 (Commissioner Highberger voted no).

(16)

Receive staff report regarding panhandling and consider adopting on first reading, Ordinance No. 8362, amending the aggressive panhandling ordinance to prohibit panhandling during nighttime hours and within the confines of downtown Lawrence.

Scott Miller, Staff Attorney, presented the staff report. He said Ordinance No. 8362 was an expansion of the current structure of the ordinance they had in effect for aggressive panhandling. Based upon what he perceived the City Commission's direction to be at the November 11th meeting, he made changes to the current ordinance. The two primary changes were to make it unlawful under the ordinance to panhandle anywhere in the City at night and the other change was to define the designated downtown area, which would be the east side of Vermont Street through the west side of New Hampshire Street from 6th Street to 11th Street. The ordinance would make it illegal or unlawful to panhandle in that area, anytime whether it was day or night. Otherwise the definition of panhandling as it existed under the current ordinance, which was essentially asking for an immediate donation of money, was the same definition that existed in the proposed ordinance. They defined nighttime as the time between sunset and sunrise.

Mayor Dever asked Miller if he had a chance to read the email and information from the ACLU.

Miller said yes. There was no precedent that existed in the 10th Circuit Court of Appeals or the State of Kansas that clearly answered the question. There was precedent that supported the idea that the law such as the one proposed would be lawful. Until it was tested in court, there were no guarantees. The ACLU probably had some valid arguments they could advance in court as to why this ordinance as drafted may not be lawful under the First Amendment. The City had arguments they could advance under the existing law that responded to those arguments and alleged this was lawful enactment. He said how a court would handle that he could not handicap accurately.

Mayor Dever asked Miller if he had any conversations with the City of Kansas City with their decision not to enforce the regulations they have.

Miller said he had not.

Commissioner Amyx asked if they were to pass this ordinance and would replace the aggressive panhandling ordinance they currently had and, if litigation were to occur, would the existing aggressive panhandling ordinance remain in effect.

Miller said it depended on what would happen in the litigation. For example, if new provisions were the only things struck down by a court, then there was a severability clause in the ordinance that would make those parts severable and the currently effective ordinance would still be in effect. If the argument was their definition of panhandling was not content neutral, that sort of challenge could go to the aggressive panhandling as well as the amended or revised ordinance. If that was a basis for a court decision in validating the ordinance, then the whole ordinance would go away.

Vice Mayor Chestnut called for public comment.

Michael Tanner said he wanted to know if there was a copy available to the public of the e-mail sent by the ACLU.

Corliss said they did not have time to post it on the website, but would provide him with a copy (Mr. Tanner was then provided a copy of the email during the meeting).

Tanner said he told his story last time about the Kansas City police officers. He said he considered this another assault and attack on America's poor and low income people. It was a violation of their rights. He said he would not be proud to call Kansas City a sister city to Lawrence because his experiences in Kansas City were not good and there were a lot of criminals in the city. He asked if they were talking about panhandling or outlawing street musicians. He was a street musician and had entertained a lot of people in the town. He said he did not consider himself a panhandler and was a hard worker. He said he built the city on the river, which was a lot of hard work. He said there were a lot of panhandlers he did not like and some he thought should go to jail. They had to look at the other side because he had college kids come up to him and steal his money out of his bucket and the police would not do anything. The street musicians were in between because some people considered them

panhandlers, but it was hard work hauling equipment out there. He said people on Mass. Street have harassed him and stolen money out of his guitar case and hat. He saw other panhandlers out there who should have gone to jail and there were two sides to every story.

Janet Parker, at large member of the Coalition for Homeless Concerns, said these matters also involve a matter of international law, which was brought to her attention by the human rights attorney in Washington, D.C. for the National Center of Poverty and Homelessness. She said the panhandling act would be affecting vendors for the Coalition for Homeless Concerns. They have for over 10 years produced a newsletter called "The Change of Heart." It was printed and the editor was a young man who belonged to the Coalition of Homeless Concerns by the name of Craig Sweets. In this letter, he allowed the homeless to have a voice and be able to express their public opinion about what had happened to them, why they were where they were, and how they found their ways out of homelessness. They had 90 vendors who would need their vending licenses from the City of Lawrence and sold this newsletter on the streets for \$1.00 donation. They were dealing with a crisis in Lawrence with a lack of compassion in some ways to the homeless. They were putting together a program for homeless families with children. There was a misunderstanding with the homeless and they were trying to even site a daycare for homeless children. Therefore, the ability of the homeless population to express their opinion and share their concerns was very important. They believed it was a right guaranteed by the Constitution and a right that would be upheld by the Supreme Court. She said international law trumped national law and the US Government was part of the UN agreements on the Universal Declaration for Human Rights of 1948. She read an excerpt from that document. She said she wanted to bring to their attention the International Covenant for an Economic Social and Cultural Rights of 1966, Article 11.1.

Loring Henderson, Lawrence Community Shelter Director, said he was opposed to the proposed wording where it excluded or made off limits the central business district. Three years ago when they established the aggressive panhandling ordinance, he did not object because

people had the right to expect to not be aggressively chased or bothered. He thought the word aggressive satisfactorily defined and limited the behavior so it would satisfy this situation. He did not see the wording enhanced or improved the situation at all. He thought it was unenforceable or had unintended consequences that would not be helpful. He did not see the proposed wording was a reaction to a crime problem. He understood there have been seven citations for this ordinance since April. It did not seem to be sufficient to rewrite the law in terms of the load of the crime. He said to be called when aggressive panhandling occurred was something everyone understood. He said this wording would make it difficult to decide when to call the police and how to enforce it. By the time the police arrived, the person who did the asking may be gone anyway. It seemed to be complicated and difficult and a low priority for the police force. This was a subjectively motivated proposal and seen as an inconvenience to shoppers, but did not understand the problem for the majority and may not be a problem for a majority of the shoppers and people coming downtown. It seemed to him to be based on a lack of understanding for people who were in need and did not help to educate the public to understand the underlying problems. He said two examples of the problem are first in April and June 2007, he distributed a homeless information card to 167 businesses in and around the central business district and at that time he did a survey of those businesses and asked what their experience had been with homeless individuals downtown. Of 168, 67% said that they had no problem, no real problem, or not aware of a problem. 24% reported a problem or some problem and 5% said there had been a problem, but there was not any longer. 4% did not respond. The second example for him was the measurement of the extent of the problem did not exist. For the last 10 years, they have been distributing the newspaper in downtown Lawrence and sometimes other places like Wal-Mart and Target with permission on their property, but in that period they have distributed since they received a letter from the City saying it was alright, which was in May 2005, they have distributed 16,800 copies of "Change of Heart" Newspaper. Over the three and a half years with the continued distribution of several thousand

copies and including up to 90 vendors at different times, he had only been contacted once about an aggressive situation. It was an unfortunate situation and was dealt with. Change of Heart was a small but important jobs program for the homeless people. They got to keep 75 cents of each dollar collected for this paper. 25 cents came back for covering the costs of printing. The Change of Heart was a professional paper and member of the North American Street Newspaper Association and International Network of Street Newspapers. Lawrence was the smallest city in the United States with an official street newspaper. 30 plus cities have street newspapers, but most were larger publications.

He said the proposed writing would have a more negative effect on charities and groups that were not considered the problem it would on panhandlers. If the proposed wording was approved, Change of Heart would have to have a peddler's license if it was going to ask to have people buy the paper and if they were going to verbalize that. The peddler's license cost \$25.00 a year. Over time, this would have cost them \$2,250.00, which was a lot of money for them and Change of Heart. It did not seem to him the proposed reading would solve the problem. Charities would lose and panhandlers would remain active in some way. This problem was not being dealt with by the proposed ordinance. He said instead they should have a public education program helping people understand why people panhandle and what the underlying issues were so there was more acceptance than having people being afraid. He felt the aggressive panhandling the City currently had was sufficient.

Jane Pennington, Executive Director Downtown Lawrence Incorporated, said their members supported the adoption of this proposed ordinance. They felt that it helped protect the rights of shoppers to not be accosted on the streets and also protected the rights of merchants for better conditions to make their livelihood.

Greg Seibel, Lawrence, said this type of restriction on free speech should only be done in extreme circumstances where there were real problems resulting and something had to be done. Some people were being made uncomfortable by what was going on. He thought for

most people to understand that principle when it came to political speech, but it also applied there. There was already an ordinance against aggressive panhandling and stopped someone from following another person down a street and repeatedly making requests. The number of times someone was solicited downtown was a symptom of a problem in society of someone's needs not being met, whether it was mental health needs, basic shelter or whatever else. The way to react was not to shut people up and hope they went away; it was to deal with the problem and the source of the problem. Free speech was a pretty important right and he did not see Lawrence had a situation where restricting it to this extent was justified. He said charities were going to be affected by this as well; the people they were trying to make this affect, people asking for change, were going to be the least affected.

Ellie Garrett, Lawrence, said she worked in the area affected by this proposed ordinance and her family spent a majority of their expenditures on downtown businesses. She felt the panhandling issue had been addressed sufficiently and as a party to an aggressive panhandling situation, she felt the police responded appropriately at the time and did not see a need for any further measure, especially on anything that would tie up continued possible work by the city's legal counsel in any type of legal situation. She thought the downtown business area was thriving quite well as it was.

Vice Mayor Chestnut asked Miller to comment on what would and would not be allowed in the ordinance, specifically Change of Heart, the Girl Scouts, charitable organizations, and musical performers.

Miller said Change of Heart was treated by the City enforcement personnel as a situation where someone was getting something for a donation. He said it currently had a suggested \$1.00 donation and verbally soliciting under the ordinance would constitute as panhandling, so it would not be allowed in the downtown area. If the organization was selling something that had some value to it or something that was not completely disproportionate to the value so that in essence it was a donation, in that situation provided the other laws of the City were met, there

would be no problem of selling Change of Heart newspapers with a peddler's license because it was a 10 page newspaper with some information in it, and it was probably worth a \$1.00. In that situation, the requirements for solicitor's licenses or peddler's license would have to be met, but would not run afoul of the panhandling ban if it were treated that way. The same was with Girl Scout cookies. Someone would have to make a value judgment of it, provided that they were worth \$3.00 per box, then there was probably not going to be enforcement of Girl Scouts. Once again, if it was considered a sale, they would have to have peddler's licenses in the downtown area. They could also set up a table with a sign saying, "\$3.00" and if people came up and asked them that was allowed in the ordinance. The idea of the definition of panhandling was aimed at trying to cut loose any sort of feeling of coercion of someone being solicited. It only applied to solicitations for an immediate donation and not a future donation. That meant that someone involved in a charity or someone soliciting funds for themselves could verbally solicit funds for a future donation. Under the current ordinance, provided that someone was playing a musical instrument and had a sign they were presenting that said please give tips or donations that would not be a problem. At the beginning of a musical performance, the musical performer could announce that he would have a hat, guitar case, or jar and if someone liked his song, at the end of his song he would appreciate a donation because that would not be for an immediate donation.

Commissioner Amyx asked in 14-418(d)(3)(e) if it meant if someone walked into a place of business and tried to sell him something, if he had not given them his prior consent that was considered panhandling.

Miller said panhandling would only be enforced on public rights-of-way and public areas. They could make that clear if there was a concern regarding that, but could not see any enforcement being taken in that circumstance. He said under the power to control your property and criminal trespass laws, you could ask someone to leave. He did not anticipate the City would engage in aggressive panhandling in that circumstance.

Tanner said he wanted to address some of the issues brought up by the City attorney. He said the problem he saw was it was mentioned of people with and without permits. They had one group of people who had money for a permit and another group of people who did not have money for a permit. They were going to be telling one group of people who had money for permits that it was okay but were going to tell other people who did not have money for permits they could not. It would be discrimination. He said the other issue was the merchants on Massachusetts Street. A lot of the people who panhandled did in the daytime. Musicians made their money at night and the shops were not open at night. They entertained people from the bar crowds. To say that they could not panhandle in the downtown area or perform after dark and put a time limit on it was unreasonable. He considered what he did a job. To restrict that to certain hours was unreasonable.

Commissioner Amyx asked Corliss why the current aggressive panhandling ordinance does not work.

Corliss said they have received a number of comments and complaints this year about panhandling activity in the downtown area. There have been citations under the aggressive panhandling ordinance and in other cases they have not been able to cite individuals. They have also had comments from other citizens that there had not been much of a concern. They had to weight the problem. The night time solicitation issue had been brought to their attention that it was an option and community wide concern. He received comments from one citizen that someone asked for money at the parking lot at Target and that was uncomfortable for that individual at night time. He thought to answer the question, they had to ask what their goal was of the aggressive panhandling ordinance and they continued to have concerns about that. They knew they had concerns and had an active downtown. They historically have been hesitant to regulate this and did not have licensing for street musicians. They had licensing for individuals who temporarily needed to occupy the right-of-way. They have been hesitant to adopt laws in this area but did it because they had a concern a few years back and have had comments that it

was not working. He said they were at a meeting for downtown merchants and they expressed substantial concerns about the situation.

Commissioner Amyx said in answer to the question Corliss asked is that public safety was always going to be the highest concern. A situation happened the day after Thanksgiving where an individual was aggressively panhandling at 9th and Massachusetts. There was never officers called, but the matter was settled in the alley of the 800 block of Massachusetts Street. This was a case where the public safety for both individuals needed to happen. They saw all types of situations happen and heard people with the comments that they never had a problem or they did not come downtown because the problem existed. He asked if this would get at the problem and individuals they wanted to take care of. They just wanted everyone to feel comfortable coming downtown and that was what this was about. If this was the ordinance and written in the way they took care of the situation where someone came up and asked someone for \$1.00, the answer was no and it exploded into something else, this was helping that. He did not see the situation of getting into the other licensing and other things they had to do.

Corliss said it was important the City Commission pay attention to the recital and the findings in the ordinance that it was important for the governing body to adopt the ordinance if that was how they proceeded to agree with those general findings. He said their attention would be directed to that and got to the why question and why the change in the law. If there were changes or corrections needed to be made into that it would be appropriate.

Commissioner Highberger said obviously some people had concerns about aggressive panhandling downtown. He thought they had an ordinance on the books that criminalized the real problem they had, which was panhandling that went to behavior that could frighten people. Obviously that ordinance had difficulty in enforcement. The ordinance they were looking at passing was going to be equally difficult to enforce. He struggled with this the last time they adopted the aggressive panhandling ordinance and felt at that time they went as far as they could go within the limits of the law as he understood it at the time. He thought the ACLU raised

some valid points. They were in the middle of a very serious recession and in Lawrence, Kansas they were getting ready to make it illegal to ask someone to spare some change. He did not think that was the kind of City they wanted to be.

Commissioner Hack said she understood Commissioner Highberger's concerns and she thought they were not that kind of city. She said they had a number of agencies to help all sorts of people and time and time again, people in the community step up to help others. In the same breath, the meeting she and Commissioner Highberger went to, it was pretty obvious what they had was not working and the situation escalated. She said that concerned her and went back to what Corliss pointed out in the Whereas clauses of the ordinance. It was not something she considered to be her proudest accomplishment on the City Commission, but believed they were in a difficult situation and the downtown was suffering from some of these circumstances. She did not want to take away the musicians, the Girl Scouts, Habitat for Humanity Bake Sale. There were all sorts of opportunities to make money and thought they could be done in the confines of the ordinance the way it was written. What they had now did not seem to be protecting citizens from situations.

Mayor Dever said he appreciated the work done on this ordinance. He said the ordinance was succinct and defensible. He said the problem was enforcing the rule they had an increased law enforcement downtown in one of the busiest parts of the community would be a step upward in helping some of the problems they had with aggressive panhandlers. There was a problem and he would like to see if they could try to eliminate the problem with the rule they had. If stepping up the enforcement in the downtown area, specifically the area they defined, did not help with the problem, then perhaps a more stringent regulation or rule might help it. He was hesitant to approve or agree to additional regulation, although he knew there was a problem and would like to try and solve the problem; some of the problems they saw would be better addressed and ramped up downtown. He was not likely to be in favor of this right now.

Vice Mayor Chestnut said he agreed with the Mayor and was hesitant to move forward on this. There was a problem and it had escalated. One of the things he was not completely comfortable with was what they could do outside further regulation to try and mitigate the issues. Part of it was what focus they could put on law enforcement downtown. He knew that was resources and knew they had to have that discussion. He thought they had the right to do it and when they talked about free speech limitations, they did that in federal and state law all the time. This was the balance of rights. They had the rights of property owners, rights of people and were trying to balance those out. He felt comfortable with the ordinance as it was written constitutionality but did not know at this point if it was appropriate to move forward at this point because he did not know if they had gone through or addressed the different measures they went through to make the situation improve. Some of it was not just law enforcement, but what communication they could have with the public about what ordinance was in effect now and what they could do about it. He appreciated the Mayor's comments and thought they had to keep this on the shelf, wait and see, and maybe as the spring came around and the activity increased as the weather got better, if they could between now and then come up with some strategies about how to communicate with the public on what they could do better and would they could do with law enforcement to make this a better situation. The reason he was hesitant now, too, was because there were some unintended consequences. He would hate to see the Change of Heart with a peddler's license because it would become economically unfeasible and the same with the Girl Scouts. They would get into a level of complication and have issues that would preclude them from having the kind of environment they had downtown and would take out some of the character. It was a delicate balance right now.

Commissioner Amyx said counting to three, starting tomorrow, what kind of enforcement do we want to see tomorrow.

Commissioner Hack said she was more than willing to take this as a bundle, put it on the shelf, and work on trying to enforce what they have now. What that would require was

additional resources for people downtown. They had to look at the City Manager and ask if it was doable. Putting another hammer down and another law did not put more people in downtown to enforce it. If what they had could be enforced, she would rather do that.

Vice Mayor Chestnut said he wanted to comment on some statistics Henderson had. If 30% thought there was a problem, then there was a real problem. If half of those people did not come back downtown, they had a serious problem. The feedback from the public was they had an issue that needed to be addressed, but the more they got into this from his standpoint he did not know how much further they would approve the situation. There were a lot of issues that were going to complicate this and make it difficult to move forward on. He said he would like to see what they could do in the interim.

Commissioner Hack said perhaps they could continue a meeting with merchants, Chief Olin, the City Manager and other interested parties to talk through this and how they were going to enforce it. This problem had been escalating for the last year and did not think they could put it on the shelf and wait.

Corliss said the Mayor related some concerns about law enforcement presence downtown. He and Chief Olin have discussed this situation and are trying to figure a plan to put additional resources downtown. They have had additional foot patrols downtown since the Friday after Thanksgiving. He said it was really more of an articulation of what they wanted the service level to be. They did not want to prohibit presence but were going to focus on conduct.

Moved by Hack, seconded by Highberger, to table Ordinance No. 8362, prohibiting panhandling during nighttime hours and within the confines of downtown Lawrence, and directed staff to provide an update on downtown panhandling in 60 days. Motion carried unanimously. (17)

Consider items related to the Lawrence High School and Centennial/Virtual School SUP's:

a) Adopt Resolution No. 6816, making written findings for the City Commission on the Lawrence High School (SUP-07-04-08) and the Centennial/Virtual School (SUP-07-06-08) Special Use Permit Applications.

b) Adopt operating agreements for SUP-07-04-08 (Lawrence High School site) and SUP-07-06-08 (Centennial/Virtual School site).

John Miller, Staff Attorney, presented the staff report. He said the development code required written findings by the City Commission on decisions for special use permits. This was required because the City was served with a petition and appeal from the Centennial Neighborhood Association for the special use permit applications. They were testing those and the development code stated that if there was a lawsuit filed in the Douglas County District Court, findings must be adopted by the City Commission. Also special use permits were required by quasi judicial decision by the City Commission and one of the other factors that required written findings if a lawsuit was filed. The written findings that have been prepared indicated the proper procedural and development code process requirements were followed and that were written to reflect the reasoning and decision making process for the City Commission by both the special use permits for the Lawrence High School site and Centennial site. He said if the City Commission would like more time to consider the findings, they could direct staff to make changes to the findings prepared and bring it back for the City Commission's consideration on next week's agenda. They had a 45 day time frame from the date they have been served with the notice of petition of appeal, which would be December 18th. He said they would have to make findings by next week's agenda.

Corliss asked Miller if the City Commission needed to be advised that this was not opportunity to revisit the earlier decisions. It was to make a decision to make a determination if the written findings were the intent of the development.

Miller said that was correct. This was a requirement because a lawsuit was filed. It was not necessarily a public comment issue or for the City Commission to reconsider the decision already made. Only to ensure that the findings prepared reflect the decision that was made.

He said item 3b was the first operating agreement from the school district regarding the maximum level of activity at the athletic fields. The agreement limited the uses to school district activity only. City staff and the school district would continue to meet and discuss an agreement to expand the City's Parks and Recreation purposes. The agreements presented by the school district were to satisfy the special use permit conditions that were a requirement under both ordinances. Staff was working to prepare a draft agreement between the school district and the city to allow the city to use the facilities in the future.

Commissioner Amyx asked about Section H under the professional staff recommendation. They required a greater setback of the stadium. He asked if that was in the findings and where it was.

Miller said it was in the findings and on page 9 of 11 on the online version of the resolution, it was section 2b. It was in response as to where the proposed use was compatible with adjacent terms, adjacent uses in terms of scale, site design and operating characteristics.

Vice Mayor Chestnut called for public comment.

Jeanne Klein, Lawrence, said contrary to the City Commission's written findings, it was wholly inappropriate and unreasonable for the Planning Staff to determine that active recreation was the applicable use classification for these two sites. Staff fully acknowledged that spectators were anticipated and knew full well that the school district intended to use these competition facilities as entertainment for spectators and group recreation for all students who attended Lawrence schools. She asked why the City Commission did not ask staff the reasons to reject the use classification of use entertainment and spectator sports for these two sites.

She said these written findings also fail to acknowledge the explicit code for institutional development plans which stated sports fields and other large traffic generation activities should be located on a site furthest away from RS zoned areas and designed to reduce noise and light pollution from creating negative impacts on the adjacent neighborhoods. She asked why the City Commission did not ask staff why they dismissed their rationales for that code.

She said as for the devaluation of residential properties stated in the written findings, they were still waiting for the school district to prove there would be no substantial devaluation of homeowners properties, including no further increases of rental properties currently existing in Centennial Neighborhood, which was about 40% right now, as far as University Place neighborhood, which was required in City Code.

She said in regards to the operating agreements, if the district intended to limit the uses of these facilities to "LPS permitted, directed and sponsored activities," she saw no justifiable reason for the City to enter into operating agreements. If the district intended to permit, direct and sponsor the City's Parks and Recreation sports programs any day or night over 7 months each year, then the operating agreements must be rejected outright for creating negative impacts on residential neighborhoods and a church. The Planning Commission discussed these options at its August 13th study session before it approved the SUPs on August 27th. She said if their point was to limit the uses, the agreement did not put a limit on the uses or state what the limits would be. They wanted to know exactly how many days and nights they were talking about because right now the operating agreement was wide open. Based on the amendments to the GPI codes regarding institutional uses of accessory structures in October, which was one month after they approved the SUPs, it was exceedingly clear to her that the City intended to use the school district's 10 outdoor sports facilities for its own Parks and Recreation programs any day, night, over 7 months annually. In effect, the City joined with the school district in prohibiting taxpayers from voting on 10 additional sports faculties that would cost all of them well over \$10 million. This economic fact alone was not in the entire city's best interest. The City Commission was charged with protecting the health, safety and welfare of all Lawrence citizens and not just the special minority interests of those who spectate and participated in sports. Citizens could no longer trust planning staff to interpret land use codes as explicitly written nor could they trust the City and district would abide by limited uses of these facilities a few days and nights each year. She asked for public record for the City Commission

to say their own interpretations of land use codes on behalf of all residential neighborhoods in this community.

Toni Wheeler, Director of Legal Services, said as John Miller previously stated, the purpose of the agenda item tonight was to review the findings of fact. They were not here to revisit the decisions on the SUPs that were taken up by the City Commission in September. The previous speaker made comments that were the subject of litigation in district court and those matters would be addressed by the court and not appropriate for them to go into the discussion or respond to the questions at this time.

Corliss spoke to the question about the operating agreement. They were going to need to take a look at a number of things and whether or not they were going to have any use of the school facilities on behalf of the Parks and Recreation Department. They had a number of operational concerns on what they could use and budget concerns on what they could afford to use. They did not know the answers to those yet and would be a subject of public discussion periodically over the years. Parks and Recreation always had their interest in doing their mission, but had other interests as well like being able to afford it and make sure they did not have inappropriate impacts to adjoining property owners. Those types of issues would be worked out in the future. The school district may not want them to use it in other situations and may not be able to afford their rate. They wanted to meet the condition and proceed.

Commissioner Amyx said he thought the findings were fine and Corliss's explanation on the agreement between the City and school district was done to satisfy one of the conditions for approval of the SUP. It was going to be limited use and any number of factors could come into this.

Moved by Hack, seconded by Amyx, to adopt Resolution No. 6816, making written findings for the City Commission on the Lawrence High School (SUP-07-04-08) and the Centennial/Virtual School (SUP-07-06-08) Special Use Permit Applications. Motion carried 4-1 (Highberger voted no).

Moved by Hack, seconded by Amyx, to adopt operating agreements for SUP-07-04-08 (Lawrence High School site) and SUP-07-06-08 (Centennial/Virtual School site). Motion carried unanimously. (18)

Consider approving Comprehensive Plan Amendment, CPA-2008-9, amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 & Farmer's Turnpike Plan and consider adopting on first reading, joint City Ordinance No. 8358/County Resolution No. _____, amending Horizon 2020, Chapter 14 Specific Plans by approving and incorporating by reference, CPA-2008-9.

Scott McCullough, Planning and Development Services Director, introduced the item. He said last week the City Commission received a presentation on a sector plan entitled K-10 and Farmer's Turnpike Plan. Because they received that presentation from staff and received public comment, he was not going to re-present that information. He recapped that there was a fairly extensive public process that included four Planning Commission meetings, a large public meeting, three workshops and a large stakeholder list to receive input on the plan. The plan they presented was the option the Planning Commission recommended to the City Commission and the option to the sector plan and map that the staff presented toward the Planning Commission. Staff provided a memo in the packet that addressed several of the questions staff understood that were up at last week's meeting.

Commissioner Amyx asked McCullough why at the time the request was made for the sector plan there was not consider to extend the west of K-10 area study.

McCullough said there was a particular Planning Commission mid month meeting where they were updating them on their efforts on the long range planning they did in Planning and Development Services. Staff took direction from the Planning Commission at that time that if they were going to initiate and do planning in the area, they would do the entire corridor of Farmer's Turnpike and I-70 and not the extension of one of the plans they were working on at that time.

Commissioner Amyx asked what options they had under consideration and what all it took to do what.

McCullough said they had the opportunity to adopt the Planning Commission's recommendation or revise the Planning Commission's recommendation. Depending on the scope of those revisions, they needed to make a determination of whether it needed to be returned to the Planning Commission for reconsideration on their part. They could revise with a super majority vote different than what the Planning Commission recommended or they could defer for further discussion and debate.

Vice Mayor Chestnut called for public comment. He said that since there was pending litigation, they would not be able to comment on some issues. They were trying to focus on the land use map and the annexation issue was not something they would be discussing.

Lynn Ward, area resident, said the land across from her was the area between I-70 and Farmer's Turnpike. It was slated to be industrial, but was unsuitable for industrial as per the slope recommendations of the ECO2 Commission. ECO2 recommended industrial tracts be located on land that had a slope between 0 – 3% and 25% of that land between I-70 and Farmer's Turnpike had slopes between 15 – 40%. She said she did not like being at the City Commission meetings and her husband could not come to the meetings because he had to get up early to go to work. She said the reason they had not been to all the meetings was not because they did not care. She said what she did not like about the sector plan was that she and her family lost control of the options of what they could do with their farm. If they needed to sell 10 acres, who was going to buy it from them because no one would want to build a home there because of the future zoning so they would be forced to sell a huge chunk of their farm or all of it. With the sector zoning plan, the City Commission was in control of her and her family's future and their farm. She said they lived outside the City and the City Commissioners did not represent them. They were choosing their future and she did not think that was right. She asked the City Commission to vote no to the sector plan.

Dave Ross, Scenic Riverway Community Association, thanked the City Commission for previously deferring this item until tonight. They had quite a few people present but a few people called and said they would not be able to make it because of the weather. They indicated they wrote to the City Commission. He said at the July Planning Commission meeting, the neighbors presented some ideas as to how industrial areas had been incorporated into and still maintained the integrity of agricultural areas in many other parts of the country and Canada. As a result, the meeting minutes reflected that they should work to increase the office and industrial research areas, that book ending these areas was a desirable option, that they should work to preserve the view from I-70 and could be creative beyond the standard set of tools that were presently available. He said with those things in mind, the neighbors went to work with staff in an effort to try and move this forward. They began with the premise that was raised by Jim Haines about the first informational meeting, that about 75 people attended, when they first saw the map staff initially prepared. Staff was not considering the fact that this was presently an agricultural residential area outside the City limits and that he felt that staff should recognize that and start from that point. They also understood there was a need for more industrial and office research space to provide future employment opportunities for the City and the County. They believed that this plan needed to fit into the Northwest Plan which was a living document to this date. He said this plan was referenced even recently by the Planning staff on projects that have occurred on the southern end of that. In general, the first sentence of the planning goal of the Northwest Plan was that sections 21 and 22 were to be left rural in character. They also knew there was a large piece of property that had already been annexed and rezoned into the area and they incorporated that into their thinking. They were informed by staff that the land to the west and south of this piece that was annexed was basically a "sacred cow" and that staff's recommendation for this acreage was not subject for review. They also looked at the K-10 and Farmer's Turnpike Draft, which stated that the plan should fit like a puzzle into the larger context of the surrounding street, utility and land use network of the entire

community and that logical connections between the planning area and adjacent neighborhoods were a key factor in the development of the plan. Finally, they remembered that Commissioners Amyx and Chestnut voted only in favor of the annexation and the subsequent rezoning based upon the fact that no infrastructure would be promised or provided at any cost to the City. With those things in mind, they have voiced their ideas, but for other reasons they were informed by staff that despite the interest of the Planning Commission in looking at new an innovative ideas, that staff had been instructed to only use planning tools from the past. He personally felt that Scott and Michelle did an excellent job in trying to understand what the neighbors wanted, but felt like they were hamstrung by the instructions and could only work in the confines they were given. As a result of the restrictions and input by the neighbors, staff created the map known as Option 1. He said the planning staff never gave them instructions other than to plan for industrial. He said at the last meeting of the group, staff incorporated the neighbors' ideas into another map known as Option 2. He felt that it flowed better. They created a map to show how option 2 floated into the existing area. They felt it fit more like a puzzle like the draft of the Farmer's Turnpike required. However, because the City housing codes, the center part was shown as low density residential as one house per acre. The density did not support the infrastructure being run down the turnpike and was never their intention for infrastructure to be there. Their instruction from the Planning Commission was to plan industrial and nothing was said of residential. The rezoning was passed with no promise or provision of City services. He showed a map that better represented the concerns of the homeowners. It offered 704 acres of industrial and office research as compared to 671 shown by the City map. The plan also allowed for much quicker and less expensive implementation of the plan by using the infrastructure that was already available at the eastern end. It also operated under the expectation that the utilities on the western end would flow naturally from the south, up K-10 from the new water tower, as the area developed. Last Tuesday they saw the discussion of the west of K-10 plan and how long time homeowners were forced from their homes because of

inappropriate planning. He spoke with one of the neighbors and she spoke of 35 years of broken promises, as an example the boat yard across from the bypass of her house, when that was rezoned the neighbors were promised it would not be anything but a gravel yard. At that meeting, both Commissioners Highberger and Chestnut agreed and said it was not the City Commission's responsibility to maximize the return for property owners. The neighbors felt like they had done the due diligence and followed the instructions of the Planning Commission. They tried to balance the needs of the neighbors, many of whom had been out there for over 50 years, with the needs of the community to provide employment opportunities in the future. They acknowledged the annexation and rezoning of a large parcel of land owned by a developer in their area. They did not feel it was their responsibility to reward the greed of a speculator as he sought to add additional profit centers beyond that parcel to his portfolio. There were 125 homes in the area with more than 75 people participating, but it appeared their concerns have not been reflected at all and only the developers' requests have any influence in this process. He said on October 27, 1986, developers Jacobs, Consey, and Jacobs and Town Center Corporation, Venture Corporation, arrogantly presented the City with a mall proposal to cover a downtown footprint from Kentucky to New Hampshire and 6th Street to 7th Street. This was a developer of record who had threatened to build the 1970 Cornfield Mall. The audacity of the take it or leave it plan hit a nerve with the community. He said imagine no Liberty Hall, no Free State Brewery or 600 block of Massachusetts Street. Imagine the back side of a stacked parking garage facing their train park. Worst of all, JVJ and TC's agents, felt their mall deserved to own the heart of downtown. Lawrence was the largest city in America without a mall and made it sound like it was a serious liability. Here they were 22 years later with the same developer and similar situation. The commissioners at the time saw through the smoke screen and now they point to their downtown with pride as the envy of every city in the State of Kansas, yet it could have looked a whole lot different. Last week Commissioner Amyx asked if this was

the way they wanted this to look in the future as they passed the baton, and he thought that applied again tonight.

Marguerite Ermeling, area resident, said she made a copy of the three maps and in the three maps they had the option that the staff members brought forward. They were in confinement on what they would accept from the neighbors to apply to a map and interpreted within their control and guidelines what that option 2 map should be. Option 2 was not really their map but the map they were presenting. She said she wanted to go in depth on the history of how they got started on this. She wanted to preface that by saying that as a neighborhood they felt they have worked very hard at working at alternative efforts to embrace the things that have been demonstrated to them and spoken to them by the various commissions. She said that one and primary issue in response to the needs of the community as defined by Beth Johnson by the Chamber of Commerce, by the commissions and directions themselves, the emphasis was to be placed on some industrial. When they first brought their proposal to the Planning Commission, there were a number of things brought forward by Beth Johnson as creative ideas. At the time they presented it and went through the possibilities that would come forward if they were looking long range, they brought ideas that were not selected but places to begin to think about creative options in the area. She said it was an effort to leave a bulk majority of the area un-evolved. She said Johnson brought forward pictures on how they could evolve industry in the presence of rural space and do it effectively and use the surrounding lands as some of the buffers. In her text, she presented some ideas such as rural conservation and industrial zoning district. There was also MR zoning intended to provide large sites having frontage for interchange sites where urban development was not anticipated to occur in the foreseeable future. She said the MR zoning accommodated industrial development of the land in an intense nature on a limited service basis. There was another one called resource conservation zoning districts that also allowed industrial. She said these were zonings that existed now and elsewhere in the country.

She said the neighbors did not begin this process with any knowledge or direction they understood until going to the sector plan that they were supposed to urbanize the whole space in the first place. There was a question to why they had all the space in there because it was not part of what commissions were talking to the neighbors about; they wanted industrial at the interchange. As they progressed through their areas, there was some direction in the context of the Northwest Plan and in that plan there were specifically two sites in the general area, the land use area. Their plan was that sections 20 and 21 were to remain rural in character during the life of the plan or until endorsed. As far as she knew, short of some references that did not support Map 1 in the alternative northwest development area of the code, it was still to be low to very low density. It directed itself to Horizon 2020 and supported there. She said the last one dealt with number four. Sections 20 and 21 should continue to be rural in character and residential uses should be very low density according to guidelines in Horizon 2020. She said when they started out their work, it was with no knowledge that they could not begin this from finding industrial land. As was mentioned last week, they found industrial land and looked at it a number of different ways and tried to look at it a number of different ways to look at infrastructure in the area reasonably. One was that there was infrastructure nearby on the east side. She said the sizes were useable and functional in some fashion towards and industrial base adjacent to the industrial area. They were well supported peripherally with housing that already existed there. She said that area seemed most logical to come up through along K-10 and with the passage of the west plan that made more sense, it looked like they would fit and met the purpose of what was defined in the K-10/I-70 plan where the purpose was to make it look like everything fit.

She said one of the things the neighbors looked at was to ask themselves why they were going through all the density when the urban growth area that already existed from 5 years ago was massive. There have been no public funds expended to her knowledge, although there was a holding pattern on the completion of a water treatment plant south of Wakarusa. That

was a massive area that was decided to bring into the community because it had advantages out there and potential of gravity feed to the sewer plant. She said that had not taken root but was not completely sector planned out there and they have not completely sector planned as far west of the UGA. There was a lot of space in there and had farmland that was potential for the community. They had the Southeast Area Plan and industrial at K-10. They decided that industrial was not to be centered in one spot in the community and needed to be in multifocal areas in the community, which included the south area because there was a lot to be achieved out there. When the neighbors came to this, they thought there was a reason to retain the ruralness out there and fit the low density that was coming from the Northwest Sector Plan and Sections 20 and 21. She thought it was premature to pursue this plan at this time or suggested by staff to go with option 1. She did not agree with that and collected 105 signatures of people who lived in the area and in the perimeter of the area who did not agree to plan 1. She said there were a lot of people who felt that way and were property owners who were in the area. She asked the City Commission to reconsider the size and footprint they were looking at in this sector plan and send it back with a different direction to consider and move forward to the things they have stated before they thought were necessary, leave the rest of it alone at the time because it did not need to be in the project and did not require the extension of infrastructure along Farmer's Turnpike. They could get infrastructure in the places they needed it and way more cost effective than dragging it from one side to another, up and along Farmer's Turnpike. She asked the City Commission to take note that it was not great long term planning that they have done to date. She would like the footprint of the sector plan to be reduced and be more manageable.

Ron Schneider, attorney for the neighborhood Scenic Riverway Community Association, thanked Mayor Dever for deferring this item until this evening. He said he contacted the Mayor before the last meeting and the mayor told him he would try to advise an extension. He said as some of his clients have stated, more people would be here but for the weather and other

factors. He addressed some concerns about procedure and notice requirements with staff counsel before this hearing or meeting. There were some serious questions about whether or not notice had been given as required under K.S.A. 12-743. The notice was required when they had a comprehensive plan change or addition. Written notice had to go to the township trustee if it was outside the City limits and the County had to give notice of such activity to the township trustee and also to a City within 3 miles of the area of the land if it was not incorporated. He was advised by the city counsel that they believed they had done that, but it was his understanding that confirmation of that in paper was not here and not readily available. He believed they should not take action until they 100% confirm that was in fact the case. He learned just today of the lack of notice to the township trustee after talking with his clients he personally contacted the township trustee and advised that he never received notice. He said under the statute, it was mandatory that written notice be given as well as standard publication notice.

He said there were questions about the sector plan and first and foremost was why now and why this sector plan was even being considered. He asked what the urgency was and what the purpose was of the sector plan. He asked why they were considering it under the budgetary restraints they have recognized over the past number of months after all the considerations. Many people wanted to know what was going on and he could not answer that logically except for a simple response. There was one land owner and one land developer who wanted to enlarge their potential development. In doing so and reviewing this, he believed they needed to look at Horizon 2020. When they read the introduction to the master plan, on the first page it stated that specifically the City and County used the comprehensive plan to evaluate development proposals to coordinate development at the fringes of the counties and cities to form a foundation for a specific area plan and project future service and facility needs and to meet the requirements for federal and state programs. The comprehensive plan was used most often as a tool to assist the decision makers and evaluating the appropriateness of land

development proposals. The comprehensive plan allowed the decision makers to look at the entire community and the effects of land use decisions on the community as a whole to determine whether individual proposals were consistent with the overall goals of the community. He said repeatedly, overall goals of the community, not one person, but the community. As a summary, there was a statement in Horizon 2020, which said early in the planning process the Horizon 2020 steering committee adopted the following mission statement, "Horizon 2020 is the citizen driven process of creating a plan to provide policy and strategic direction to guide Lawrence/Douglas County to the year 2020." He said keeping that in mind he directed them to look at Chapter 14. Chapter 14 was specifically sector plan. A sector plan covered one or more sections of land and uses geographic and demographic information to develop a detailed land use vision for future development or redevelopment of the study area. In the hierarchy of plans, a sector or area plan was the third tier. Based on the size of the area being studied, one or more sections of land could be between 18 – 24 months to develop. Commissioners had the largest sector plan ever considered by the City, which was about 4,000 acres. It was brought in at a speed of 6 – 7 months, but the comprehensive plan indicated for their reference 18 – 24 months. He said they looked at that with skepticism and cynicism, and based upon that was to show what the comprehensive plan envisioned. It was not a quick process. He asked the City Commission to look at all the purposes and reasons and confirm what, if any, applied to this particular process. The one thing that consistently applied, in his opinion, was that the City Commission had one person emphasizing the desire for the City Commission to proceed at break neck speed so they could do development. He had not heard an outcry of the people who have and was in the typical process the key stakeholders, the people who live in the sector plan, coming to the City Commission and asking for a sector plan. The irony was that the City Commissioners were elected by city residents but the individuals in the area could not vote for the city commission, did not vote for the city commission, and were county residents. They would be able to express their concerns in a timely manner to the County Commission, but right

now they were before the City Commission. The City Commission had the power to make great influence on their life and direct how development was to proceed. His clients want them to slow it down and do what the master comprehensive plan envisioned. The comprehensive plan was a community wide effort. The City Commission voted for this, adopted it, and previous City Commissions have respected it. When they took action as a City Commission, he assumed they expected subsequent City Commissioners to either respect their decision and follow the laws or to change it, revoke it or amend it. This comprehensive plan, especially on the section of the sector plan, Chapter 14, was not being followed in his opinion. He did not think the speed of this, the content of the study, the evaluation of geographic and demographic information, the flood plain, and the hierarchy of the plans and studies, the watershed or sub base of plans have not received the type of recognition and discussion that it required. He saw no reference to this anywhere in the sector plan and knew no point of discussion in the process. He said the northwest area plan should control or have a great deal of influence. Option 1 to the contrary ignored the area proposed land use on the Northwest Plan and included residential and also residential office. Across from the interstate was residential and other use, which appeared to be medium density residential. He said they should compare that again to the Northwest Area Plan uses. It was rural residential. He believed some debate and explanation was required. It was only appropriate to look at what had been considered acceptable and proposed by many stakeholders in the area to follow that plan. It was very low density residential area and the area calling for office research was inconsistent with the plan he presented.

He said his clients have shared with the City Commission their efforts to participate in good faith, present their opinions, yet after all was said and done, it appeared that their recommendations as it came to the final map presented received very little serious consideration or at least not included in the presentation of plan one. They were at the beginning stage of an appropriate process and that process needed to continue as contemplated by the previous commissioners and Horizon 2020. They would get there and the

community would participate and everyone would be proud of what they had. He asked why this had to move now and if they talked to anyone in planning, they would confirm that it had never moved this fast before. This was a community process that contemplated it could take 18 – 24 months and suggested that it not be something done quickly and there should be further discussions from stakeholders and community members alike on the largest sector plan ever considered by the City.

Jim Haines, area resident, said he supported the comments from the previous speakers. He said his farm had been continuously farmed since the 1870s and he and the previous owners have gone to great lengths to preserve that property. If they looked at nearly any historically oriented map of Douglas County, they would see their house referred to as the Goral House, who were the people who started the farm in the 1870s. He said he did not have anything to add to the substance of what the other speakers had said. The alternative plan made a lot of sense and he participated in most of the meetings that have been referred to earlier and was disappointed with the outcome which at the beginning they were led to believe they would take into account the concerns of the people who lived in the area. As far as he knew, there was only one person who had recently moved to the area who was in favor of what was in front of the City Commission tonight. Everyone else who lived out there was opposed to it.

Jane Eldredge, Barber Emerson, representing landowners in support of the sector plan, said she would not repeat the presentation she gave last week, but would answer any questions about that. She said the Planning staff did an outstanding job and knew they would recall early on and approximately a year ago there was a Planning Commission study session at which time the staff talked about a number of sector plans that needed to be done essentially ringing the City of Lawrence. This sector plan was one of the sector plans identified to be done. There had been quite a bit of discussion about planning in the City of Lawrence and how long it took and how many meetings back and forth it took. They had some outstanding examples like the

Southeast Area Plan, which took four or seven years. At the time this sector plan was initiated, the Planning Commission adopted the direction to the staff with the area plan and adopted a timeline. The timeline sat out and adopted by the Planning Commission and forwarded to the City Commission in the minutes was a five month process for this sector plan. It set out a public meeting to review the draft, a Planning Commission meeting, and a City Commission meeting scheduled for July 15th with the County Commission the next evening on July 16th. She said that did not happen. The process became much larger, there were many more meetings, and this was on the Planning Commission agenda five different times. The stakeholder meetings were not part of the original timeline, but added and staff worked hard to get the input from everyone. Some of the people she represented also presented maps to the staff and requested a good deal more industrial. Staff did look at the topography, the demographics, the slope and other kinds of considerations like the flood plan that fit into the west of K-10 plan and the Northwest Plan. All of those things were studied. She appreciated Mr. Haines candor and not liking the output. When they started a process, they did not always know if they would like the output. Her clients were not thrilled with the output, but it was a fair output and was the best thing they could ask of a public process and that there be a fair hearing. The hearings have been full and fair throughout this and staff had been diligent in researching the questions and concerns that were presented to them. Because this area was primarily in the unincorporated area, the County would need to decide on it as well. Those who felt unrepresented by the City Commission she hoped would feel represented by the County should they have the opportunity to take it to the county. She thought it was important to bring things to a close and right now they doubled the amount of time that had been anticipated and planned for in going through the process and more than tripled the number of meetings.

Commissioner Amyx asked if the County Commission took this item up yesterday.

Eldredge said she was told that they did. She was not there and did not know it was going to be on the agenda.

JoAnn Farb said she heard a little bit of what the last speaker just said and wanted to respond to a couple of things. One of the assertions was that this process was fair. She said as a land owner who just in the last few years based on information that was conveyed to her through the County, bought land in the area and built a home and invested so much of their time and life energy in this based upon what they understood were the future plans, now to see it as possibly radically changed, this process was not fair at all. She also wanted to remind everyone that Ms. Eldredge, who represented some developers in this whole process, spoke to the committee back when they were looking at the island annexation rezoning of 155 acres and said that this would not take any City services for water, land, and they would not be requiring anything of the city and just wanted to island annex and rezone it for industrial. What they were seeing now was what that process led to and what they were going to see was that the City was going to pay for the infrastructure to develop her applicants' land. It felt like there was no where in this process that the cost to the tax payers of putting that infrastructure in and how that was going to completely overturn the long range plans to build a wastewater treatment plant to the north and east, which was going to save money by not having to put in a pump station because that was the geographically ideal spot to do it. They could lose that because when funds got committed to provide the infrastructure to completely rewrite Horizon 2020 and now send development out to the south, it seemed unfair and unwise in terms of how they do their planning and how they spent taxpayers' dollars. She said that was not being addressed here and thought it was wrong with what was going on.

Beth Johnson, Vice President of Economic Development Lawrence Chamber of Commerce, said in the Horizon 2020 comprehensive plan, there was a goal to recruit, create, expand and retain 20,000 jobs in their community by 2020. That was a goal, as a community, they stated and should be planning for. Twenty two years ago, East Hills Business Park was brought into their community. It was an island annexation at that time and growth area that had not been thought of because they were at a point they were at now where they were out of

industrial land. During those last 22 years, they should have been planning for those next industrial areas. Times were good, population was booming, there were things going on that led them down a different path to take care of different services and needs. They were at the point today where they were facing zero opportunities to recruit new businesses and expand those they had. She said what they were doing here tonight was not going to fix the problem. What they were talking about with the sector plan was planning the future. It did not mean if the City Commission approved it and the County ultimately approved the plan, it did not mean it went into existence tomorrow and did not mean they put out for sale signs immediately or that she got to start marketing the property immediately. All it meant was what they were doing was taking a step forward to plan for the future for where they wanted their job growth, where they wanted their residents to live and where they wanted the community to look. What they dealt with in economic development was location. The location of I-70 was one thing the community should be proud of. It was an asset that a lot of other communities did not have and an asset they could do other things to take advantage of. She showed a map that showed the interconnecting that led to I-70, which from a trucking access was tremendous. Along Farmer's Turnpike, they had Lakeview where a lot of industrial was right now in the area. In order for those industrial clients to get to I-70, they had to turn a corner, a four way stop, a stop light, and then entrance to I-70. Along Farmer's Turnpike, they did more industrial zoning towards the west edge, they had immediate access. Trucking companies needed that immediate access and when they had to go further, it added to the cost. It made their site more difficult to consider if there was a site that provided better access. Another thing they worried about was utilities and power was a huge utility. The map showed the access point for power lines and how it went above the Farmer's Turnpike area and to an area that would be considered industrial in option 1. She said there was a question last week that Commissioner Chestnut brought up regarding the sliver of land between Farmer's Turnpike and I-70. She enlarged the map to show how large that sliver was. They superimposed some of the East Hills properties on that, which included AMARR

Garage Doors, PROSOCO, Vangent and the Spec. building. Out of those four buildings, they could fit those in the property. There would be easements and access, but they could fit those four companies in that sliver of property between I-70 and K-10. She said another bit of information that came up last week was how it looked. If they put industrial along I-70, how would it look to a passerby. To her, it looked great and showed jobs. It showed opportunities in the community that would be available to new residents and residents they had now. She looked at South Lake Industrial Park in Lenexa. South Lake had approximately 5,000 employees, zoned B1 and B2, and had some great looking buildings you could see from I-35. One of them was Deluxe Corporation that employed 340 people. She showed the aerial view of South Lake. She showed a picture of a company called Quest Diagnostics that was at the intersection of I-35 and I-435. She showed another industrial area at K-10 off of I-435 and showed a picture of Lenexa Commerce Center which had about 1,500 employees and zoned mostly B1 and B2. There was a whole area they could see that was all residential. B1 and B2 was the most intense zoning in Lenexa, but in the plan called for industrial. At some point in the future they would be in front of the City Commission asking for an IG, IL, or IBP. They were planning for the future which she hoped included areas of industrial as well as office and research that allowed them to bring jobs to the community. I-70 was a tremendous asset they needed to take advantage of.

Tom Allen, area resident, said when he was listening to what everyone was talking about earlier and what he heard about in previous meetings, the main interest in all of this was industrial and that they needed more industrial. He said their plan offered more industrial to the City than Option 1 did. There was industrial on the east end that was immediately connected to the infrastructure that was needed. The west end was down the road and personally thought the City would have to pay for it in the future when it was developed. The eastern end was ready to go and plenty of room for more industrial. He said he read the Lawrence Journal World and the other thing that stood out in his mind was the City was broke and did not have any

money. He asked why they would want a plan that was looking at housing in the industrial areas. He said housing was a drain on City finances and did not make money but cost money. The housing was not in the original plan and should leave it blank. If they were looking towards the future, farmland was looking pretty good and would offer quite a bit of space. He said they should see what would be developed in the farmland.

Louis Copt, area resident, said he wanted to add his voice to the opposition of the plan. He asked the City Commission sit back and think about this. For every person that was here speaking against this tonight, there were at least 10 more families at home tonight because they could not make it here. They were unable in the township to vote for or against the City Commission, so their fate was in their hands and asked the Commission to be mindful and not rush this.

Commissioner Amyx asked about the notification issues brought up by counsel for the neighborhood association.

McCullough said they felt like they had records that supported proper notice and would confirm that tomorrow when they got back to their files and office. The intent of the statute was to provide notice to the township and any city within three miles of the plan. They believed they had done that three separate times.

Mayor Dever asked staff to comment on the length of time that the west of K-10 took to develop versus the plan that was before them.

McCullough said according to Dan's presentation, it was just about the same time, perhaps a little bit after they initiated this. This had become a parallel time frame in many ways. It was initiated at the beginning of this year and they took action on it this week.

Mayor Dever asked why staff would indicate this was rushed or fast tracked when there was another plan like this that no one seemed to have any issues with the timeline on.

McCullough said he did not know if that was a quote or something pulled from a report or what. The public timeline had been shared with the City Commission and Planning Commission

as they were beginning this process they were anticipating adoption this summer, but were happy to slow the process down when they were approached by the community representatives to do that and look at other options.

Commissioner Highberger said he acknowledged the need for industrial land. He said his issues were with process and timing. He said it might be good to review the process. The way he understood the whole issue began with a landowner in the county outside the City's urban growth area was not able to get the zoning he wanted from the County and came to the City. The City annexed and rezoned, which they did without a sector plan which they were not supposed to do, so a sector plan was initiated. Now they were planning for hundreds of acres outside the urban growth area. He said the staff work indicated that there may be people on the Planning Commission who thought the urban growth area needed to be revisited. If that was the case, then they were doing it in the wrong order. They needed to look at the urban growth area and if that needed to be expanded. One reason it was not expanded to the area was because of school district boundaries. They were planning for a substantial amount of residential growth outside of USD 497 and not sure that got a lot of attention during this process. They have rural residents who expected their property to be rural outside the City's planning horizon and now they were planning for urban density growth in the area without public discussion about whether that was their intent. He was not prepared at this point to adopt any plan that planned urban density growth outside the urban growth area. His preference would be to put this on hold, look at the urban growth area boundary and revisit it at that time.

Mayor Dever asked Corliss if it was unprecedented to review area outside the urban growth area.

Corliss said it depended on how far back they wanted to go. They had the urban growth area for around 10 years. They have not necessarily done a lot of sector plans but as far as the K-10 Plan they looked at last week, it was all within the urban growth area, along with the Southeast Area Plan. He said the precedent was that they did not have a lot of experience with

a sector plan. He heard something that commissioners encouraged was they had great long range planners and exercise it and make those decisions. They should forecast to property owners what they thought future growth would look like if it came and make the planning decisions as appropriate. It could be a lengthy process and the county needed to strongly participate in this and they have not heard anything from the county.

Mayor Dever said there was good reason to see us plan for this area. He said he was surprised to see them just developing a plan west of K-10 in an area that was being developed rapidly and should be planned more in the future. He was glad they were being aggressive in their plans. He said just because the sector plan indicated that it could take up to 18 – 24 months did not mean it should and would like a city that was cognitive and decisive and interested in doing what was best for all people in the shortest period of time because it ultimately saved money, was efficient and people could move on with their lives when they knew the future. This plan was far reaching and looked towards the future and allowed them to identify potential uses of land that would be dictated by the land owners and by the zoning they sought, if and when this got into the City limits. He thought they needed to move forward with the plan and the plan that specified with the most amount of industrial land was not the best plan, but the plan that was best for the community and the best land uses was the best plan. He would like to see more options and preferred option 1 because it seemed to fulfill the needs and was recommended by staff.

Commissioner Hack said the City Manager nailed it on the head when he said the City did not have a lot of experience with sector plans. She said that was what had been troubling an awful lot of people and commissions have been criticized for a long time for not having long range plans and something in place for what the long range plans were. It was important to remember that sector plans did not put a for sale sign in the yard, annex property, provide utilities, but let people plan the future and they have not done a very good job of long range planning. The Planning Commission directed staff along with the City and County Commissions

to do that and now they have done it, there were people who were not happy they have. She said that was the joy of serving the public. The Planning Commission spent a great deal of time on this and planning staff had as well. She believed it had been a public process. The City was growing in that direction and that was where they needed to have their look. She agreed with the Mayor that Option 1 was the best of the ones they have seen and the Planning Commission on a 7 – 3 vote agreed with that. There were flood plain and size issues in Option 2 that have not been addressed. In her estimation, Option 1 was the way they needed to be. I-70 connection was critical and their industrial needs were critical. Those were important for the overall community. The overall goals of the community were not to be broke and to bring their residential versus non residential in a better balance than it was now. Moving forward with this was critical.

Commissioner Amyx said he had heard from both sides now. The applicant of the annexation had stated in the past that the sector plan was too big and now this evening Ron Schneider stated this plan is too big. He said there were a couple of things that stood out in his mind. This started because they considered an island annexation for industrial property and they all agreed the need for industrial property located in various places throughout the community was going to be important for job creation in Lawrence, Kansas for years to come. Where they were in this plan right now was the area between the two industrial areas and that was it and whether or not they were going to take the recommendation of the Planning Commission and planning staff on what they saw as being the future. He said one thing he saw on all the plans was that they were all subject to change at any time and there were requests that happened all the time on what they were going to look like. He noticed in the joint resolution that the ordinance they had before them, everything was referenced on all the specific plans from the Planning Commission.

He asked if it was to just show the entire work that had been done throughout this process and have reference on all that information.

McCullough said in Chapter 14 specific plans, those were the adopted plans they used to guide development.

Commissioner Amyx said he looked at this and the plan that was presented to them by the people in the rural area, he understood the need to not want to have that area change right now. He looked at this from the standpoint that there was a lot of industrial on either end now.

He asked if the City Commission had the ability to make any change in that area from the Planning Commission's recommendation without sending it back.

McCullough said if it was a pretty large area they would probably need to send it back to the Planning Commission.

Corliss said if you change the map you should send it back to the Planning Commission unless you have four votes.

Vice Mayor Chestnut said he appreciated Mr. Schneider's comments about Horizon 2020 and he went back to some of that original document. The way the UGA was formed, he believed it went up to the county line, up the river and out to the airport. In their most recent consideration of Chapter 7 and considering Class 1 and 2 soils, there was some serious question as to whether a lot of that land would get developed under new criteria. To some extent they may or may not have eliminated a fair portion of the UGA from possible development.

Secondly, he thought it was appropriate to understand sector plans. He understood the school district and there were a lot of comments about the City Commission being in control. The City had so many appointments to the Planning Commission, the County had so many appointments to the Planning Commission, and it was a balance put together as a joint committee for a long time and served well. The whole idea of trying to work together, not that they were trying to control the destiny outside the borders of the City, but work together to get the best comprehensive plan they could get, taking into consideration this body before he and Mayor Dever were present, they were considering rural neighborhood development and was

understanding as when those neighbors came into the City, and how that integrated. He thought that was important to consider and was not about trying to gain control of people's rights.

Horizon 2020 talked about 24/40 as an industrial development 12 years ago. There have been statements about different land uses for a very long time for parts all the way outside the unincorporated county. He did not think the sector plans were doing anything different than the comprehensive plan was trying to do or achieve over the last 10 – 15 years which was understand how this was going to be done in some measured fashion. The other thing that was startling about that document was about what the estimation the population could be in the City of Lawrence. The estimation on the low side in 2030 was 110,000, in the medium was 125,000 and the high was 150,000. He did not know how relevant those numbers might or might not be, but when he came back to this particular sector, the biggest problem he had with the very low density was all of the sudden they were carving out a very big portion that if it did come into the city, it would create sprawl. He said when they talked about the bookend of industrial development, he thought that had some credence but the big swath in the middle was challenging for him because it basically declared the fact that they were going to little density areas if it came out into the City. They may be talking 40 years from now. Their population grew 443% over the 50 years from 1950 – 2000. The fact was that regardless of where they set the UGA boundaries, the City was very likely from historical standpoints to be impacting these areas and was responsible to talk about how they planned for those things. There were elements of both plans he liked and elements of both plans he did not like. He wanted to give credence to the process and the fact was he spent some time talking to a number of people about this but overall it was in his estimation that Option 1 represented the best planning they had given all the different stakeholders involved. He thought it was going to be a very long term plan and he did not see a lot of what was happening north of Farmer's Turnpike happening except for the industrial to the west and east happening any time soon. They had to give some credence to

some density there because if their population was anywhere close to those numbers Horizon 2020 talked about, it made sense to have that low of density in that big of an area.

Commissioner Amyx said that people in the area had the opportunity to ask for a different recommendation from the Planning Commission. He said if their goal was the industrial on either end, that was where it was in the beginning, was it the right plan at the right time. The Planning Commission and Planning staff believed the recommendation to the City Commission believed that. He wanted everyone to know that there were options to looking at other possible uses and recommendations in that area.

He asked McCullough on the Northwest Area Plan Sections 20 and 21, they had recommendation for industrial on the north edges of those two sections. In the hierarchy of plans, how much credence did they place on the Northwest Area Plan in making a recommendation to the Planning Commission for it to remain industrial.

McCullough said the Northwest Area Plan was a unique situation. It was adopted in 1997 and when they adopted Chapter 14, specific plans, they specifically did not include the Northwest Plan as one they looked to. It was in need of an update and on a work plan to hopefully get to in 2009. Some things have changed in the area as development occurred on 6th Street to the north that had led them to include that in their work plan they previously shared with the City Commission. They looked at the Northwest Area Plan and held to some of that south of I-70. North of I-70 they felt like they had an opportunity to review the concepts they created to look at the entire corridor. As 10 year old plans came up for review or they overlap their planning areas, they looked at current assumptions, current data and current information from the Planning Commission and governing body to produce their plans. In the beginning parts of the plan, they reference the Northwest Area Plan. They were the same kind of planning tool, but felt like it was an opportunity to update some of the areas of the northwest area plan. Their plan was to go back in, take the remaining areas that were not developed or covered by this sector plan, and look at those specific properties in the future.

Commissioner Highberger said he agreed with the Vice Mayor that they needed to plan for the future and when they planned they needed to plan for urban density. He said his understanding was that even at suburban density growth, it was his understanding that there was enough land in the urban growth area, even at the high end projections, to accommodate their growth for 20 years. He said that was why it raised his eyebrows a little and if they adopted the SmartCode that would extend the life even farther. He said it made him wonder why they were planning for urban density growth outside the urban growth area without going through some formal process of changing the lines.

Moved by Hack, seconded by Dever, to approve Comprehensive Plan Amendment, CPA-2008-9, amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 & Farmer's Turnpike Plan and consider adopting on first reading, joint City Ordinance No. 8358/County Resolution No. ____, amending Horizon 2020, Chapter 14 Specific Plans by approving and incorporating by reference, CPA-2008-9. Motion carried 4-1 (Highberger voted no). **(19)**

Receive staff report on economic development issues and policies.

The City Commission deferred receiving a staff report for one week. **(20)**

PUBLIC COMMENT: None

FUTURE AGENDA ITEMS:

- 12/16/08 · Receive staff report on the structure at 617 W. 4th Street.
- Consider the following items related to Lawrence SmartCode:
- a) Consider approval of CPA-2007-6, a Comprehensive Plan Amendment to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence. (PC Item 13; approved 8-0 on 5/21/08)

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

- b) Consider approval of CPA-2007-7, a Comprehensive Plan Amendment to Horizon 2020, Chapter 14 Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan. (PC Item 14; approved 8-0 on 5/21/08)
Draft PC Resolution No. 2008-02

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

- c) Consider adopting Text Amendment TA-11-24-07 regarding the Lawrence SmartCode and, Pursuant to the provisions of K.S.A. Chapter 12, Article 7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The "Lawrence SmartCode" is an optional development code that is parallel to the City's existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas. Copies of the "Lawrence SmartCode" are available for review at the Office of the Lawrence-Douglas County Planning Department, City Hall, 6 E. 6th Street, Lawrence, Kansas. The "Lawrence SmartCode" is also available at www.lawrenceplanning.org. Adopt Ordinance No. 8286 on first reading regarding TA-11-24-07 for the Lawrence SmartCode. (PC Item 15; approved 8-0 on 5/21/08)

ACTION: Approve TA-11-24-07 regarding the Lawrence SmartCode and adopt Ordinance No. 8286, if appropriate.

- Consider approving revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)

ACTION: Approve revisions to Downtown Design Guidelines, if appropriate.

12/30/08 City Commission Meeting is at 9:00 a.m. and is planned to be short.

01/06/09 Consider the following items related to the rezoning of the property located at the southwest corner of Clinton Parkway and Crossgate Drive:

- a) Consider approval of CPA-2008-10, a Comprehensive Plan Amendment for Horizon 2020 Chapter 6, Commercial Land Use, to include the southwest corner of Clinton Parkway and Crossgate Drive as a potential location for a new Neighborhood Commercial Center and adopt on first reading, Ordinance No. 8299, for Comprehensive Plan Amendment (CPA-2008-10) for Horizon 2020 Chapter 6, Commercial Land Use, to include the southwest corner of Clinton Parkway and Crossgate Drive as a potential location for a new Neighborhood Commercial Center. (PC Item 2; approved 5-4 on 7/21/08)

ACTION: Approve CPA-2008-10, a Comprehensive Plan Amendment for Horizon 2020 Chapter 6, Commercial Land Use, to include the southwest corner of Clinton Parkway and Crossgate Drive

as a potential location for a new Neighborhood Commercial Center, and adopt on first reading, Ordinance No. 8299, if appropriate

- b) Consider approving a request to rezone a tract of land, (Z-05-12A-08) approximately 3.324 acres from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located on the southwest corner of Clinton Parkway and Crossgate Drive. Submitted by Mission River LLC, for Inverness Park Limited Partnership, property owner of record and adopt on first reading, Ordinance No. 8303, rezoning approximately 3.324 acres (Z-05-12A-08) from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located on the southwest corner of Clinton Parkway and Crossgate Drive. (PC Item 3A; approved 5-4 on 7/21/08)

ACTION: Approve the rezoning of approximately 3.324 acres (Z-05-12A-08) from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located on the southwest corner of Clinton Parkway and Crossgate Drive, and adopt on first reading, Ordinance No. 8303, if appropriate.

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) Staff Report PC Minutes
- 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.

- 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).
- Consider approving revised CPA-2004-02, a Comprehensive Plan

Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, revised Joint City Ordinance No. 8283/County Resolution No. _____, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (Tabled from the 10/21/08 CC meeting, BoCC Approved 3-0 11/12/08, PC Approved 7-2 5/21/08)

- Rental Registration Program. Staff Memo & Attachments
- Conduct public hearing for the dilapidated structure at 1207 E. 13th 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. 13th Street unsafe and dangerous and ordering the property owner to repair or remove the structure within a specified period of time, if appropriate.

- Consider changes recommended by the Eco2 Commission to be adopted into the Eco2 Plan for Douglas County. Plan with Changes

ACTION: Direct staff as appropriate.

- Status update on Baldwin Woods Open Space Project. Eco2 Request

ACTION: Direct staff as appropriate.

12/16/08 · Receive staff report on the structure at 617 W. 4th Street.

- Consider the following items related to Lawrence SmartCode:

- a) Consider approval of CPA-2007-6, a Comprehensive Plan Amendment to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence. (PC Item 13; approved 8-0 on 5/21/08) Draft PC Resolution 2008-01 Correspondence

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

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

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

- c) Consider adopting Text Amendment TA-11-24-07 regarding the Lawrence SmartCode and, Pursuant to the provisions of K.S.A. Chapter 12, Article

7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The "Lawrence SmartCode" is an optional development code that is parallel to the City's existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas. Copies of the "Lawrence SmartCode" are available for review at the Office of the Lawrence-Douglas County Planning Department, City Hall, 6 E. 6th Street, Lawrence, Kansas. The "Lawrence SmartCode" is also available at www.lawrenceplanning.org. Adopt Ordinance No. 8286 on first reading regarding TA-11-24-07 for the Lawrence SmartCode. (PC Item 15; approved 8-0 on 5/21/08)

ACTION: Approve TA-11-24-07 regarding the Lawrence SmartCode and adopt Ordinance No. 8286, if appropriate.

- Consider approving revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)

ACTION: Approve revisions to Downtown Design Guidelines, if appropriate.

CALENDAR ITEMS:

It was moved by Hack, seconded by Chestnut, to adopt the 2009 Meeting Schedule as provided on the December 9th, online agenda. Motion carried unanimously.

Moved by Amyx, seconded by Hack, to adjourn at 10:20 p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF DECEMBER 9, 2008

1. Ordinance No. 8324 – 1st Read, Req for removal of snow or ice from public sidewalks.
2. Ordinance No. 8359 – 2nd & Final Read, rezone 25.97 acres, PCD-2 to PCD-[Bauer Farm].
3. Ordinance No. 8356 – 2nd & Final Read, Special Use Permit, Westside Plaza, 4811 Bob Billings Pkwy.
4. Joint City Ordinance No. 8357/County Resolution No. _____ - 2nd & Final Read, amending Ch 6 – Commercial Land Use – Inner Neighborhood Commercial Center.
5. Ordinance No. 8353 – 2nd & Final Read, outdoor dining at Teapouro, 712 Massachusetts St.
6. Ordinance No. 8337 – 2nd & Final Read, enacting eligibility requirements & qualifications for members of the governing body.
7. Joint City Ordinance No. 8340/County Resolution No. _____ - 2nd & Final Read, amending Horizon 2020, Ch 14 Specific Plans, W. of K-10 Plan.
8. Resolution No. 6814 – declaring the boundaries of the City of Lawrence.
9. State 2009 Legislative Policy Statement.
10. Annual increase of \$50 in cemetery fees.
11. Agreement – Dg Cnty for use of Dg Cnty 4-H Fairgrounds Baseball Facilities.
12. Payment - \$23,333 to KU KS Small Business Development Center.
13. Reclassification of \$70,000 of general funds to Guest Tax Fund.
14. Subordination Agreement – Irene Armstrong (Nieder), 1017 Home Circle.
15. City Manager's Report.
16. 31st St. Concept Study.
17. Ordinance No. 8362 – 1st Read, amending aggressive panhandling ordinance.
18. Lawrence High School & Centennial/Virtual School SUP's.
19. Comprehensive Plan Amendment to incorporate K-10 & Farmer's Turnpike Plan.
20. Economic development issues & policies.