



City of Lawrence

CITY MANAGER'S OFFICE

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CITY COMMISSION

MAYOR
MIKE AMYX

COMMISSIONERS
ARON E. CROMWELL
LANCE M. JOHNSON
MICHAEL DEVER
ROBERT CHESTNUT

June 15, 2010

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 Amyx presiding and members Cromwell, Dever, and Johnson present. Commissioner Chestnut was absent.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Amyx proclaimed June 14 through 19, 2010, to be "Dad's Day."

CONSENT AGENDA

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to approve City Commission meeting minutes from April 20, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to approve claims to 205 vendors in the amount of \$1,163,021.09. Motion carried unanimously.

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to approve the Drinking Establishment license for The Burger Stand 803 Massachusetts. Motion carried unanimously.

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to concur with the recommendation of the Mayor and reappoint Truman Waugh to the Douglas County Emergency Management Board to an additional term that expires July 1, 2010; appoint Elaine Winn to the Lawrence-Douglas County Housing Authority Board to a term that expires June 30, 2014; Laura Burger to the Lawrence Douglas County Metropolitan Planning Commission to a term that expires on May 31, 2013; James Pavisian to the Public Transit



Advisory Committee to a term that expires December 31, 2012; and, Stuart Boley to the Traffic Safety Commission to a term that expires April 20, 2013. Motion carried unanimously.

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

As part of the consent agenda **it was moved by Cromwell, seconded by Johnson**, to waive bidding requirements and approve sole source purchase from Paratech for Phase 1 extrication equipment for \$11,615.63 and from Genesis for Phase 2 extrication equipment for \$9,380.53. Motion carried unanimously. (2)

As part of the consent agenda **it was moved by Cromwell, seconded by Johnson**, to authorize the City Manager to sign a renewal contract with Municipal Services Bureau for the collection of past due municipal court fines. Motion carried unanimously. (3)

As part of the consent agenda **it was moved by Cromwell, seconded by Johnson**, to set a bid opening date of July 6, 2010 for Wastewater Plant HVAC Chiller Replacement. (Bid No. B1039). Motion carried unanimously. (4)

As part of the consent agenda **it was moved by Cromwell, seconded by Johnson**, to waive bidding requirements, and per grant stipulations, authorize the purchase of recycled rubber to be used as playground surfacing in South Park from a State approved vendor, for \$27,183. This purchase is from the KDHE Waste Tire Project Grant and the City of Lawrence will be reimbursed fifty percent (50%) of the cost. Motion carried unanimously. (5)

The City Commission reviewed the bids for pumps and motors for the Utilities Department. The bids were:

ITEM	BUILDING	USE	REBUILD VS NEW	COST	CHOICE	VENDOR
1	Clinton WTP Pipe Gallery	Transfer Pump	0%	\$6,495.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
2	Clinton WTP Pipe Gallery	Transfer Pump Motor	0%	\$7,806.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
3	Clinton WTP Pump Gallery	Central Service Pump	0%	\$10,721.00	Rebuild	JCI
4	Clinton WTP Pump Gallery	Central Service Pump Motor	73%	\$6,893.00	Rebuild	JCI
5	Clinton WTP Sludge Building 1	De-Watering Pump	52%	\$4,419.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
6	Clinton WTP Sludge Building 1	De-Watering Pump Motor	111%	\$4,364.00	New	Mid America Pump / LVK - Letts Van Kirk
7	Kaw WTP Boiler Room	Primary Basin #6B	49%	\$5,794.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
8	Kaw WTP Boiler Room	Primary Basin #6B	144%	\$2,200.00	New	Mid America Pump / LVK - Letts Van Kirk
9	Kaw WTP Carbon Building	Transfer Pump	48%	\$4,100.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
10	Kaw WTP Carbon Building	Transfer Pump Motor	134%	\$2,310.00	New	Mid America Pump / LVK - Letts Van Kirk
11	Kaw WTP East Shop	Central Service Pump	0%	\$11,573.00	New	Mid America Pump / LVK - Letts Van Kirk
12	Kaw WTP East Shop	Central Service Pump	38%	\$11,805.00	Rebuild	Layne Christensen Company
13	Kaw WTP East Shop	Central Service Pump Motor	87%	\$8,444.00	Rebuild	Layne Christensen Company
14	Kaw WTP Wells	Motor	100%	\$2,295.00	New	Layne Christensen Company
15	Kaw WTP Wells	Pump	73%	\$10,472.00	Rebuild	Layne Christensen Company
16	Water Tower 1210 Oread	Booster Pump	42%	\$6,775.00	Rebuild	JCI
17	Water Tower 1210 Oread	Booster Pump Motor	81%	\$7,215.00	Rebuild	JCI
18	Biosolids Pump Station	Feed Sludge Pump	85%	\$21,194.00	Rebuild	JCI

ITEM	BUILDING	USE	REBUILD VS NEW	COST	CHOICE	VENDOR
19	Biosolids Pump Station	Feed Sludge Pump Motor	84%	\$2,530.00	Rebuild	Patchen Electric & Industrial Supply
20	Biosolids Pump Station	Thickened Sludge Pump	77%	\$19,220.00	Rebuild	JCI
21	Blower Building	Blower	0%	\$4,737.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
22	Blower Building	Blower Motor	23%	\$9,620.00	Rebuild	Patchen Electric & Industrial Supply
23	Dechlorination Structure	Submersible Mixer	31%	\$4,358.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
24	Excess Flow Pumping Station	Excess Flow Pump	39%	\$40,700.00	Rebuild	Mid America Pump / LVK - Letts Van Kirk
25	Gas Control Building	Gas Compressor	46%	\$5,688.00	Rebuild	JCI
26	Gas Control Building	Gas Compressor Motor	101%	\$1,960.00	New	Patchen Electric & Industrial Supply
27	Grit Building	Grit Pump	24%	\$7,225.00	Rebuild	JCI

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to award the bid to Mid America Pump LVK for \$196,936, JCI for \$106,490, Layne Christensen Company for \$33,016, and Patchen Electric for \$25,619.30 for a grand total of \$362,061.30 for all pumps and motors. Motion carried unanimously. (6)

Ordinance No. 8531, establishing a stop sign on Troon Lane at Camel Drive, was read a second time. As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, and Johnson. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to accept Historic Preservation Fund Grants for a Historic Preservation Planning Intern in the amount of \$4,000 and the Staff and Commission Education Presentation in the amount of \$2,280 and authorize the City Manager to enter into grant agreements with the Kansas State Historical Society for these projects. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, accept dedication of easements and rights of way for Preliminary Plat, PP-3-3-10, for Johnson & Ellis Investments Addition, with one lot, approximately 0.538 acres, located at 1804 W 6th St. and a variance from the right-of-way requirements in Section 20-810(d)(4)(i). Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to approve a temporary use of right-of-way permit for the Lawrence Originals allowing the closure of 7th street between Kentucky Street and Tennessee Street on Sunday, July 4, 2010 from 8:00 a.m. to midnight. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson**, to approve the demolition of the former Morton Concrete Block building, located in Burroughs Creek Park, 900 E. 15th Street. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson** to authorize the Mayor to sign a Subordination Agreement for Kiley and Mary Bost, 832 Locust. Motion carried unanimously. (12)

CITY MANAGER'S REPORT:

David Corliss reported that the 2009 Comprehensive Annual Financial Report (CAFR) was available on line; the May building permit report indicated that 192 permits were issued in May 2010 compared to 133 issued in May 2009; the development projects status update, on larger projects, were being processed through the City's development review program; the City created a sales tax web page on current sales tax information and GIS mapping for special tax districts; a proposal was received from Hamm Quarry, Inc. regarding the proposed landfill rates; Utilities staff was notified of a potential EPA lawsuit for Nutrient Limits in Kansas filed by the Friends of the Kaw and if successful, could have significant impact on the City's current and future wastewater operations; the City was working with the University of Kansas's new student orientation to provide informational material about city services and programs for incoming students; volunteers from the Lawrence Breakfast Optimist Club repainted the locomotive in Watson Park; and, the City participated in a Flood Map Modernization project. (12)

The status update on the property at 331 Johnson Avenue on violation of City Code Sections 9-6011 (A) and (c) was deferred until June 22, 2010. (13)

REGULAR AGENDA

Conduct a public hearing on a request for a waiver of the restriction on the sale and serving of alcoholic liquor within 400 feet of a school or church, pursuant to section 4-113 of the Code of the City of Lawrence, Kansas regarding the temporary sale of alcoholic beverages at the Americana Music Festival at South Park on Sunday, June 27, 2010 from noon-10:00 p.m.

Jonathan Douglass, Assistant to the City Manager/City Clerk, said Americana Music Festival had requested permission to sell alcohol during their event in South Park on June 27, 2010. Because the sale would be within 400 feet of a school or church, a public hearing must be held before such approval could be granted. Trinity Lutheran Church was the church in question. They had been notified and had not expressed any objection to the sale of alcohol at the event. This was the second annual event for Americana Music Academy at South Park.

The City Commission's action was to hold a public hearing and if Commission wished to approve the sale of alcohol, that specific findings be made that the proximity of the event and the temporary sale, consumption and possession of alcoholic liquor was not adverse to the public welfare or safety and approve the distance restriction waiver request.

Mayor Amyx called a public hearing on the request for waiver of the restriction on the sale and serving of alcoholic liquor within 400 feet of a school or church.

Jim Jeans, Americana Music Festival, said this was their second annual event and had become their major fundraiser. He said they were a non-profit organization and had a well attended event last year with a very well behaved crowd and was asking for City Commission support on the motion.

Moved by Dever, seconded by Cromwell, to close the public hearing.

Moved by Cromwell, seconded by Johnson to find that the proximity of the Americana Music Festival and the temporary sale, possession and consumption of alcoholic beverages was not adverse to the public welfare or safety and approve the distance restriction waiver. Motion carried unanimously. **(14)**

Consider authorizing the execution of documents related to the acquisition of the former Farmland Industries property.

Toni Wheeler, Director of Legal Services, said on March 23rd, 2010 the City Commission had a study session and received a briefing on the City's efforts to acquire the Farmland property. At that time, the City Commission directed the Legal Services Department to proceed with finalizing the documents and then to bring those documents back for final review.

The first document was a permission letter from KDHE that consented to the City's acquisition on the terms that had been set forth. KDHE was the primary beneficiary under the trust agreement that was established to manage the Farmland properties and their approval was necessary before any transfer of the property. KDHE's permission letter had been obtained.

The next document was the Asset Sale and Acquisition Agreement. This document provided that the City of Lawrence acquired 467 acres that was the former Farmland property along K10 Highway, and the City assumed the environmental liability associated with that property. With the property, the City would receive \$8.5 million in trust funds to be used solely for the costs and expenses related to the property to cover the remediation obligations. At the closing of the property the City would receive a deed, or a bill of sale or some similar document, transferring the real property to the City. She said that it should be noted that the City was acquiring the property "as is" and was the subject of on-going remedial action, and was under the regulation of KDHE and EPA. While the site had been very well characterized, staff believed and had a good comfort level with the conditions if surprises or new discoveries arose, the City was signing up to take care of those obligations. The Asset Sale and Acquisition Agreement contained many other standard provisions for the acquisition of property.

The next document was an amendment to the trust agreement. The City was not a party to the document, but the document was critical in order for the transaction to occur. The document allowed the trustee to transfer the \$8.5 million to the City of Lawrence under the sale agreement. Without the trust amendment, the transfer could not occur. The original trust agreement separated the two funds into a remediation fund and an administration fund. Those funds would be collapsed so that the transfer could be made to the City.

The next document was the consent order the City would enter into with KDHE. This was a very important document. It set forth the obligations that the City, as the purchaser, must satisfy. In exchange for the assumption of the remediation obligations, the City would receive a covenant from KDHE that they would not sue the City or require the City to perform any other cleanup not required by the consent order. She said the order contained a number of obligations or requirements, some of the main provisions were:

- 1) The City must perform the remediation in accordance with the remedial action plan and the corrective action decision;
- 2) The City needed to complete those activities in accordance with the dates that were outlined in the consent order and attached schedules;
- 3) The work had to be done to certain KDHE approved standards;
- 4) A work takeover provision - If KDHE determined, after giving the City notice that there were serious and repeated deficiencies in the performance of the work, KDHE could arrange to have a contractor step in and assume the performance as KDHE determined necessary, and the City would be billed for those costs.
- 5) An annual budget provision - The City had to submit an annual budget to KDHE that outlined the budget and expenditure report for the previous and projected expenditures and that budget had to be approved by KDHE. If during the course of a year, after the budget was approved, if something that was not budgeted arose and the City incurred expenses greater than \$25,000, then the City needed KDHE approval.
- 6) The City agreed to submit quarterly reports or regular progress reports to KDHE and agreed to grant the KDHE access to the site for inspections. KDHE would interview personnel and inquire about how the remediation was going.

- 7) Penalty provisions - If the City failed to comply with the work plan or implementation schedules, the City could be subject to fines from KDHE until achieving compliance required under the consent order.
- 8) The City had to demonstrate financial assurance in order to satisfy the consent order, demonstrate and maintain financial assurance in an amount over \$15.3 million dollars which was the figure that KDHE estimated was necessary to complete the remediation work over a thirty year term. To demonstrate financial assurance, the City intended to deposit the \$8.5 million the City would receive at closing into an escrow account that would be accessible to KDHE and EPA in the event of a work takeover. The City intended to provide the remainder of the financial assurance by showing its ad valorem taxing authority. The effective date of the consent order was at closing on the property which was estimated at 90 to 120 days after the documents were executed. There was a provision that said the consent order would be terminated upon receiving notice from KDHE that the City had satisfied all of the provision of the consent order.

The final document was a letter from EPA which was referred to as a comfort letter. It provided that KDHE approved the transaction or sale to the City subject to certain conditions. EPA was informing the City that additional remediation efforts would not be required, beyond what KDHE required under the consent order, unless new site conditions became known.

Mayor Amyx asked if under the consent order, the City received a list of the annual work that had to be completed.

Wheeler said yes, there were a number of exhibits to the consent order. The remedial action plan was one of the action plans as well as the corrective action decision. Those plans set forth very specifically, what KDHE expected. Also, the City had to submit certain work plans that had to be approved by KDHE and those would be exhibits to the document as well.

Mayor Amyx asked if the City followed the action plan requirements, would the consent order become null and void.

Wheeler said once KDHE determined the property was appropriately cleaned up the City would be relieved of its obligations.

Mayor Amyx said regarding the \$8.5 million deposited into the escrow account, he asked if the public would be able to see how that money was being spent in that account.

David Corliss, City Manager, said correct and the City needed to budget those amounts under the Kansas budgeting law and would be seen in the City's 2011 budget.

Commissioner Dever asked if staff had adequately reviewed the consent order and was staff comfortable with the work that needed to be done with the completion schedule provided by KDHE. He asked how the City involvement in the activity was valued.

Corliss said he reviewed the consent order and asked Matt Bond, City Storm Water Engineer, to be the lead project manager, who reported to Chuck Soules, City Public Works Director, along with Shoeb Uddin, City Engineer. Staff had extensive experience in a number of areas called out in the consent order for work products particularly in pumping and storm water management. He said there would be the necessity for the City to retain outside assistance. In many cases, outside assistance was needed fairly soon, to draft some of the documents and proceeds from the trust would be used for that work. He said it was going to be a major undertaking for existing City staff to manage the Farmland property, let alone participating in some of the work at that location. Staff had a good comfort level that the site was sufficiently characterized and as with any large project, staff expected to have some surprises, but staff was willing to take this project on.

Commissioner Johnson asked if the agreement allowed for a partial release and if a certain amount of the property was cleaned up, allowed for a release.

Bill Ford, Lathrop and Gage, said yes, they had talked to EPA and KDHE about releasing portions of the site from obligations. There were already about 225 acres of the site

that would not need any further remediation. He said initially, they would start to carve those portions out of the permit that was related to the site. There would be some long term use restrictions on the entire property regarding no residential or ground water wells, for potable purposes.

Corliss said that was an issue staff addressed on how to acquire the property for the purposes the City ultimately wanted, which were jobs and tax base. That meant the City wanted to eventually transfer the property to a firm that would bring jobs into the community and it was unlikely they would want to take it with substantial environmentally encumbrances. That area not only needed to be cleaned up, but the City needed to show the property was cleaned up, in order to transfer it.

Vice Mayor Cromwell said that Corliss had mentioned the City had a level of comfort as far as what the remediation would and would not entail and the costs involved. He said it needed to be reiterated that the EPA had given an additional level of comfort in their letter which stated that if the City followed the work plan, there was a certain amount of protection from the surprises, but if the surprises were too large, there was a certain level of financial protection.

He said regarding using City resources and staffing, the remediation required was basic and there was not anything too complicated on site. City staff had taken a real hard look at the amount of money it would cost to remediate the property and the last numbers he had seen were based on saving a certain amount of money by using City resources versus using outside subcontractors that the estimate originally used. He asked if anymore research was done on the costs advantages the City would see by using City staff.

Corliss said staff had started the process of looking at the requirements in the consent order and ancillary documents. He said in general, it was looked at internally whether or not City staff would be able perform some of the work. For example, some of the work required operating the pumping system that took the over-fertilized water and put it on fields north of the Kansas River and the City had experience running pumping systems and had a general comfort

level with that work. A lot of the work needed to be done in coordination with some of the City's long term development projects. Handling some of the storm water runoff was something staff thought the City was very well schooled in and had a great utility that Bond headed up. He said there would be items the City would need outside consulting help; the property had imbalanced on the PH near the central part of the property and the City needed additional assistance, but no vendor had been selected. He said staff had a good feel for the City's ability to handle the project and start developing a good budget.

Vice Mayor Cromwell said staff identified that there were cost savings by using City personnel, but did not know the extent of those savings. He asked if the City was planning on hiring additional staff.

Corliss said the City was not planning to hire additional staff, but possibly hire outside consulting services and some of their staff to do some of the specific work. There were some things that could be done more cheaply than by City staff such as fencing and that type of work. He said staff had a good handle on how to proceed.

Mayor Amyx said Corliss had a good handle on this project. He said initially, he had a concern about the project being too big, but he was convinced by Corliss about the capabilities of staff to do this project in-house. He said the City could hire the expertise that was needed for this project.

Corliss said he favorably recommend the project and thought this was a good way to proceed. He said he wanted to acknowledge City staff's and others in the community that worked on this project. He said Charles Jones had a vision and saw this project as a way to respond to a need in the community. He said the City was going to make this project a success and when things were successful it usually involved a lot of support.

Mayor Amyx called for public comment.

After receiving no public comment, Mayor Amyx said in terms of economic development, this vote, by the City Commission, would have one of the biggest impacts on this community.

He said with those 450 acres, it was an opportunity to create jobs and cleanup an area adjacent that was a gateway to the Lawrence community. He said very few communities had an opportunity to provide this type of industrial development for the future.

Commissioner Cromwell said in the beginning, he did not know why the City wanted to take on this project. He said but after listening to the information that was provided, there was nothing scary about this mildly contaminated site. The City was able to acquire a mildly contaminated brown field in-fill development and turn it into something that would be a positive impact on the City's economic base. He said currently, that area was an eyesore when coming into town and was pleased to get rid of that eyesore and turn that area into a much better gateway to the Lawrence community as well as a gateway that would provide jobs to this community. He said he had a great level of comfort they were doing the right thing. He said this project would return benefits to the City for many years.

Commissioner Dever said a lot of time and City resources were spent on investigating how to clean this property up and provide an opportunity to bring business and jobs to what was once a thriving and booming industry in this community. He said recycling buildings and structures was discussed, but they would also be recycling the property.

He said he wanted to thank the State of Kansas, KDHE, EPA, and City staff for taking the time to help the community feel comfortable. He said his job dealt with the evaluation of property and felt he evaluated this property for the citizens of Lawrence appropriately. He said moving forward benefitted and would far outweigh any of the risks they would see.

He said the money in the trust would be protected and be used for its appropriate purposes. The State of Kansas, KDHE would make sure that all the money was used properly and all costs would be accounted for. He said he thought the community should feel comfortable with the investment the City was making and was glad to be a part of this project.

Commissioner Johnson said he also thought it was an honor to be a part of this project and they were a fortunate City Commission to vote on this project. It would be a different City Commission that would cut the ribbon and hopefully, many ribbons.

Mayor Amyx said he wanted to thank David Corliss and City staff for their work over the last 5 or 6 years. He said he appreciated Commissioners Dever and Cromwell evaluation of this property, and thanked everyone involved in this great opportunity.

Mayor Amyx asked if Corliss could explain the recommendation in authorizing the City Manager to issue a request for qualifications for environmental remediation services as related to the former farmland site.

Corliss said when the City closed on this property the City had the obligations to continue to operate the pumping systems and needed immediate assistance on that day and during the weeks and months ahead. He said staff was following the City's purchasing policy to seek qualified firms, and believed the existing firm, on-site, would also respond and other firms might be able to do the work as well. Again, the City would need assistance from day 1 to transition to other work. He said staff would also be involved in getting the right people on the consulting roles, pursuant to some of the requirements in the consent order. The City would be looking for a number of different services.

Moved by Dever, seconded by Johnson to authorize the Mayor to execute the Asset Sale and Acquisition Agreement to acquire the Former Farmland Industries Property; authorize the Mayor to execute the Consent Order with the Kansas Department of Health and Environment (KDHE) under which the City agreed to be responsible for the performance of the required remediation of the Farmland site in accordance with the terms of the Consent Order; and; authorize the City Manager to issue a Request for Qualifications for Environmental Remediation Services related to the former Farmland site. Motion carried unanimously.

(15)

Consider adopting on first reading, Ordinance No. 8354, amending sections of the City of Lawrence Code to incorporate additional restrictions contained in the Kansas Indoor Clean Air Act.

Scott Miller, Staff Attorney, said last week the impact of the changes in the State's smoking law was discussed and the City Commission directed him to draft an ordinance that incorporated the more stringent portions of the State law, kept our more stringent portions and changed the language to more or less mirror the State language where possible. Ordinance 8354 made those changes and he would be willing to discuss the ordinance in any depth.

Mayor Amyx said Miller accomplished what the City Commission directed him to do. He said regarding tobacco shops and that under Kansas law, anything could be sold in tobacco shops, provided 65% of its sales were from the sale of tobacco and asked if the City Commission would be revisiting this issue.

Miller said he was also authorized to insert additional language that was discussed, based upon the directions he heard last week, but he kept the percent at 65% as opposed to 85%, but the additional language, regarding tobacco shops, would not allow the exception to apply to any licensed premise such as bars; any place that was partially or entirely located inside of another business, so people could not use the exception to create de-facto smoking rooms; any place that had an entrance to the business, usable by the public, that was located within another business where smoking was not allowed under the law; and no place where the purchase of tobacco or tobacco product were required in order to gain admittance to the tobacco shop would be allowed. Those were not found in the state law or in the current ordinance, but he understood the City Commission wanted something included based upon the direction last week.

Mayor Amyx called for public comment.

Kathy Bruner, Lawrence, said many things had come out of Lawrence Kansas, but the action the City Commission was taking and predecessors would save thousands of lives in the future. She said she was proud of the City Commission and proud of the prior commissions.

Steve Bruner, Lawrence, said quite a while ago smoking restrictions indoors was a little controversial. There was data that showed it was certainly an increased risk for lung cancer. There was some basic science research that indicated it might be a risk for coronary artery disease. Since that time, it was discovered through studies that the mere act of banning indoor smoking reduced the heart attack rate in the community somewhere in the range of 20-30%. A City Commission in Lawrence Kansas took an action that affected the eventual passage of ordinances in 31 communities in Kansas that eventually affected the whole state. He said that when he was before that original City Commission he stated that he had been a family physician for 30 years and that the Commission had the opportunity in one night to save more lives than he would save in his whole career. It turned out that was a terrific understatement. He said he applauded the Commission's predecessor and he applauded the City Commission for keeping in tact what was passed and applauded the City of Lawrence for being a progressive leader for the State of Kansas.

Vice Mayor Cromwell said it was great to hear so much praise for the City Commission in one night. He said he was very proud to be able to keep intact the City's great ordinance for smoking and incorporated the stricter elements of the state law. He said this was a fantastic opportunity for the City Commission to demonstrate themselves as leaders and for the health of the citizens of Lawrence.

Commissioner Dever said he was happy to uphold what was a courageous move by the previous Commissions and having seen the impact of those types of bans throughout the country and in other countries. He said it was amazing what it did for public health and he was proud that the City was able to be leader and proud of the staff for being able to implement the changes quickly and concisely. He said he was happy to move on and vote in favor of the change.

Mayor Amyx said it was important the Commission left a majority of the ordinance where it should be, combining the new State law into the City's ordinance. He thanked Miller for his efforts regarding this ordinance.

Moved by Cromwell, seconded by Dever, to adopt on first reading, Ordinance No. 8354, amending sections of the City Code of Lawrence Code to incorporate additional restrictions contained in the Kansas Indoor Clean Air Act. Motion carried unanimously. (12)

Consider approving Text Amendments, TA-1-1-10, to the City of Lawrence Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment district. Initiated by City Commission on 2/2/10. Adopt on first reading, Ordinance No. 8530, for Text Amendment (TA-1-1-10) to the City of Lawrence Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment district.

Scott McCullough, Director of Planning and Development Services, said the last part of the agenda item considering a new mixed use entertainment district was not being recommended by the Planning Commission, but legally advertised because it was an option they wanted to review.

This item included amendments to the Mixed Use District which was based in Chapter 20 of the Lawrence Development Code. The Mixed Use District incorporated the concepts of form based design and transit oriented design as its roots. The City Commission adopted the Mixed Use District in May of 2008, but without the bar or lounge use being included in the use table for this district, so it was currently prohibited use in the district. He said there was one property commonly known as the Jayhawk Bookstore that had Mixed Use zoning, which was granted conditional zoning that prohibited two uses that were included in the use table; the sexually oriented media store and limited manufacturing and production use. He said there was

a high probability that if the bar or lounge use was included in the table, at that time, that it would have been restricted and prohibited at that particular site.

McCullough said this was an applicant initiated Text Amendment. Paul Warner Architect on behalf of at least a couple of clients; The Hawk and The Wheel, proposed text amendments to include the bar lounge use as a special use permit, in the use table, in order to address some legal non-conforming issues with The Hawk and The Wheel and also to begin the task of implementing the proposed Oread Neighborhood Plan. The Hawk and The Wheel were located in the 14th Street area and the draft plan designated a part of the corridor of 14th Street as a Mixed Use designation where the Mixed Use zoning could be employed to redevelop in that area. However, this was a city-wide code and had city wide implications and there were some areas where the merits of the MU district could be employed very successfully.

The ordinance and language seemed daunting and significant; however, a lot of it was relocating sections and doing some housekeeping items.

Section 20-201 in adding the MU district to the base district table, which was just a house keeping issue. In the same section of 223, repetitive standards were moved to section 20-1108.

Section 20-403 was the use table and was adding the bar lounge use as a special use versus a permitted use by rights, and anything new needed to go through the Special Use process.

He said they also took the opportunity to review some of the use standards related to quality restaurant and fast order food. The asterisk was removed because there were no standards that currently applied to quality restaurants in the Mixed Use District. Staff talked to the Planning Commission about whether standards should apply, and the decision was “no” that there should not be any restrictive standards for the quality restaurant, in fact, removed the 3000 square foot cap on fast order food use and if anything was approved, in the fast order food use, would be allowed to be larger than 3000 square feet.

In section 2509 staff implemented removing that size restriction to the fast order food and added a new section regarding the bar lounge use that restricted the applicability only to properties approved for zoning map amendment to this district after July 1, 2010. This addressed the Jay Hawk Book Store issue. The argument being that if that use were included in the ordinance it likely would have been prohibited.

As the public process unfolded, staff worked under the Planning Commission's direction to look for ways to preclude the Jayhawk Bookstore from enjoying the addition to the Mixed Use District use table. He said that one of the ways of a few options was to add language to the code which basically said that anything in the future zoned to Mixed Use could request a Special Use Permit; anything prior to it could not.

One of the options discussed to address the Jayhawk Bookstore issue was this alternative district altogether. It would be completely separate from MU and looked at Mixed Use and Entertainment District which had a whole different set of uses that would include the bar lounge use.

Section 20-1108 was where they relocated many standards from section 2223 and also included text that permitted existing uses that would require a Special Use Permit upon rezoning to the MU district, to be granted an automatic Special Use Permit status; for example, if The Hawk requested rezoning to the MU District and we know that would be a bar use by definition in our code, if approved as a Special Use Permit in the MU District, the rezoning hearing process, if zoned to the MU District, they would be granted an automatic Special Use Permit as well. It could be subject to conditions, would be subject to all the revocation powers of the code and revisions, but would not need to rezone to the MU District and have a separate Special Use Permit hearing in order to get the Special Use Permit. He said all those issues would be looked at upon the rezoning hearing.

McCullough said that the action they were requesting was to review and pass as recommended by the Planning Commission if found appropriate.

Mayor Amyx said going back to the zoning applications by anyone who came forward now, if a person was granted the MU zoning, then that person would automatically be granted the Special Use Permit, and nothing else could be added.

McCullough said they believed conditions could be added to a Special Use Permit at the time of the rezoning hearing. So if there were operational matters, or hours of operations for example, those could be added at that time which were for uses that existed today. For a property that rezoned to the MU District that was not developed, would need to rezone and then request a Special Use Permit as a separate matter.

Commissioner Dever said if he had a dilapidated building, a structure that was not safe and tore it down and was going to rebuild, he asked if it would that be a vacant lot?

McCullough said it depended on if they wanted to maintain their current use. In other words, if the Jayhawk Bookstore were to be damaged by fire or tornado, the Jayhawk Book Store could be rebuilt.

Commissioner Dever said if he had a piece of land, wanted to change the use, was existing residential, and wanted to tear it down and build something new, he asked if he had to go through a Special Use Permit process.

McCullough said for that one use and there were other uses that would be permitted by right, going through the site plan process.

Commissioner Dever asked why this use was broken out separately from the others.

McCullough said they were not breaking this particular use out, but the Special Use category. He said through discussions it was coming to fruition in that staff believed that a lot of developed properties would want to utilize the Mixed Use zoning category in the future. He said in part, because a lot of those properties were developed with deficiencies in setbacks that the MU, by its nature relaxed. He said staff did recognize that early on even with the original version of the MU district and started including language that allowed some flexibility.

Commissioner Diver said if he wanted to change the use, he still had to go through the process, only for the particular use that was being discussed. If it was permitted use, he could switch over and do whatever was permitted in the area, by right.

McCullough said correct.

Commissioner Dever said regarding this “S” designation, for the Bar or Lounge use in the MU District to permit the Use by Special Use Permit, for properties zoned MU, and what was the conversation.

McCullough said in the use table, if it was designated with an “S” that was the Special Use versus a “P” which was Permitted by Right. The “S” denoted the Special Use process for any of those uses. He said there were other uses that required Special Use, such as a homeless shelter, for example, would have an “S” category because it was a Special Use permit process.

Commissioner Diver said it was simply Special Use?

McCullough said yes that was the discussion about whether it should be permitted by right or special use.

Mayor Amyx called for public comment.

Paul Werner, Paul Werner Architects, said clearly, the text amendment was written specifically for The Hawk and The Wheel. He said City staff along with the Planning Commission had come up with an excellent idea with the Special Use Permit. He said he tended to believe that two Planning Commissioners that had voted against the text amendment wanted the entertainment new district and thought that probably was not a great idea because they would be standing in front of the City Commission and the worry would be that next time someone wanted to zone something MUE, how many bars would there be. The Special Use Permit was really a good mechanism of control, was not allowed by right and had to be asked for. The key point was that it was really written for those two particular bars. Anyone else

changing the use also had to meet parking requirements and all the other items that those two bars had the advantage of not having to do because those bars were around for a long time.

He said it also followed the Oread Neighborhood Plan that the Commission would hopefully see soon. He said 14th Street would be a good area for mixed use and should provide the ability to redevelop some of those properties. He said it was an excellent plan and looked forward to City Commission's support.

Bill Mitchell, Lawrence, said his preference regarding bars and MU was for two MU districts. One district completely barless which was the status at this time and another district MUE, allowing bars by Special Use Permit. He said that could make MU more saleable in other locations as it did at 1420 Crescent. It would never have gone that far, had bars been allowed. Myopically, as long as bars continued to be disallowed at 1420 Crescent, his back yard, it was okay.

He said he was not keen on allowing larger fast food in MU and wondered how that crept into the amendment without any notice. The original Planning Commission notice was about a text amendment to MU and he did not think it had anything, at all, to do with fast food and seemed to slip in, unnoticed. The discussion was about quality restaurants, but no talk about fast food. It seemed to might need to be advertised and perhaps at the same time as what Planning Commissioner Rasmussen suggested, that sex media stores should be made "S" instead of "P" in existing MU.

He said he was sorry that the matter of Neighbor notification of de-facto zoning changes by text amendment, which got him all stirred up in the first place, had not come to the City Commission, but apparently was languishing somewhere in planning and hoped staff would not let that issue die.

Commissioner Dever said what was the correlation between what was being discussed and 1420 Crescent Road because this was the purpose of this current discussion.

McCullough said it was the purpose of discussion indirectly because when 1420 Crescent was rezoned to the MU District it came with use restrictions based on public testimony and concern for the neighborhood. He said that if the package that the neighborhood felt like they purchased with that rezoning was acceptable to the neighborhood, did not include the bar use at all or even conceivable to request a Special Use Permit for the bar use, and when Mitchell noticed the agenda that this was going to be initiated by the City Commission it raised the eyebrow of Mitchell that said what did that mean for the Jayhawk Bookstore. He said it would have meant that the Jayhawk Bookstore owner, present, or future, could have come in and requested a Special Use Permit for the bar or lounge use. He said that in and of itself was one thing, but because of the history of rezoning, with conditions, the Planning Commission directed staff to look for ways to preclude what was and still was representation of the current owner of the bookstore to not want to go for a bar or lounge use and that was what they set out to do. Clearly, the amendment could be revised to allow even the current property with MU zoning to have the ability to go for a Special Use Permit for the bar lounge use. That was how they were linked. There was no application by Mr. Muggy to request a bar lounge at the site.

Commission Dever said it was inferred that one would have the ability to allow this because it was not specifically addressed when the property was previously rezoned.

McCullough said there was no need to address it. This went to the Planning Commission twice and the second time, the legal notice was expanded to include all of those standards from the Planning Commission and nothing was added from the Planning Commission. It was all legally advertised and addressed and he wanted to make it clear.

Mayor Amyx said regarding properties zoned MU after the July 1, 2010, he asked if it would preclude Jayhawk Bookstore from asking for a bar and/or lounge.

McCullough said it precluded Jayhawk Bookstore from being able to request a special use permit for a bar and/or lounge with their current MU zoning. He said it was discussed at the Planning Commission level, that they could not preclude any owner from requesting a rezoning

at some point to attempt to receive a “use” through governing body approval. In that particular instance, staff believed the owner of that property needed to rezone to the MU District again, after July 1, then Jayhawk Bookstore would have the ability to request a special use permit, “if” and “after” receiving the rezoning to an MU District.

Commissioner Dever said he did not comprehend at first, but he understood now that was before the rezoning of the Jayhawk Bookstore. He asked if that was normal and thought it was an interesting approach.

McCullough said there were some times when codes, play with dates, to reach consensus for certain goals.

Commissioner Dever said that was a creative approach.

Gwen Klingenberg, President of the Lawrence Association of Neighborhoods, said she supported the Planning Commission’s recommendation. She said she was going to explain the SUP was important because not all MU Districts were going to be appropriate with a bar/lounge if it was right next door to a church or a neighborhood and having to deal with Horizon 2020 and goals to help neighborhoods deal with traffic and other issues.

She said she had a concern about notification. She said at the Planning Commission it was determine that it was not broken, but there were some places that needed to be addressed. One was the issue of a text amendment that was dealing with the zoning use. It was told because it was a text amendment, that it was not worthy of notification. However, it was about a zoning use and if it had not been for a neighborhood noticing the “add” and interjecting their thoughts and opinions, the governing body would be looking at strictly allowing bar and lounges in an MU District which included the Jayhawk Bookstore. She asked if the notification process be looked at, especially when it had to do with text amendments that were zoning issues.

Mayor Amyx said anytime there was an amendment that dealt with land use zoning, he asked if Klingenberg wanted notification as staff would normally.

Klingenberg said if only one word was going to be changed, that would be one thing, but if talking about adding a use or something that was going to change the zoning, she thought regular notification of the property owners within 200 feet and neighborhoods needed to be notified. It was important and was not the first time this type of thing has happened. She said there was an IBP issue coming up in the near future where this similar thing happened along with a couple of other cases in the past. She said it was important to the neighborhoods and the neighborhoods felt the City was trying to hide something or overlooking the neighborhoods.

Mayor Amyx said it did help, but in this particular case with the MU District with the one particular zoning category, they could notify the appropriate property owners and neighborhood associations that adjoined. He said when looking at multiple zonings throughout the City, he did not see how that could be done.

Klingenberg said the Planning Commission brought up that when they did a sector plan, they sent out 700 letters. The City was able to notify residents if it was an important enough change. She said a zoning change was being made to aid a single-district. She said the City was not looking at city-wide notification, but neighborhood associations in the area that should be notified. In this particular area that should have been at least three neighborhood that should have been notified.

Mayor Amyx said the plan before the City Commission recommended a mixed use district at 14th and Ohio, he asked what happened if the mixed use district in that area did not remain in place.

McCullough said the rezoning request had not come before the City Commission or the Planning Commission and staff had not fully analyzed or made a recommendation. Staff would forecast using the draft plan, in part, because there had not been any noted public opposition to that designation or Planning or City Commission opposition to that designation to date and felt they were far enough along to begin using some of those concepts. Clearly, if the City Commission could not support the rezoning, then the City Commission had the ability to deny

that rezoning. The text amendment had city-wide implications and the question for the Planning Commission: was there room in a mixed use district, in the City, to have bar or lounge use as an opportunity with a special use permit.

Mayor Amyx said North Lawrence had a possible mixed use category.

McCullough said potentially North Lawrence, 19th and Haskell, and a number of areas that could employ this type of district. It was up to the developer to request a rezoning, but had been actively speaking to people about this district.

Mayor Amyx said when opening up this type of district, citywide, and look at adding the bar and/or lounge to the MU district, under a special use permit, there was a process that needed to be followed. He said under this text amendment, he asked if the concerns of the neighbors, around the Jayhawk Bookstore, could be taken care of. He said there would be another situation that would come along that could not be taken care of, other than flat denial of an SUP.

McCullough said that was possible. He said staff believed the SUP was the vehicle to at least give the opportunity to someone to make the request, but then look at it based on its context of compatibility with the neighborhood and other merits such as traffic and safety.

Mayor Amyx said he did not want to make a mistake with this text amendment and as much as everyone wanted to support infill development projects, the City Commission wanted to make sure the neighbors understood there was something new coming to the neighborhood. The notification process needed to be addressed. He said he was not sure about granting the Mixed Use to those two businesses because those two bars had been around for a long time.

McCullough said those two businesses needed to go through the public hearing process to establish the mixed use zoning, to obtain the automatic Special Use. He said what was being afforded was the opportunity not to go through that second public hearing and could have implications for other uses that existed. For example, if this were included as part of the code when Jayhawk Bookstore went through and if bookstores, for example, were required to have a

special use permit, it could have received an automatic special use permit and existed from then on without going through a second process. He said while they were discussing the bar and/or lounge use, the part of the code that granted automatic special uses, really touched all categories in the use table. To date, if the applicant made a request for the MU District, it would be 3 properties that were fully developed, taking advantage of the MU zoning, versus green-fill development.

Mayor Amyx said the City Commission would be permitting Bars and/or Lounges in the MU (Mixed Use) District, but the bar and/or lounge use was not allowed at 1420 Crescent.

McCullough said correct. He said the 1420 Crescent needed to request rezoning to MU or some other commercial district that allowed bars and lounges and go through the special use process because there was no established bar at that location at this time.

Mayor Amyx said if there was a piece of property zoned MU, it would be hard to deny MU rezoning application that would allow the new rules that existed on that piece of property. In other words, Jayhawk Bookstore was zoned MU and bar and/or lounges were not allowed at that location, but it could if the owner requested a rezoning application on that property from MU to MU, to come under the new rules that allowed a bar and/or lounge to exist at that location with and SUP approval.

McCullough said yes.

Vice Mayor Amyx said at least that scenic route provided a lot of opportunity for input and analysis of the application. He said someone could apply for some other type of zoning and that person would need their day in court to vet that out into the community and decide whether the governing body believed that was an appropriate use. He said the City Commission was making the applicant take the scenic route and that might not be a bad thing.

McCullough said one of the other alternatives that was put forth to the Planning Commission, was to not employ this language about the time period, July 1st date, but initiate a rezoning for the owner at 1420 Crescent, to specifically add in to the list of prohibited uses, bar

or lounge. He said the property owner was not very happy with that option to go back through a public hearing process and staff understood completely and wanted to provide that benefit. He said even with conditional zoning, the applicant could request the removal of a condition some time in the future. There was really no such thing as complete and utter preclusion of uses because it was completely up to the governing body. Staff had to work at it to make it the high hurdle to give the opportunity to request the use at the Jayhawk Bookstore.

Mayor Amyx said the owner of 1420 Crescent waited forever to allow a zoning category that allowed this property to be zoned to get away from the non-conforming status because in the event, something happened to that property, the owner could rebuild that property. He said some of the language that established in that mixed use category was based on the property owners, 1420 Crescent, with the input of the neighborhood to make sure that uses that should not be allowed in that MU category would not come to their neighborhood.

McCullough said yes.

Mayor Amyx said now he felt bad for the property owner (Mr. Muggy) because when the City was not trying to look at Muggy's property, but it kept coming up because the City was trying to protect the current zoning, but also protect the neighborhood. The City Commission promised to help and he did not think that this text amendment provided that protection.

He said he knew the two bar owners did not want their property to remain non-conforming and now the City was developing a neighborhood plan on establishing what the neighborhood would look like and the City was saying it should be mixed use.

McCullough said Muggy had participated in this text amendment through the Planning Commission.

Commissioner Dever said he saw this issue as being proactive with the concept of the City creating this MU District in the Oread and all of a sudden the City had created those non-conforming land uses that included The Jayhawk Café and The Wheel, but it was good the City was thinking ahead so someone was not put into a position like that property that had a non-

conforming use and might have had insurance issues and salability issues when not being able to rebuild in an area if it was damaged too much. He said now that he understood the history that got the City to this point, it made sense. He said he also had concerns with the date, but if it was creative and made the person who went through this process a little more comfortable and the neighbors comfortable it was okay. He said it seemed like a roundabout way to get to a place that the City needed to be.

Commissioner Johnson said he thought it made sense and it was not easy, but took a lot of work. He said it was creative and worked in this situation. He said he did not have a better idea.

Mayor Amyx said he would like some feedback on the notification process. He said the City Commission spent a lot of time on the notification process, last time the MU District was discussed about “whom” and “when” notification would be required.

Commissioner Dever said a list was needed on when notification was needed or when notification was not needed. He said if zoning was involved or change in land use occurred, the City needed to notify the appropriate public.

McCullough said the Planning Commission had the same questions and offered for future City Manager Report, a memo that staff provided to the Planning Commission which laid out the statute, the statutory required notice and what the City did above and beyond the statutory requirements, both in the City code and practices could start off that discussion for the City Commission.

Mayor Amyx said that was a good starting point and then the City Commission could have those discussions on notification.

Moved by Johnson, seconded by Cromwell, to approve Text Amendment (TA-1-1-10), to the City of Lawrence Land Development Code, Chapter 20, of the Code of the City of Lawrence, KS and adopt on first reading, Ordinance No. 8530, with its incorporation by reference document. Aye: Cromwell, Dever and Johnson. Nay: Amyx. Motion carried. **(13)**

Consider request to establish yield signs on Pleasant Street at 4th Street (TSC Item 3; motion failed 2-3 on 08/03/09).

David Woosley, Transportation/Traffic Engineer, said this intersection was a full residential area and was uncontrolled. If going one block, each direction, the intersections were controlled. The Traffic Safety Commission made a motion to approve the request to establish yield signs on Pleasant Street at 4th Street by a vote of 2-3 and the TSC did not take any other motions.

Mayor Amyx said he had talked to a couple of people in that neighborhood on Pleasant Street and it was appropriate for yield signs.

Commission Dever asked if Woosley weighed in on this item.

Woosley said he thought it was certainly appropriate since it was located around other intersections that were controlled.

Mayor Amyx called for public comment.

After receiving no public comment, **it was moved by Dever, seconded by Cromwell**, to approve the request to establish yield signs on Pleasant Street at 4th Street. Motion carried unanimously. (14)

Consider recommendation from the Traffic Safety Commission to deny request to rescind the 35 MPH speed limit on 4th Street between McDonald Drive and Michigan Street

David Woosley, Transportation/Traffic Engineer, said the Traffic Safety Commission (TSC) heard a request to post a 35 mph speed limit on 4th Street from McDonald Drive to Maine Street. The TSC recommended approval based upon traffic studies that were conducted. The request was approved by the City Commission, but scaled the area back to Michigan Street instead of Maine Street. Both the TSC and City Commission requested additional studies be conducted after the change was made, to see if there was any change in the traffic along that street.

Approximately 6 months after the 35 mph speed limit was posted on that street, staff did additional speed studies and found the average speed had changed by 1/10th of a mile per hour, and virtually there was no change in the speed of traffic along that street. The study went back to TSC for review and a request from the neighborhood to rescind that original ordinance, and TSC voted 7-1 to retain the ordinance at 35 mph.

Mayor Amyx asked about accident history.

Woosley said there was no accident history of crashes along that corridor and certainly none related to speed in that corridor.

Mayor Amyx called for public comment.

Steve Braswell, Pinckney Neighborhood Association, said the idea of notification had come up related to other issues. He said a request was made to increase the speed limit and that action was acted upon, but very few people were aware of that action. He said Woosley said notices were sent out to adjacent property owners. He said most areas in town had recognized neighborhood groups and suggested the neighborhood groups be advised of upcoming issues.

He said when the street was first constructed, he was sure a lot of time was spent on the design of that street and at that time 30 mph was considered the appropriate speed limit. The issue was that this was a heavy residential area and the population had gone up, surrounding that area, since the road was first constructed. He said if they were more aware of the request for the speed limit to go up, the neighborhood would have been at that meeting initially, objected at that point, and might have done something about it with better notification.

He said from what he understood, there was an email requesting an increase in the speed limit in that area. He said he did not know if that individual appeared before the City Commission, but several neighbors appeared before this Commission objecting to the raising the speed limit. Once the people that were impacted by this decision were aware of the change in speed limit, objections came up. He said the area was ½ mile stretch of road and said it

was an 8 second difference between 30 mph versus 35 mph. He said he contended that this was a segregated section of road and there were no other roads, other than McDonald Drive, access to the turnpike and US Highway 40, those roads were the only roads that had a similar speed limit.

He said he requested the speed limit be reduced from 35 mph to 30 mph.

Mayor Amyx said there were no increase in accidents and there were concerns from the neighborhood about the increase speed in the neighborhood on that collector street. He said by changing the speed limit, it would make the speed limits consistent with other collector streets in the community.

Commissioner Dever said that was the City Commission's intention which was to make the speed limit consistent with all of the other collector streets in the community. The road served a good purpose and was in good shape. The terrain and surroundings controlled speed more than the sign. He said it seemed like a reasonable speed and appreciated Braswell concern. He said people drive 45 mph down his street routinely that had potholes everywhere and was unsafe, but this road was in great shape. He said it was a reasonable approach to the hospital.

Mayor Amyx said he discussed the issue with neighbors on the north side of that street where they wanted to add speed humps in the future if accident numbers picked up. He said he suggested placing speed humps at the entrance to the hospital. He said lowering the speed limit could happen in the future if a problem existed, but right now with the data received, no problem was created statistically. He said he suggested retaining the 35 mph speed limit, reviewing the area from time to time. If statistic changed, then the City Commission could look at other avenues.

Moved by Dever, seconded by Cromwell to deny the request to rescind the 35 MPH speed limit on 4th Street between McDonald Drive and Michigan Street. Motion carried unanimously.

(15)

Consider recommendation from the Traffic Safety Commission to deny request to establish a stop sign on Crestline Drive at 24th Terrace

David Woosley, Transportation/Traffic Engineer, said this intersection was in a residential area, both streets were classified as local streets, a “T” intersection and a type of intersection staff liked to see in residential areas because it had much fewer accident potential, points of possible collisions, and encouraged developers to design their neighborhoods with “T” intersections as opposed to 4 way intersections. There was no history of any crashes at that intersection, certainly within the last 3 years which was usually the timeframe looked at for crash history. He said the TSC recommended it be retained without any control. Kansas law as well as other states required that at an uncontrolled intersection, the vehicle on the right had the right-of-way which seemed to be working at this location. He said if there had been a history of crashes, then there would be a need to take a look at higher level of control.

Mayor Amyx said there was potential to cut through to avoid 23rd and Iowa Streets.

Commissioner Dever said he used that intersection a lot and it seemed to flow well, never thinking it was an unsafe or the way it was setup was improper. He said although a request was received to do something, but was not sure a yield sign was something that person thought about.

Mayor Amyx said a stop sign was too much, but if looking at a yield sign, he asked where that yield sign would be located.

Woosley said normally at a “T” intersection, it would be at the leg of the “T”, in this case, the south bound traffic. Otherwise, it might be too confusing to motorist and might cause an accident if a yield sign was placed on one of the other approaches. It would be unusual and would violate driver expectation.

Mayor Amyx said to the east of “T” there was a driveway going into the parking lot. He said the worst thing was creating a problem.

Woosley said one of the other intersections in that area, at Melrose and 25th, was currently being looked at by the TSC for a yield sign because there had been a couple of crashes reported at that location, but again, this intersection being discussed did not have any history of crashes.

Mayor Amyx said it might be an idea to send this item back to TSC for a potential yield sign based on the information at the Melrose location.

Mayor Amyx called for public comment.

After receiving no public comment, **it was moved by Cromwell, seconded by Johnson** to refer a request to establish a stop sign on Crestline Drive at 24th Terrace back to the TSC to be considered along with Melrose Avenue item. Motion carried unanimously.

PUBLIC COMMENT: None

FUTURE AGENDA ITEMS:

- | | | |
|----------|---|--|
| June | · | Upon conclusion of 2010 Kansas Legislature, review and consider possible changes to City primary election law. |
| 06/22/10 | · | Executive session at 5:30 p.m. on employer/employee negotiations. |

CONSENT AGENDA:

Approve the following items related to the Bert Nash Dash and Bash:

- Approve a temporary use of right-of-way permit for the closure of the 600 block of Massachusetts Street from noon-midnight on Saturday, October 9, 2010 for the Bert Nash Dash and Bash.
- Adopt on first reading, Ordinance No. 8528, allowing the possession and consumption of alcoholic liquor on the 600 block of Massachusetts from noon to midnight on Saturday, October 9, 2010 for the Bert Nash Dash and Bash
- Approve donation of city services in support of the Bert Nash Dash and Bash.

REGULAR AGENDA:

- Conduct public hearing to consider the vacation of unused utility easements located in Lots 1, 2, 3, and 4, North Lawrence Addition Number Fourteen, as requested by Foust, LLC, 3600 SW 29th Street, Topeka, Kansas 66614.

ACTION: Conduct public hearing and approve Order of Vacation, if

appropriate.

07/06/10

REGULAR AGENDA:

- Receive public comment on proposed Library expansion referendum. Consider adoption of Charter Ordinance placing item on November 2010 ballot.

ACTION: Receive public comment and direct staff as appropriate.

- Consider authorizing a Resolution of Intent to issue up to \$18,000,000 in Qualified Energy Conservation Bonds and/or state allocated Recovery Zone Facility Bonds, with conditions, for Bowersock Mill & Power Company's hydro power plant.
- Discussion of landfill rates.

CONSENT AGENDA:

- Approve Special Use Permit, SUP-3-4-10, for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. Submitted by Bowersock Mills & Power Company, property owner of record. Adopt on first reading, Ordinance No. 8529, for Special Use Permit (SUP-3-4-10) for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. (PC Item 1; approved 7-0 on 5/25/10)

November

- Receive status report on LCS relocation efforts.

TBD

- Receive staff memo regarding possible annexation of Westar Energy Center and adjacent properties. Additionally, staff is working on a memorandum discussing possible annexation of the Miller/Wells acres area.
- Receive Lawrence Human Relations Commission gender identity report.
- Approve Special Use Permit, SUP-3-4-10, for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. Submitted by Bowersock Mills & Power Company, property owner of record. Adopt on first reading, Ordinance No. 8529, for Special Use Permit (SUP-3-4-10) for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. (PC Item 1; approved 7-0 on 5/25/10)
- Receive request from Lowe's for formation of a Community Improvement District (CID).
- Receive request from Lawrence 1714, LLC, Lawrence 23 Ousdahl, LLC, and Got-Mor, LLC for formation of a Community Improvement District (CID) near 23rd and Ousdahl Streets. This item was deferred from the May 18, 2010 City Commission Meeting.
- Follow-up regarding Community Improvement Districts (CID).

COMMISSION ITEMS:

Moved by Dever, seconded by Cromwell to adjourn at 8:36 p.m. Motion carried unanimously.

APPROVED:

Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF June 15, 2010

1. Public Hearing - Americana Music Festival
2. Bid-pumps & motors-UT Dept.-Mid America Pump LVK-\$196,936, JCI - \$106,490, Layne Christensen Co. - \$33,016, Patchen Electric- \$25,619.30. Grand Total - \$362,061.30
3. 2nd Read – Ord. 8531
4. Accept Grant Funds-Historic Preservation Planning Intern-\$4,000. Staff & Commission Education \$2,280. City Manager-grant agreements-KS State Historical Society.
5. Dedication-easements & ROW, PP-3-3-10 - Johnson & Ellis, Addition, one lot, 0.538 acres, 1804 W 6th St. & variance from ROW requirements in Section 20-810(d)(4)(i).
6. ROW -Lawrence Originals-7th street btw Kentucky & Tennessee, July 4, 2010 8:00am-12am
7. Demolition - former Morton Concrete Block building, 900 E. 15th Street
8. Subordination Agreement for Kiley and Mary Bost, 832 Locust.
9. City Managers Report
10. Execution of documents related to acquisition of former Farmland Industries property.
11. Update on 331 Johnson Avenue
12. 1st Read Ord. 8354, Kansas Indoor Clean Air Act.
13. 1st Read Ord. 8530. TA-1-1-10 - permit Bars or Lounges & consider changes to development standards for various Eating & Drinking Establishments in the MU District and a new Mixed Use Entertainment district.
14. Yield signs on Pleasant St. at 4th
15. TSC Deny – rescind 35 MPH speed limit on 4th Street between McDonald Drive & Michigan Street
16. TSC Deny – stop sign on Crestline Drive at 24th Terrace