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CITY COMMISSION

MAYOR
MIKE AMYX

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

August 3, 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 Chestnut, Cromwell, Dever, and Johnson present.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve City Commission meeting minutes from June 8, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive minutes from the Planning commission meeting of June 21-June 23, 2010; Traffic Safety Commission meeting of June 7, 2010; Parks & Recreation Advisory Board meeting of July 20, 2010; Mental Health Board meeting of June 29, 2010; Historic Resources Commission meeting of May 20, 2010.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve claims to 252 vendors in the amount of \$2,571,890.74 and payroll from July 18, 2010 to July 31, 2010, in the amount of \$1,810,519.89. Motion carried unanimously.

The City Commission reviewed bids for the 1 one ton pickup with options for the Parks and Recreation Department. The bids were:

VENDOR	TOTAL
Shawnee Mission Ford	\$27,957.00
Laird Noller Automotive	27,973.00
Roberts Auto Plaza	30,700.00



As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to apply the local purchasing preference policy and award bid to Laird Noller Automotive for \$27,973.00 plus options, \$5,503.00 for a total of \$33,476. Motion carried unanimously. (1)

The Commission reviewed bids for the 2009 Sidewalk Gap Program (PW0929). The bids were:

VENDOR	TOTAL BID
Engineer's Estimate	\$279,362.50
R.D. Johnson Excavating	\$229,076.20
Kansas Heavy Construction	\$347,765.00
Love's Enterprise, Inc.	\$395,233.25

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to award bid to R.D. Johnson Excavating in the amount of \$229,076.20. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve a contract renewal with Vito's Plumbing for the 2010 Emergency Sewer Repair Contractor (B09036). Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt on first reading Ordinance No. 8304, for Text Amendment (TA-12-27-07) to various sections of the City of Lawrence land Development code, chapter 20, to revise the Protection Standards for Environmentally Sensitive Areas, to provide more precise definitions, and to include incentives for protection of sensitive lands beyond that required by code. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt on first reading Ordinance No. 8549, rescinding Ordinance No. 5781 and modifying the one-way street designation on Elm Street between 2nd Street and 3rd Street. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt on first reading ordinance 8550, rescinding Ordinance No. 4604, and modifying the no-parking restriction on Elm Street between 2nd Street and 3rd Street. Motion carried unanimously.

(6)

Ordinance No. 8551, adopting and appropriating by fund the 2011 City of Lawrence budget was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously.

(7)

Ordinance No. 8546, establishing solid waste service rates for 2011 was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously.

(8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt Resolution No. 6898, authorizing financing for Water and Sewer Capital Projects. Motion carried unanimously.

(9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt Resolution No. 6899, authorizing the sale of general obligation notes and bonds on August 24, 2010. This provides financing for previously approved projects and the refinancing of State Revolving Loan fund financing. Motion carried unanimously.

(10)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt Resolution No. 6900, setting the limit for the amount of bonds that can be issued under Charter Ordinance 27 in 2010 at \$6,100,000. Motion carried unanimously.

(11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt Resolution No. 6901, setting August 24, 2010 as the public hearing date to consider a

Community Improvement District (CID) for the 23rd & Ousdahl project. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive status update regarding the code violations at 331 Johnson Avenue and direct staff to proceed with filing a complaint through Municipal Court. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve recommendation from the Traffic Safety Commission to remove the date restriction established for no parking along the south side of 19th Terrace between Naismith Drive and Ousdahl Road and adopt on first reading, Ordinance No. 8547, rescinding Ordinance No. 6763 and establishing no parking along the south side of 19th Terrace between Naismith Drive and Ousdahl Road. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve recommendation from the Traffic Safety Commission to remove the No Parking Bus Stop Zone along the north side of 10th Street, East of New York Street and adopt on first reading, Ordinance No. 8548, rescinding Ordinance NO. 7723 and removing the No Parking Bus Stop Zone along the north side of 10th Street, East of New York Street. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive and approve recommendation from the Traffic Safety Commission to construct a signalized mid-block pedestrian crossing on Kentucky Street between 12th Street and 13th Street. Because this item is currently unfunded it will not proceed to construction until funds are budgeted for construction. This item will be placed on the City's listing of unfunded traffic/pedestrian items. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive and approve a recommendation from the Traffic Safety Commission to construct traffic calming devices on 9th Street between Locust Street and Walnut Street. Because this item is currently unfunded it will not proceed to construction until funds are budgeted for construction. This item will be placed on the City's listing of unfunded traffic/pedestrian items. Motion carried unanimously. (17)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive status report from the Peak Oil Task Force and approve an extension of work to present the final report by December 31, 2010. Motion carried unanimously. (18)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve submittal of a grant application for the Federal Railroad Administration High Speed Intercity Passenger Rail Program to fund final construction plans for the Santa Fe Station Project. (19)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said The Parks & Recreation Department recently completed a renovation of the Lyon's Park tennis and basketball courts. The lights that were installed were recycled from the old Tennis Center at Lawrence High. As an added feature, the tennis courts were also striped for pickle ball; The Public Works Department reviewed its efforts for projects allocated in the 2010 pavement maintenance program; Westar utility representatives advised City staff that they contracted with Black & McDonald Utilities Services to maintain Westar-owned street lights in Lawrence. (20)

REGULAR AGENDA

Consider approving amendments to Memorandum of Understanding Agreements between the City of Lawrence and the IAFF Local 1596 and the Lawrence Police Officers Association regarding compensation for 2011.

Diane Stoddard, Assistant to the City Manager, said regarding the amendments to the IAFF Local 1596 it covered certain fire employees and the recommendation was that one step to be added at the top of the pay steps for those ranges in the fire pay plan which effectively enabled those that were currently at the top of the range to be eligible for one additional step equivalent to 2 ½ percent in 2011.

Related to the Lawrence Police Officers Association amendment, it provided for a 1 ½ percent general wage adjustment for Police Officers only with no adjustment for Detectives.

She said she wanted to acknowledge the work of the employee group teams, lead by Mike McMillen, President of IAFF 1596 on the fire side and Mike McAtee, Chairman of the LPOA, on the police side. She said she also wanted to recognize the presence of Mickey Rantz, Vice Chairman of the LPOA and the work of the Management Team, Chief Olin and Chief Bradford and their staff and others that worked on the agreement.

She said staff recommended the City Commission authorize those amendments and suggested that because both of the amendments had complimentary language, staff recommended the amendments be authorized contingent on the authorization by both of the groups to the 2011 amendments.

Mayor Amyx called for public comment

Mickey Rantz, LPOA, said on behalf of LPOA and IAFF, they would like to thank the City's Management Team and City Commission for the hard work that had gone into negotiations. He said the City Commission's dedication to the City and service to the community and its employees was a great benefit.

Mayor Amyx said he wanted to thank the City Management Team and both organizations for their efforts regarding the Memorandum of Understandings for the IAFF and LPOA.

Commissioner Johnson said he appreciated the work gone into those amendments for the MOU's, but did not feel comfortable supporting those amendments for the main reason of

the pay increases. He said he had been consistent with those comments through the various study sessions. He said he thought those amendments were done in good faith, but his conscience, from a taxpayer standpoint, he did not agree with the pay raises.

Mayor Amyx said those pay increases were considered in the 2011 Budget.

Moved by Chestnut , seconded by Cromwell, to approve amendments to Memorandum of Understanding Agreements between the City of Lawrence and the IAFF Local 1596 and the Lawrence Police Officers Association regarding compensation for 2011, contingent upon authorization and execution by both IAFF and LPOA. Aye: Amyx, Chestnut, Cromwell, and Dever. Nay: Johnson. Motion carried. (21)

Continue public hearing opened on July 27, 2010 on a request for a distance restriction waiver for the sale, possession and consumption of alcoholic liquor for the Oread Hotel Block Parties. Consider finding that the temporary event and sale of alcoholic liquor is not adverse to the public safety and welfare. Consider approving a distance restriction waiver. Consider adopting on first reading Ordinance No. 8553, allowing the temporary sale, possession and consumption of alcoholic liquor on specified city property for the Oread Hotel Block Parties.

Tim Homburg said Commissioner Dever had a concern about exact boundaries of the area that they were requesting the expanded liquor license. He said he depicted the area more clearly regarding the fence lines, gates, receptacles, tents and other areas of concern and mimicked exactly the same submittal, but more defined. He said the 24 foot drive aisle was the same and was 39 foot 3 inches from the property line.

He said when they requested the original waiver restriction for the hotel liquor license they had communicated with ECM and presented a letter to the City Commission regarding their feelings toward the current extension of the boundaries of the liquor license. He said the closest corner to the Oread Hotel to the closest corner of the property of ECM was 100 feet away and were well within 400 foot already.

Commissioner Dever asked if there was any way to move the sale of alcoholic beverage within the border.

Homburg said that it was a temporary tent and would be happy to move the tent inside the existing property. He said by moving the tent 15 feet onto the hotel property, to sell the alcoholic beverages was not an issue.

Commissioner Dever asked if there were any projections on how much impact the lack of liquor sales would have on this event and its popularity and if people were to consume within those boundaries, but not in the area where alcohol was not allowed.

Homburg said it was too early to judge. He said one thing that came to light after discussing the use of right-of-way, was that they would not get a true fill for the utilization until getting into the heart of the Big 12 Season. The first couple of games would be non-conference opponents. The first game was on a holiday weekend against a non-conference opponent and was not going to be indicative of the standard where homecoming or the K-State game where potentially a greater amount of usage would be seen. He said it was variable.

Commissioner Diver said the trial run that was proposed initially, hopefully would be easier because there would potentially be less people.

Homburg said correct and would allow them to recognize any problematic areas and get them taken care of so it was not a problem that was exacerbated with larger crowds.

Dennis Brown, Lawrence, said two weeks ago a split vote Commission voted to approve the use of public right-of-way in the area of 12th and Oread for football game day street parties by the Oread Inn. This City should not be the habit of using public right-of-way to help one business profit over others. There were safety concerns as well and Mayor Amyx and Commissioner Chestnut were right to express those concerns.

Tonight, with approval pending for alcohol sales and consumption on public right-of-way at those events, he believed the City Commission was about to jump from the frying pan into the fire on this item. This was the anatomy of an accident waiting to happen. A developer builds his site to the limit and begins to ask the City for favors to increase his profits outside on public property. If his site had a patio or plaza, this would be an attractive use, but it did not.

The planning staff's original ruling was that if those street parties were to take place, the streets needed to be closed maximizing public safety that was when this proposal began to go from bad to worse.

He said immediate neighbors and KU express concerns about their vehicular access and rightly so. He said he felt the City Commission should have voted this proposal down at that junction, but instead a decision was made to try and make everyone happy and what was traded to accommodate vehicular access was, he believed, public safety. The approved plans sought a co-existence of pedestrian game day revelers and through traffic. He said that was asking a lot at that location, even without liquor sales.

He said he wanted to remind the City Commission that this area was not downtown or 8th Street after hours, but a neighborhood and a perimeter of a busy university campus. Traffic in that area was at its highest on game days. The proposed site was accessed in two of three ways by climbing a steep hill with limited visibility.

Unlike the downtown streets that were typically closed after hours, that area tended to have more office uses and were quiet at night. There would be many more pedestrians and vehicles trying to get through this area, rather than seeing it as a destination. He said he thought Oread staff would do their best to control the activity, but there was no way that staff could insure public safety in this situation.

If the City Commission approved the alcohol component of this plan, the Oread would be back for additional dates and additional favors. He said like the excellent editorial in the newspaper asked "What's next" the City Commission would be obliged to approve liquor sales on public right-of-way near other Oread establishments or risk being seen as given preferential treatment to a favorite business owner and risk culpability for possible incident where public safety was compromised with perhaps tragic results. If the City Commission denied the waiver, it would still be possible for street party participants, from several areas of the hotel, purchase a

drink, enjoy the drink and then go back outside. He asked how waving liquor restrictions in the public right-of-way helped support the football team.

If the Oread Inn wanted to tailgate, tailgating could be done two blocks away outside the stadium. Everyone present had something they were advocating for with this item, the developers, neighbors, and K.U., but who was the advocate for public safety and thought that had to be the City Commission. Above all else, it was the City Commission's concern and why would the City put so much at risk by mixing parting pedestrians, game day traffic, and alcohol at this difficult intersection. He said if the City Commission was not 100% comfortable with public safety at this location for this activity, the City Commission should deny this request.

Nancy Longhurst, Manager of the Oread Hotel, said they were all about community at the Oread which was stated many times publicly. The Oread Hotel wanted to also be supportive of the football team, but they were also about having a good time and welcoming people in a safe environment. They had worked hard with their staff to put together a safety plan and knew it would be a very successful event.

Moved by Chestnut, seconded by Vice Mayor Cromwell, to close the public hearing.

Commissioner Dever said he would like to examine, inserting a restriction on the sale of alcoholic beverages within the property limits of the parcel immediately adjacent to the right-of-way. He said possibly, since this event was going to be a reoccurring activity, he would be more comfortable with actual sale of alcoholic beverages were off the public right-of-way.

Mayor Amyx said the beverage and food tents on the south and west sides of the entrance to the Oread would be moved in front of the Oread property. He asked if there would be no food or beverage tents along Oread Avenue's right-of-way.

Homburg said yes. He said there would be one tent that would sell both food and beverage and if the beverage tent moved onto the property, the food tent would move with it. He said it was a non-issue and had no problem moving those tents.

David Corliss, City Manager, said to be clear, possession in the hatched area on the map was allowed, but the sale had to be on the Oread property.

Commissioner Johnson said he was okay with Commissioner Dever's request that alcohol not be sold on the City's right-of-way.

Vice Mayor Cromwell said the City did allow in other instances, sale within the right-of-way, but in this instance, it might be good thinking for avoiding some type of precedent.

Commissioner Dever said it was a congregation point, the further away from active right-of-way, the better. The idea there would be more people standing in one place, just buying food or beverages and the rest of the area might be more transient and less likely to attract larger crowds.

Mayor Amyx said in reading the ordinance, it mentions possession and consumption, but did not say anything about sale.

Commissioner Dever said the site plan showed the sale within the right-of-way.

Mayor Amyx said the site plan would need to be changed to reflect the changes Commissioner Dever suggested.

Commissioner Dever said it was inferred by the site plan.

Commissioner Chestnut said he continued to have concerns on the safety issue and the Oread had the best intentions. The original concept was a real block party with the traffic being blocked off which was an issue with the neighborhood, the alumni center, and the university. He said there was enough of the kid's zone that gave him a lot of concern with the pedestrian crossing. He said he could not support the sale of alcoholic beverages for that reason.

Vice Mayor Cromwell said he shared some concerns about public safety, the fact was that on a football game day, this area was a bit of a mess, regardless. He said that area would be controlled and the City Commission would be looking at this event, once the event was over to address any concerns. He said with the control, he felt confident with the first round and that management would be okay to handle this event and was okay to give it a try. The increased

amount of private security might prove to make this particular area actually safer than before. He said overall, he was willing to give this event a shot to see how it went and was confident the Oread Hotel would do a good job.

Commissioner Dever said this event came down to a cost benefit analysis, looking at the negative and positive potential. He said in this case, he said there would be a community benefit and potential neighbors by the increase in security and the cleanup of the properties. There was a potential something bad could happen and that was one of the most difficult things to agree to when how this event would pan out was an unknown. He said he had confidence in the City, Management Team and the City Commission ran this through the ringer enough and if they could avoid conflict points, they could have a safer environment.

He said this was a popular place on game days and would be a choke point for traffic when there were 30,000 more people in town than normal. He said the City Commission needed to protect people in that area. He said there was nothing wrong with giving this event a try and was convinced they would do everything that could be done to make the event successful and safe. He said he was voting in favor for this initial try to see what happened.

Commissioner Johnson said this was a tough decision for the City Commission and shared the Commission's thoughts and concerns about this event.

Mayor Amyx said he had concerns about mixing vehicles, people, kids, alcohol, and event fences. He said Longhurst assured him they spent more on additional staff that would be monitoring this event, but there was a potential that something could happen. He said he was sure that City staff would be in the area helping take care of the area too.

Moved by Johnson, seconded by Cromwell, to approve the request for a distance restriction waiver for the sale, possession and consumption of alcoholic liquor for the Oread Hotel Block Parties; found that the temporary event and sale of alcoholic liquor was not adverse to the public safety and welfare; approved distance restriction waiver; and adopted on first reading Ordinance No. 8553, allowing the possession and consumption of alcoholic liquor on

specified city property for the Oread Hotel Block Parties; amended the site plan with an understanding that alcohol beverages would not be sold on the City's Right-of-Way; and, after the Football season kickoff event, no game (no alcohol) and the 1st football game, staff and the applicant would place a report on the City Commission's agenda regarding the results of those events and continuation of those events would be up for City Commission consideration. Aye: Cromwell, Johnson, and Dever. Nay: Amyx and Chestnut. Motion carried 3-2.

(22)

Consider approving Text Amendment, TA-4-4-10, to the City of Lawrence Land Development Code, Chapter 20, Section 20-403 of the code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. Adopt on first reading, Ordinance No. 8543, for Text Amendment (TA-4-4-10).

Scott McCullough, Director of Planning and Development Services, said this revision to the Lawrence Land Development Code would permit by right, the hotel/motel and extended stay use in the City's Industrial Park Zoning category. It was initiated by the Planning Commission at staff's suggestion after recent revisions to the development code that permitted the same uses in the IL (Light Industrial) District.

There were currently only two areas where the IBP District showed up near 19th and Haskell and a very large area near Bob Billings Parkway and Wakarusa Drive. However, there was potential for quite a bit more IBP District zoning in the areas that were Sector Planned and other areas of the community. He said IBP was mainly office use in a light industrial zoning category and had very limited commercial uses permitted in that category.

The specific hotel/motel and extended stay use came with accessory uses which included bar/restaurant or night club and those were permitted based on degrees on number of units with each hotel and 50 or more rooms permitted a restaurant with accessory uses and 100 or more rooms could have a bar as an accessory use and 150 or more rooms could have a night club as an accessory use. He said for example, the Holidome had 192 rooms with a Bar and Grill; Spring Hill Suites, 105 rooms; Hampton Inn, 89 rooms; and, less from that point.

The Planning Commission discussed adjacent property protections because of the accessory uses permitted with hotels/motels and extended stays, and staff provided information that there were currently in the code, 40 foot setbacks adjacent to residential zoning districts, commercial design standards did apply to this use and buffer yards were required when adjacent to all residential districts and the type 3 buffer yard, in particular, was required and that was the city's highest density of landscaping.

Staff focused on the west side of the community that had the current IBP zoning district, because that area had the greatest potential for a new use. He said development in this particular research business park would be coming up upon the RS zoning and other types of residential zoning, in the future. He said staff provided the Planning Commission, and idea of a 40 foot setback and its relationship to the property lines for both the north and south areas of that research park.

He said some key points that were discussed and included in the staff report were that hotels and motels could act as supporting uses for industry and office uses, particularly in this part of the community and the existing codes did offer some protections to existing residential districts; that the use would be required to develop with the commercial design standards in mind; and there was potential for use in other districts, in other areas identified through sector planning. Specific Planning Commission discussion focused on that the Planning Commission in general, desired this use in the IBP zoning, but the Planning Commission was split however, on whether hotels were any more or less intense than other permitted IBP uses.

There was also discussion about the fact that hotels could include, more night time components such as bars and nightclubs that were a little more commercial oriented versus industrial oriented or office oriented. They discussed whether use standards should be created which provided additional protections for adjacent or nearby residentially zoned properties and there was a faction of the Planning Commission that if restrictions were created, it might

discourage hotel development in the IBP zoning district if it was otherwise seen as compatible within the IBP zoning district.

After a lengthy discussion, the Planning Commission made a motion to return this issue to staff to consider use standards that would offer those protections and that motion failed 4-6 and a second motion to approve it as proposed without use standards was approved by the Planning Commission 6-4 and staff was asking the City Commission to uphold the Planning Commission's recommendation and adopt on first reading Ordinance 8543, if appropriate, but staff was also considerate of a direction to go back and look at use standards as well.

Mayor Amyx asked McCullough to provide more detail on use standards and the outcome of sending that item back to the Planning Commission for consideration.

McCullough said currently, there were no use standards and the use standards in the development code were a way to address compatibility issues with different types of uses and there were development code permits in the different zoning categories. He said there seemed to be agreement that hotels were an appropriate use, but it was when the accessory use was looked at of a specialty bar and nightclub that tended to get into night time activity which tended to bring increased traffic, potential for noise and lights and other issues. He said staff would look at those specific accessory uses to determine if there should be distance requirements from residential districts where there should be standards related to the size of those accessory uses so there was an amenity to the hotel, but might not open it up to the general public and those types of things.

Mayor Amyx said regarding the second motion to approve the text amendment without the text standards, he asked why the Planning Commission did not want to look at the use standards.

McCullough said the majority believed it was a compatible use, even with those accessory uses in an industrial setting that there were existing protections in the development code through buffer yard, setbacks, and the fact they were accessory in nature anyway that

additional protections were not necessary. The other uses permitted in the IBP district could have just as much impact on residential property as a hotel with the accessory uses.

Mayor Amyx said he would have a hard time believing a bar could be screened enough in close proximity to a residential home.

Mayor Amyx asked what would it take to ask the Planning Commission to reconsider the use standard.

McCullough said the City Commission would make a motion to return it to the Planning Commission with specific direction to consider use standards for the accessory uses associated with hotels/motels and extended stay.

Mayor Amyx said since there was already approval of the text amendment and asked if it took a supermajority to return it to the Planning Commission.

McCullough said it would not take a supermajority to return it to the Planning Commission, but a supermajority to do something different than what the Planning Commission had recommended.

Mayor Amyx said he wanted to make sure the Planning Commission had the opportunity to consider the entire request and the use standard seemed like a big sticking point. He said he heard from others that it needed to be looked at further.

Alan Cowles, speaking on behalf of the neighbors, said it was pointed out that the Planning Commission did not send this text amendment to the City Commission with much enthusiasm and one vote the other way would have changed the outcome. He said it was very inappropriate to redefine the zoning as to put hotels/motels, nightclubs, bars and restaurants in the back yards of residences in that area.

He said suggestions were made at the Planning Commission and there were other options which would be reasonable to both the owners of the property which was under consideration and to the neighbors, especially a wide buffer between homes and any types of hotels/motels, nightclubs, bars and restaurants, commercial development. In certain areas of

Wakarusa that might be appropriate, but understood at the Planning Commission meeting that a comment was made that it was too much work for the Planning Commission to consider.

He said it was pointed out by a commercial realtor that nobody would want to build hotels/motels, nightclubs, bars and restaurants in that area because it was way off the primary thoroughfares. He said if no one wanted to build those types of uses in that area, he asked why the zoning was being considered to make that possible. At the same time, it would immediately lower the values of those properties that border that area, especially if a buyer knew a bar or restaurant could be placed in someone's backyard.

The reason for this text amendment was a reasonable need to build a hotel in the McDonald Drive Area, but had no objection for that type of facility being built in that area, but not appropriate to affect those homeowners, the way it would if the City Commission took a pass on this issue. He suggested the City Commission asked that it be zoned correctly and if they needed to rezone on McDonald Drive than it should be done, but not injure the homeowners in the process.

Gwen Klingenberg, speaking on behalf of the Lawrence Association of Neighborhoods, said the neighborhood bordered everything on the north and west side of this IBP and in the past, on the northern border, they saw there was commercial zoning and the neighborhood requested that be changed and down zoned to the surrounding area of industrial because the neighborhood did not want a hotel. Now the City Commission was asking the neighborhood to take back what they had fought to stop. In the northern part, that area was big enough for two large hotels and parking. Also, the road to the north, Biltmore Drive, that part neighborhood requested that that access was stopped and now the City Commission was being asked to take back what was promised in the past. She said if two hotels were constructed at that location, it would force that access because it was determined by sized and use. Someone asked if she would rather have a bottling company at that location, in which she replied "yes" because there would be no bar or night traffic through the neighborhood.

She said what McCullough offered, at the Planning Commission, was a win/win situation because there was room to put hotels further inward away from residential and McCullough could determine the size of a hotel by the proximity to residential and some of those other factors could be taken in to account.

One other option was to grandfather this IBP because that area was already built up. She said Planning Commissioner Liese said it was wasting the Planning Commission's time to have the Planning Director go through this process again. She asked that this issue be sent back through the Planning Commission

Commissioner Dever asked McCullough to discuss the restrictions associated with a bar/restaurant.

McCullough said there were not many restrictions associated except it had to be accessory and had to reach that certain room count in order for it to be an accessory use. The smaller hotels would not have the bar and it took 150 rooms to get to the nightclub. He said past that room count, the code did not describe how big the nightclub could be.

Commissioner Dever said it was a permitted accessory use and then the city lost control of the restriction past that 150 room count as long as the lot was large enough and there was adequate parking.

McCullough said correct. It was not a permitted use as a principle use, but with a hotel.

Commissioner Dever asked if it was 150 rooms and not 150 beds.

McCullough said it was 150 rooms.

Commissioner Dever asked where that standard came from.

McCullough said he had to research whether there were standards in the former code and was not sure of the history.

Commissioner Dever said he was curious if that number was common and was it protective enough for the land space and fitting into residential areas.

McCullough said in part, they were seen as true amenities to hotels in terms of once reaching a certain size, providing restaurants, bars and other uses.

Mayor Amyx said in the Planning Commission minutes, McCullough stated spending time reviewing the bar and restaurant portion for the use standards.

McCullough said the testimony provided at the Planning Commission were centered on the accessory use; restaurant, bar, and night club. Most of the discussion centered on the bar and nightclub use.

Mayor Amyx said if this item were to be sent back to the Planning Commission, they would spend their time discussion bar and nightclub use and have a recommendation within 30 days.

McCullough said during the Planning Commission there was some room to look at protection standards and set this particular use up to be compatible with residentially zoned districts and to work well with IBP uses that were already permitted. He said he thought the Planning Commission was accurate in that the hotel use with those accessory use available were a little different than the office industrial uses that tended to shut down after the workday was over, versus a hotel that could be a little more active throughout the evening and night.

Commissioner Chestnut said he agreed there was certainly division among the Planning Commissioners about this issue, but it was not about the use, but about the accessory uses. If reading the comments in the Planning Commission, the vast majority thought the use had some merits, but it was the accessory uses that started become problems.

Also, there was no statement, he could find, in the Planning Commission about not having time, but it was a statement of not a good use of staff time and was more resource allocation discussion than it was trying to do sloppy work, which was something he wanted to clarify.

He said IBP zoning was not industrial and was a type of mixed use that had a lot of office applications.

He said there might have been some discussion and understanding with the developer, at that time, about ending Biltmore, but it was never on a site plan or any Planning staff that ever changed that. In the end he agreed with the discussion of the minority on the Planning Commission that there needed to be some limitations on accessory uses if zoning IBP. He said he envisioned some smaller type of business related use type of hotel that might have a bar and seated about 4 people. He said they needed to ensure that was the case and try to place some reasonable limitations because it was wide open and the land was available.

There seemed to be from the Planning Commission's discussion a concept of what those applications might be, but with the recommendation there was no probability it would come out that way. He said he agreed that there was a win/win situation and if they could take some of those accessory uses and have discussions about what that meant and how to size that down. There was a challenge to come up with the language, but to make them continue to be accessory uses and not primary uses if it was not controlled. He said there was merit in sending this issue back to the Planning Commission to have a discussion because there was a possibility of having an unintended outcome. He said he was reminded of where mixed use went on 24th and Inverness and all of a sudden it became something that was not intended and he wanted to put a few more boundaries around this one to make sure it did not happen.

Commissioner Cromwell said there was an opportunity for a win/win situation, but the law of unintended consequences ruled and should fight against it.

Commissioner Dever said industrial uses could continue 24 hours a day, 7 days a week as well as, and office use, for example, a call center where there was a shift of people coming and going. The idea that people would come at 8:00 am and leave at 5:00 pm was unrealistic. He said the City Commission needed to make sure an area was not considered just because it would only be used between 8 am to 5 pm. He said hotels could co-exist well in residential areas, but most were limited service hotels, extended stay hotels, or residence type inn. He said it was important when hotels or motels were constructed next to residential areas that there

were limitations. He said he had a concern about negative impact on a neighborhood, but believed there were ways to solve that problem. He said he thought it was a good use, but needed to remove some of the potential negative externalities from having a larger hotel. He said the market would drive some of this use as to where it would locate and how many would be constructed. He said he was in favor of honing the ancillary uses/accessory uses and spending staff time to discuss this purpose.

Commissioner Johnson concurred.

Mayor Amyx said he was glad McCullough, during the Planning Commission, brought the idea of the additional look of the use standards and to come up with a way of addressing the compatibility with the surrounding residential areas for the accessory uses. He said he agreed it was a good use of staff time.

Moved by Dever, seconded by Cromwell, to send this item back to the Planning Commission Text Amendment (TA-4-4-10), regarding the City of Lawrence Land Development Code, Chapter 20, Section 20-403 of the Code of the City of Lawrence, KS to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District, to discuss and consider the use standards for compatibility of the accessory uses. Motion carried unanimously. **(23)**

PUBLIC COMMENT: None.

FUTURE AGENDA ITEMS:

- | | | |
|----------|---|--|
| August | · | Discussion of statutes governing primary elections for office of City Commissioner. |
| | · | Changes to sidewalk dining regulations. |
| 08/10/10 | · | Regulations on portable toilets. |
| 08/17/10 | · | Receive request from Chamber of Commerce and KU Athletics to close the 1000 Block of Massachusetts Street for pep rally on 09/02/10 to celebrate the opening of the KU football season and on 10/21/10 for Homecoming. |
| 08/24/10 | · | Public hearing for 23 rd and Ousdahl CID request. |
| 09/07/10 | · | Review of Oread Hotel Block Party right-of-way permit. |

- 10/12/10 · Receive presentation from Westar Energy on the Smart Grid program.
 - 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.
 - Receive request from Lowe's for formation of a Community Improvement District (CID).
 - Receive public comment on proposed Comprehensive Plan Amendment CPA-2-1-09 to Chapter 14 – Specific Plans to approve and incorporate by reference the Oread Neighborhood Plan. Consider placement on a future agenda Ordinance No. 8496, for Comprehensive Plan Amendment (CPA-2-1-09) to Chapter 14 – Specific Plans to approve and incorporate by reference the Oread Neighborhood Plan. (PC Item 10; approved 7-0 on 1/27/10)
- ACTION: Receive public comment and direct staff concerning placement on a future agenda, if appropriate.
- Receive status report on activities of the Community Commission on Homelessness.

Moved by Cromwell, seconded by Chestnut to adjourn 7:50 p.m. Motion carried unanimously.

APPROVED:

Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF AUGUST 3, 2010

1. Bid - 1 one ton pickup w/options-Parks & Rec. Dept. to Laird Noller for a total of \$33,476
2. PW0929, 2009 Sidewalk Gap Program - R.D. Johnson Excavating \$229,076.20.
3. Renew Bid No. B09036 - Vito's Plumbing - 2010 Emergency Sewer Repair Contractor.
4. First read, Ordinance No. 8304, TA-12-27-07 various sections of the City Land Development code, chapter 20, revise Protection Standards for Environmentally Sensitive Areas
5. First read, Ordinance No. 8549, rescind Ordinance No. 5781 & modifying one-way street designation on Elm St. between 2nd & 3rd Streets.
6. First reading ordinance 8550, rescind Ordinance No. 4604, & modifying no-parking restriction on Elm Street between 2nd & 3rd Streets.
7. 2nd Read Ordinance No. 8551, appropriating by fund the 2011 City of Lawrence budget
8. 2nd Read Ordinance No. 8546, establishing solid waste service rates for 2011
9. Resolution No. 6898, authorizing financing for Water and Sewer Capital Projects
10. Resolution No. 6899, authorizing the sale of general obligation notes & bonds on August 24, 2010
11. Resolution No. 6900, setting limit for amount of bonds that can be issued under Charter Ordinance 27 in 2010 at \$6,100,000.
12. Resolution No. 6901, August 24, 2010 - public hearing date for CID - 23rd & Ousdahl project.
13. 331 Johnson Avenue - direct staff to proceed with filing a complaint through Municipal Court.
14. TSC - First reading, Ordinance No. 8547, rescind Ord. No. 6763, no parking on south side of 19th Terrace between Naismith Dr. & Ousdahl Rd.
15. TSC -First reading, Ordinance No. 8548, rescinding Ord. No. 7723 & removing the No Parking Bus Stop Zone on the north side of 10th Street, East of New York Street
16. TSC - construct signalized mid-block pedestrian crossing-Kentucky St. between 12th & 13th St.
17. TSC - construct traffic calming devices on 9th St. between Locust St. & Walnut St.
18. Report from Peak Oil Task Force-approve extension of work to present the final report by Dec. 31.
19. Grant application for FRA HSIPR Program.
20. City Managers Report
21. Amendments - MOU between City & the IAFF Local 1596 & Lawrence Police Officers Assoc - compensation for 2011
22. Public hearing; First reading Ordinance No. 8553 - temporary sale, possession & consumption of alcoholic liquor on specified city property for Oread Hotel Block Parties.

23. TA-4-4-10, City Land Development Code, Chapter 20, Sec. 20-403-permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. (returned to the Planning Comm)