

August 28, 2007

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 Hack presiding and members Amyx, Dever, Chestnut and Highberger present.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve the City Commission meeting minutes from August 14, 2007 and August 23, 2007. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve the Mechanical Code Board of Appeals meeting minutes of July 30, 2007; the Board of Plumbers and Pipe Fitters meeting minutes of August 1, 2007; the Sustainability Advisory Board meeting minutes of June 13, 2007 and July 11, 2007; and the Convention and Visitors Bureau meeting minutes of July 24, 2007. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve claims to 429 vendors in the amount of \$1,279,981.80. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve the Drinking Establishment License for Alumni Association, 1266 Oread Avenue; and Crosstown Tavern, 1910 Haskell Avenue No. 6. Motion carried unanimously.

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to concur with the Mayor and appoint Jeanette Collier and Charlotte Knoche to the Community Commission on Homelessness to terms which will expire December 31, 2008 and appoint Wes Dahlberg to a term which will expire December 31, 2009; and appoint Dan Lambert and reappoint Verdell Taylor to the Hospital Board to terms which will expire September 30, 2011.

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve Change Order No. 2 to contract with LRM Industries for KLINK Resurfacing, Iowa, 6th Street to Yale Road and Irving Hill Road to 23rd Street. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to set bid date of September 11, 2007 for Stoneridge Drive, 6th Street to Silverstone Drive. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve sale of surplus computer hardware on Gov Deals. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to place on first reading Ordinance No. 8150, adopting the 2007 Standard Traffic Ordinance for Kansas. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to place on first reading Ordinance No. 8151, allowing the temporary sale, possession and consumption of alcoholic liquor on the west side of South Park on September 8, 2007. Motion carried unanimously. (5)

Ordinance No. 8149, establishing "no parking" along the westerly side of Grand Circle, establishing "no parking" along the north side of 30th Street from Crestline Drive west to the first property line; and permitting parking on the west side of Four Wheel Drive between north and south driveways of 2801-2835 and along the east side from 2858 to 29th Terrace, was read a second time. As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to adopt the ordinance. Aye: Amyx, Chestnut, Dever, Hack and Highberger. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8152, allowing the temporary sale, possession and consumption of alcoholic liquor on East 8th Street between Massachusetts Street and New Hampshire Street on September 14, 2007 between 12:00 p.m. and 1:00 a.m. as part of the Chamber of Commerce's "Get Downtown", a live musical event, was read a second time. As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to adopt the ordinance. Aye: Amyx, Chestnut, Dever, Hack and Highberger. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve the site plan (SP-07-51-07) for outdoor dining at Ingredient, located at 947 Massachusetts, subject to the following conditions:

1. Compliance with the Historic Resources Commission condition of approval:
 - a. Any changes to the approved project will be submitted to the Historic Resources Administrator prior to the commencement of any related work.
2. Revision of the site plan to include notation of Historic Resources Commission case No. DR-07-95-07 and the HRC August 16, 2007 approval date.
3. Provision of a Site Plan Performance Agreement.
4. Provision of An Agreement Not to Protest the Formation of a Benefit District for Streetlight Improvements.
5. Provision of an approved sidewalk dining license from the City prior to occupying the public right-of-way per Chapter 6-1202.
6. Execution of an agreement with the City of Lawrence for use of the right-of-way per Chapter 6-12.

Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to approve the Sidewalk Dining License for Ingredient, 947 Massachusetts. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Highberger, seconded by Chestnut**, to place on first reading Ordinance No. 8153, allowing possession and consumption of alcoholic beverages on certain city property pursuant to Ingredient's Sidewalk Dining License. Motion carried unanimously. (10)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said the City was unsuccessful in receiving additional discretionary funding from the Federal Transit Administration. He said this funding was different than earmarked requests in that it was discretionary funding. He said the Transit Administrator felt the City had a good argument for those funds and would continue with that request.

Also, the Department of Homeland Security's Assistance to Firefighters Grant would not be funded for the Technical Rescue Vehicle. He said that vehicle was still a

high priority of the Fire/Medical Department and staff would continue to look at avenues in pursuing that vehicle. He said regarding the Traditional Neighborhood Design Code, staff would discuss that issue at the mid-month planning meeting and encouraged the City Commissioners to attend. Staff hoped to present that document to the City Commission later this year to initiate for adoption as a text amendment. (11)

REGULAR AGENDA ITEMS:

Receive request from Freedom's Frontier National Heritage Area concerning future organizational plans and funding for the development of a management plan.

Judge Deanell Tacha presented the request. She said in October 2006 the United States Congress passed and the President signed the legislation that created Freedom's Frontier National Heritage Area that had its beginnings and origins in Lawrence and Douglas County.

She said this was a remarkable opportunity for Lawrence and Douglas County and should be the place for the gateway to the Federal Heritage Area. She said although the Heritage Area encompassed 41 counties, many of the most important historic events in the pre civil war days, in this part of the country, began around Lawrence and Douglas County. Obviously, there were many important sites in all 41 counties and those sites would be celebrated.

She said a group of committed citizens which included representatives of the City of Lawrence, Douglas County, Chamber of Commerce, Convention and Visitors Bureau, Watkins Museum, and the Heritage Area Board of Trustees began looking at an organizational structure that would benefit all current investments related to cultural tourism, economic development, and historic assets. She said after a few meetings, it became clear the best approach was to find a way to work across those entities and form an umbrella organization that could receive both public and private funding and leveraging all those resources to their maximum benefit.

She said their group was recommending to the City, County, and Chamber of Commerce, to form a non-profit corporation called Destination Management Inc., that would cross City and County lines and be a home for the Heritage Area and be a contracting authority for all those historic and cultural tourism endeavors that were important in this community.

She said this nation no longer created national parks for a variety of reasons, but what this nation was doing in very limited numbers was creating heritage areas that tied stories together to not just preserve stories for preservation sake, but make those stories interactive and make people feel like a part of history.

She said she hoped their organization would be a good home for the Convention and Visitors Bureau and Destination Management Inc. would be the contracting authority, the conduit through which the transient guest tax could be contracted for all of the same duties that the CVB already did. Similarly, Freedom's National Heritage Area had already passed a resolution that "if" and "when" this corporation was created they would immediately contract with the corporation for the management of the National Heritage Area. She said similarly they would be asking the County to consider contracting "some" or "all" of their historic endeavors with Destination Management Inc.

She said she wanted to publicly thank the Chamber of Commerce and its leadership in the Freedom's Frontier National Heritage Area endeavor.

Lavern Squier, President Lawrence Chamber of Commerce, said the Chamber Board's action was to unanimously acknowledge they needed to transition and relinquish their position back to the City so the City could dedicate that position to the Destination Management Inc., and the Chamber was supporting that transition. He said the November 1st target date for the transition was to let the world know that Destination Management Inc., model was at work. The Freedom Frontier National Heritage Area entity within DMI was headquartered in Lawrence and was up and running.

Judy Billings, Chamber of Commerce, Convention and Visitors Bureau, said the CVB's work promoting the Lawrence Community had not stopped even though she had given a lot of her time and effort toward developing the Heritage Area.

She said as acting staff of the Heritage Area and on behalf of David Dunfield, member of the founding Board of Trustees for the National Heritage Area, they had met about the next step in terms of where they needed to go with the development of the Heritage Area which was to create a management plan to be the guideline for moving forward in the next 5 to 10 years. She said the management plan was a requirement by the Parks Service and Secretary of Interior and there was a 3 year deadline from the time the legislation was passed, last October. She said by October 2009, they needed to have gone through the public process and through the Parks Service for approvals and signed off by the Secretary of Interior.

The City Commission had heard the Board had selected a team of professionals throughout the Country led by the National Geographic Center for Sustainable Destination.

She said David Dunfield had asked the City Commission to appropriate \$25,000 toward the management plan contract and the process. She said they understood this was an appropriate request from the Visit 2020 Funds and they were in the process of defining the scope of work, defining the contract, and exactly how much that public process would cost over the next 3 years. Their Board was currently out making request for funding and was getting very good response. She said the Kansas Department of Commerce, Travel and Tourism Division, committed to a \$75,000 grant to go toward their effort.

Commissioner Amyx asked if the Visit 2020 money was through the transient guest tax.

David Corliss, City Manager, said it was unencumbered transient guest tax funds and there were enough of those funds to pay for that request. He said it would be important to have some type of letter agreement or understanding about what the money would be used for, but Billings and he could work that issue out.

Mayor Hack said in reading the contract for the guest tax, once one of the partners dissolved, she asked if there needed to be a special action.

Corliss said accepting that request and making it clear what date that would be.

Commissioner Highberger asked if the City Commission could direct staff to take action, but place the funding request on the agenda next week because it was not mentioned in the materials.

Corliss said he would place a memorandum for the funding request on the consent agenda next week.

Commissioner Amyx thanked everyone for their hard work with the National Heritage Area.

Commissioner Chestnut said this was a unique opportunity to leverage a number of different entities and thanked everyone for their efforts.

Vice Mayor Dever said he appreciated everyone's efforts. He asked for clarification on the relative amount of \$25,000 as opposed to the total sum of money it would take to get those studies completed and moved forward.

Judge Tacha said the initial budget would be approximately \$670,000. Of that amount, \$300,000 plus had to go to the management plan which was the trigger for getting through the Department of Interior. The rest of the money would be to absorb cost for staff and other things such as computers and websites.

Vice Mayor Dever asked if Judge Tacha considered the \$25,000 as an incentive to others to give and participate.

Tacha said those who worked with getting the appropriate financial support were probably thinking about that incentive.

Vice Mayor Dever said he was assessing the members of the Destination Management Board and noticed there was an even number of participants.

Tacha said the current proposal was for the Destination Management Board which was composed of the City Manager and a member of the City Commission, County Administrator and a member of the County Commission, president and chair of the Chamber, or the Chair's designee, and two representatives of Freedom's Frontier National Heritage Area.

Commissioner Highberger thanked everyone for all of their hard work and hoped it was a step forward for efficiency in local government.

Mayor Hack said this was a great opportunity to look at downtown and the greater good that could be done in terms of a destination and a driver for downtown.

Moved by Chestnut, seconded by Amyx, to accept the request of the Chamber Board to dissolve the current contractual arrangement as the operator of the Lawrence Convention and Visitor's Bureau and reassign the funding to the newly formed Destination Management, Inc., and direct staff to prepare the appropriate contracts and documents. Motion carried unanimously. (12)

Discussion of downtown redevelopment issues. Consider sending additional correspondence to the United States Postal Service concerning the proposed relocation of its facility at 7th and Vermont Streets. Consider directing staff for additional research on possible additional financial incentives for downtown redevelopment (TIF, STAR, TDD).

David Corliss, City Manager, said last year staff sent a letter to officials from the United States Postal Service regarding the possibility of relocation from the downtown area. There was continuing discussions about that project and since that time, the Library Board had provided the City Commission with a recommendation of their desired site. He said following the study session last week, there was continuing interest in that site and an additional letter was requested. The letter set out stronger language indicating the City wanted to support that relocation, but the City wanted the postal service to retain a retail facility in the downtown area. He said in many cases the postal service had the ability to contract with a provider for a retail facility.

There were also discussions about other possible financial incentives for downtown redevelopment, discussion about how to organize those discussions and how to process those discussions publicly. There were a number of stakeholders in the City's downtown area such as businesses, property owners, the entire community, and neighbors that adjoin downtown. He said the strength of downtown was dependent upon the strong neighborhoods and visa versa. There was historic preservation interest as far as how the City was going to look at some of those redevelopment requests. The current request was for the August 27, 2007 letter to be sent.

Mayor Hack called for public comment.

After receiving no public comment, Mayor Hack said the letters reaffirm keeping the retail presence and post office boxes downtown because they brought people downtown and they did not want to discourage that practice. The movement of the distribution center would perhaps be more efficient use for the post office, but also free up some space that could conceivably be used for some redevelopment efforts, parking, or a combination.

Commissioner Highberger said he did not understand the need for the additional letter. He said the last letter sent summarized his position, but the tone in the current letter was the City was actively encouraging that move of the distribution center and he was not sure that was something that he wanted to do. The relocation of the distribution center might be for the downtown's interest for more retail and residential uses, but unless there was more of a concrete proposal the City was participating in and he was not sure the new proposal was appropriate.

Vice Mayor Dever said he read both letters and one of those letters reaffirmed the City's support and the other letter stated the City would not oppose the move.

Commissioner Highberger said he thought the first letter was clearer about what facilities the City valued in the postal service downtown. He said that letter stated the Commission's position clearly and again, he was not sure of the need for a new letter. He said the new letter changed the tone in the position of the Commission. He said he was not happy with the fact this issue was put on the agenda with one day notice.

Commissioner Amyx said he appreciated Commissioner Highberger's comments and shared the concern about placing this issue on the agenda with a one day notice, but he believed this was a reaffirmation of the letter sent a year ago. He said he did not want anyone to think the Commission was actively engaging in moving the distribution center out of the downtown area because he did not think that was the case. He said if the distribution portion of the post office wanted to move, the Commission would not make waves.

He said he did not think the City had many projects at this point, but he thought the Commission needed to start discussing the projects that were being proposed in a public process forum. He said it was important that people understood there was a lot of interest in developing downtown.

Mayor Hack said they needed to move forward with the reaffirmation of the letter and strengthening the language in terms of what they wanted to see downtown and how this community would be served better by retaining the retail portion and the distribution, which was a large physical presents, somewhere else and use that area for downtown redevelopment.

Commissioner Chestnut said if there was a consensus that a reaffirmation was important, he did not have a problem with the language. The more important issue was directing staff to receive public dialogue about all of the options. He said this was clearly a place where they were talking about a mixture of public and private financial options and he admitted that while he had done some investigation on some of the options such as the TIF and the STAR, he certainly did not pretend to be an expert and it was complicated. If there were possible projects regardless of the developer or project, they probably needed to flush those issues out sooner rather than later to

understand when those opportunities did come up, what options the City wanted to take. He said it was important to move forward with the public dialogue because it would mean some commitment on the City Commission's part.

Mayor Hack said she agreed and appreciated the additional information provided by staff on the agenda with discussion of downtown redevelopment and also directing staff to do additional research. There were ways to fund redevelopment in areas where a destination was being created along with transportation that would allow the City to take advantage of some of those things that Manhattan or Hutchison had. She said the City Commission needed to take the lead and if they could get ahead of the game that was exactly where they wanted to be because of the devotion to downtown.

Vice Mayor Dever said it was important to make Lawrence a destination and a center for the Freedom's Frontier National Historical area and discuss avenues to free up space in the historic area. It was also important to continue with several activities at one time in order to provide space, money, investment, and power to do what they wanted to do and all those things needed to happen simultaneously. If they waited for one to finish and one to start, the community would be left behind and Kansas City or some other place was going to end up with that opportunity.

Moved by Dever, seconded by, Chestnut, to direct staff to send the additional correspondence to the United States Postal Service concerning the proposed relocation of its facility at 7th and Vermont Streets and direct staff to provide additional research on possible additional financial incentives for downtown redevelopment (TIF, STAR, TDD). Aye: Amyx, Chestnut Dever, and Hack. Nay: Highberger. Motion carried.

Mayor Hack said Corliss provided what she thought the Commission wanted and from the Commission conversation their thought was seeing what information was available and what information staff could provide to the Commission to educate the Commission on STAR, TIF, and TDD's and how those financing mechanisms could be used.

Corliss suggested that stakeholder meetings be held because the City was going to be making some key decisions. He said TIF, STAR and TDD's would be City decisions and it would be a better process if the City involved the community.

(13)

Bauer Farm land use issues (Northeast corner of 6th and Wakarusa):

a) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-07-07, a request to rezone a tract of land approximately 25.97 acres, from PCD-2 (Planned Commercial Development) to PCD-2 (Planned Commercial Development) with modifications in the restrictions, located at the Northeast corner, west 6th street and Wakarusa Drive.

b) Consider approval of the requested rezoning and direct staff to draft an ordinance for Z-06-08-07, a request to rezone a tract of land approximately 16.53 acres, from PRD-2 (Planned Commercial Development) to PRD-3 (Planned Commercial Development), located at the northeast corner, west 6th Street & Wakarusa Drive

Paul Patterson, Planner, presented the staff report. He said Bauer Farms was approximately 43 acres located south of Free State High School and just north of West 6th Street/Highway 40 and between Wakarusa Drive to the west and Folks Road to the east. He said this piece of ground was undeveloped and unplatted except for Champion Lane that was platted at the time of the high school platting.

Bauer Farms had three different zoning districts that were conditionally approved. He said the west side was zoned PCD-2 (Planned Commercial Development), the east side was the PRD -2 (Planned Residential Development), and on the southeast corner of West 6th and Folks Road was zoned POD-2 (Planned Office Development).

The particular uses that were placed on the preliminary development plan, which was before the City Commission on January 10, 2006, was approved subject to 10 conditions with the stipulation that a revised preliminary development plan, meeting the conditions, would come back before the City Commission.

The proposed commercial area contained 19 buildings including four drive-through businesses and one auto service pull-through on 25.92 gross acres. The applicant proposal was for 72,000 gross square feet of commercial retail, 54,400 gross square feet of office, 41,500 gross square feet of a community theatre, which was offered as dedicated land to the Community Theatre, 137,250 gross square feet of residential that would be contained in 134 apartments, which were two bedroom units and a 3,000 square foot club house. The total square footage in the commercial area was 308,158 gross square feet.

In the residential area, the proposal was for 211 dwelling units that were contained in 15 custom homes and 15 carriage homes, which would be above separate garages in those homes, 22 starter homes, 117 homes which would be townhouses, and 38 apartments contained in 7 manor houses. There were also 4 apartments above the club house that would be in that facility. He said the smaller office area was zoned POD-2 and a 5,000 square foot bank was being proposed at that location.

He said Bauer Farm had two rezoning requests. On the planned commercial development portion, there were use restrictions and a large laundry list of uses that were and were not allowed in commercial developments. The applicant would like to modify four of those uses which were:

1. Allow multifamily residential on the first floor. Previously, the first floor had multi-family mixed use and was restricted to commercial space which could be commercial retail, office, or financial uses.
2. Allow for a licensed premises, the sale of alcohol as part of a bar or restaurant.
3. Allow for liquor, wine and beer sales off premises which would allow for a retail liquor store.
4. Increase the maximum commercial retail gross square footage by 10,000 square feet from the previously restricted 62,000 gross square feet to the proposed 72,000 gross square feet.

This item was heard by the Planning Commission on July 23rd and the recommendation was for approval, subject to the 5 conditions, on a 7 – 1 vote and the Planning Commission modified the 5th condition to allow 72,000 gross commercial square feet.

He said on the residential portion had 211 dwelling units within the planned residential development. The dwelling units were computed as dwelling units per net residential acre. The internal streets, driveways and alleyways were proposed to be privately built and maintained. Now, the applicant was proposing to privately build those, but be dedicated to the City for maintenance which would reduce the applicant's net square foot of net residential acres. The applicant was not proposing a change in

the dwelling units or its appearance, but the offer to dedicate those internal roadways to the City. Because of that, the applicant needed to rezone that residential area from PRD-2, which had a maximum of 15 dwelling units per net residential acre, to PRD-3, which had a maximum of 25 dwelling units per net residential acre. The actual net residential acres when taking the 16.53 gross acres minus the 6.67 for the streets, drainage easements and alleyways, was 9.86 net residential acres, or a total of 21.4 dwelling units per net residential acre. On the request for rezoning of the residential portion to PRD-3, it was approved with recommendation for approval by the Planning Commission by an 8-0 vote, on July 23rd.

Tim Herndon, LandPlan Engineering, representing Bauer Farms, said he wanted to point out an issue that had become a concern for them. It was the issue of one of the conditions which, as stated in the currently approved zoning, stated that no one "building" should be larger than 50,000 gross square feet. It was very important that condition be changed to read no one "retail commercial building" should be larger than 50,000 gross square feet.

He said when working on the restrictions associated with Bauer Farms, they did not want another big box development to occur, so the 50,000 square foot limit was placed on the project. While they still avowed that no big box type development would occur on this property, they knew that by the time they were done they would have something like a multi-family structure, a multi-family office structure, or multi-family structure potentially with retail on the ground floor that exceeded 50,000 square feet. On the plan mentioned, there were a couple of buildings in the northwest corner across the street from Free State that had basement parking and three floors of residential. Both of those buildings proposed on that component would surely exceed 50,000 square feet. They would like that condition as part of tonight's action to read no one "retail commercial building" should be larger than 50,000 gross square feet.

Commissioner Highberger said regarding the requirement for taking off retail office on the first floor, he understood that in the first preliminary development plan there were no residential buildings proposed for the northwest corner.

Herndon said that was correct.

Commissioner Highberger asked if that was the reason for taking off that requirement for retail office on the first floor or was there a plan to convert some of the other buildings on the original PDP to completely residential buildings.

Herndon said in the northwest corner, the original plan proposed was for a hotel and conference center. As the plan was converted and adapted to the projected mandates, if the buildings on that property were required to have commercial or office on the ground floor as the current condition read, then they were going to be faced with a plethora of office square footage spread out across that side and they knew the market could not absorb that new retail space. He said they would like to be able to put, for instance, residential on the ground floor and contemplate those locations on that side. Everywhere else in the project except in the planned residential half was to either have commercial or office on the ground floor with residences above it. They also had the flexibility within the plan to have commercial on the ground floor, office on the second floor and residential on top. On the east half of the site, they would have residential with no commercial on the ground floor and on the northwest corner and that was what they were contemplating.

He said regarding the rezoning (Z-06-08-07) 16.53 acres from PRD-2 to PRD-3 at the northeast corner of West 6th and Wakarusa Drive, the original zoning classification was assigned for this project and they anticipated all the residential development would be served by private streets. After conversations and meetings with City staff, he thought they were all in agreement that those streets, which were modeled directly from the Smart Code in terms of the parking stalls, on street parking, width of the drive lanes, width of the parking stalls, sidewalks on either side, alleyways, curb radiuses, and things like that, it was what they wanted to try and implement as a City and this being the first of its kind in Lawrence, would be the pilot project. He said without adding a single additional dwelling unit to the property, their density went from what were originally 12.76 units and now with the right-of-way deducted from the gross area, it was 21.4, which placed them in the PRD-3 category, so they needed a new zoning classification to accommodate that change.

Commissioner Amyx asked about the financial arrangement for the traffic signal at 6th & Champion Lane.

Herndon said the arrangement had not been made, but it was anticipated that it would be a benefit district hearing process. Obviously, there was benefit given to Bauer Farm by having a signal at that location and also a benefit to the property to the south on the other side of 6th Street and that signal would also regulate traffic east and west along West 6th Street/Highway 40, which without being too presumptuous, he suggested that it might be identified that the public at-large was a beneficiary to that district. It was a conversation that remained to be had with the City Manager and his staff as well with the development entities that would be affected.

Mayor Hack called for public comment.

After receiving no public comment, David Corliss, City Manager, said as to condition no. 3, he suggested a friendly amendment to change the wording to "no single retail or commercial building" shall be larger than 50,000 gross square feet.

Commissioner Amyx said regarding item no. 4, liquor, wine and beer sales, he asked if the area was far enough away from school property according to regulations.

Frank Reeb, City Clerk/Administrative Services Director, said it depended on the specific use. If it was a retail liquor store the distance restriction was 200 feet. The code was pretty specific on how that was measured. It was measured from the property line of the school or church to the primary public entrance of the proposed licensed establishment. If it was a drinking establishment or a restaurant, the distance restriction was 400 feet. The 400 feet could be waived by the City Commission, but there was no waiver authority currently in the code to waive the 200 foot distance restriction for a retail liquor store.

Commissioner Amyx said in this particular case, there was no waiver required because it was outside the legal limit of distance.

Reeb said he was not familiar with where the proposed licensed establishments would be located. The distance would be measured from the primary public entrance to the nearest property line of the school.

Herndon said there was a part of the property in the northern edge across from Free State High School which would not, by code, be authorized to facilitate a liquor store or licensed premises. The balance of the property and vast majority of the property where the commercial buildings were and along 6th Street would not be affected. They were not requesting a waiver or variance.

Commissioner Highberger said he supported this plan the first time it came through. He thought there were a lot of recommendations in terms of forward thinking and urban design. He said he did not have any opposition to the changes to number conditions No. 3 or No. 4, but he could not support the increase to 72,000 gross square feet of retail. He said this area was a CC200 intersection and what was approved on the grounds was already a violation of the Master Plan. According to the Master Plan, one of those corners should not have commercial whatsoever, the other corners should have 5% of the total, and the rest should not be 440,000 square feet of commercial space. He thought the Commission approved a good plan and when they allowed this to happen, they allowed the amount of square footage that had been allowed earlier to recognize what might not have been excellent decisions made in the past. He did not see a good reason to exceed that at this point and would approve the request with the exception of the increase in gross square footage.

He said he supported the second rezoning. He would like to see the City get away from private streets. Having public streets gave the City more control. Since there was no change in the plan, he thought the residential design was a good design and he wanted to see the alleys and narrow streets and Smart Code designed streets. He supported that part of the request.

Mayor Hack said she would like to add that it was designated as a CC200, but it was a difficult conversation because there was already a great deal of retail at that corner and there was some conversation of perhaps designating it to accommodate what had already been approved, but it was not designated as such and the CC200 went in. She said there was a lot of conversation about retail on the four corners and the total square footage. When people say they exceeded the 200,000 total square footage limit, it was never the intent of the City Commission, at that time, to limit it to 200,000 because the Commission had already approved more than that. She understood approval and moving dirt were two different things, but business decisions were made based on what was in place at the time the property was purchased.

Scott McCullough, Planning and Development Services Director, said the guiding plan that staff used to analyze this request for additional square feet was the area plan for West 6th Street and Wakarusa Drive plan adopted in 2003. He said the Mayor was correct that it was designated by the Comprehensive Plan as a CC200 intersection, but there was a recognition that the southern part of the intersection had developed already passed 200,000 square feet, but they did not want to give the appearance that it was going to be a regional scope kind of commercial area, so they did not want to designate it as a CC400. However, this nodal plan recognized the north portions of the intersection should develop to some degree commercially with the northwest corner of the intersection developing for commercial development of a retail focus, the northeast corner, Bauer Farms, developing as a less intense commercial retail land use designation. This nodal plan specifically recommended up to 62,000 gross square feet of commercial retail type uses and that was how planning staff arrived at a recommendation to the Planning Commission and the Planning Commission did an admirable job of the debate of this issue when it was brought to them last month and thought the Planning Commission based their decision on uniqueness of the plan and the fact the plan needed to work as a project in and of itself and did look at the overall intersection of 400,000 square feet and in reduction perhaps the Northwest Plan went through as it was proceeding that there had been reduction square feet on that corner so the northeast corner could absorb some of that. The nodal plan did not talk about transferring square footage, so they stuck to the plan when they did their analysis.

Vice Mayor Dever said this plan recognized that even though it was far beyond 200,000 square feet, they were going to designate it as such only because they did not want it to become a much larger beast.

McCullough said they did not want to give the appearance that the CC400 gave an appearance of a form of regional commercial center, so they did not designate it as CC400 and kept the designation at 200 in terms of the types of commercial uses, but recognized that it would approach 400 plus 1,000 square feet of actual commercial.

Vice Mayor Dever said density was discussed which was remarkable because of the lack of commercial building density on this development. He said it seemed to be a low density commercial development and he had seen far greater square footage on smaller acreage.

Herndon said in commercial real estate, properties were speculated generally at a commercial density level of something more like .15 at the low end of the spectrum up to .22, which was called FAR or Floor Area Ratio. Most commercial realtors look at a property and saw nothing but a range, as he just described, and that was generally prescribed for retail development. If taking roughly 25 acres that comprised the PCD portion of Bauer Farm and divided it by the number of square feet of retail allowed, 62,000 square feet, their FAR came out to .04, which was an extraordinarily low FAR. He said in the same vein they were trying to do the eastern portion with public streets and use Smart Code specs and induce things in that spirit, one of the things espoused as a City and recognized could be a problem, the poster child of this problem was called Leap Frog Development where long spans of infrastructural investment to get a long road out along with the sewers and waterline to go with it, then at the end of the half mile of investment, there were 100 lots.

At the intersection of Wakarusa Drive and 6th Street, where a tremendous amount of infrastructure was being invested, the FAR was opposite, in other conversations, about taking advantage of their investments, whether they were traffic signals or traffic capacity measures, sewer, detention and other infrastructural expenses.

He said it would be easy to argue based on what the nodal plan represented for this intersection, and they should be asking for more square feet. He said they wanted to facilitate a reasonable amount and maintain the spirit of the development that had been proposed all along, yet better ensure that it would be successful and sustainable financially among other things.

Vice Mayor Dever said the spirit for this nodal plan was to encourage low density commercial development.

Herndon said it appeared to be the intent of the nodal plan for that northeast corner.

Commissioner Highberger said the nodal plan allocated a certain amount of retail square footage and did not direct the applicant on how much of the acreage to spread that out on. It was the decision of the applicant, not the nodal plan.

Vice Mayor Dever said he was concerned about the change in square footage. He said he would like some public comment on Commissioner Highberger's interpretation of this issue.

McCullough said the nodal plan itself talked about the most appropriate commercial development being a non retail focus for the northeast corner. The plan itself

was pretty succinct in how it planned this node in that it talked about the area west and east of Wakarusa Drive. The area west being Wal-Mart, commonly known as the Wal-Mart property, was recommended for the most appropriate commercial development of a retail focus. The Bauer Farm property was a non-retail focus and designated the square footage amount of 62,000 square feet for the Bauer Farm portion. The Planning Commission took this information and broadened the scope of the entire intersection to what had been developed in the south, what was realistic plan to the northwest, and thought that because of the plan itself, the project overall, the 10,000 square feet, probably was not that significant of a jump as the development reached a realistic market and the market started playing into finding tenants for the property. Staff's recommendation was based on a nodal plan for that area.

Commissioner Amyx said he agreed the Planning Commission took a long hard look at this particular item. The applicant's area plans stated the intersection was limited to 62,000 square feet and another portion of the area plan stated that the total intersection could be between 420,000 – 440,000 square feet. There was some debate on which plan was going to be the hierarchy.

He said the overall plan came before the Commission in a preliminary design stage and the design was appealing enough the Commission, at that time, wanted to see the plan move forward. In looking at traditional neighborhood design and as a new urbanism approach to development, this project was important when looking to the future, whether or not other TND's would happen. This was their first opportunity and wanted to make sure it was done correctly. There were changes in this particular proposal to some of the uses on the property that required better movement of vehicles around the site to accommodate the particular uses and thought the plan had accomplished that in moving the building on the corner of 6th and Wakarusa Drive to accommodate that circulation of traffic and add two smaller buildings in the place of that one.

He said there was an evolution of this plan and was done well and could work at this particular intersection. He had concern about the alcohol consumption at the site, but did not realize the distance restriction from the schools was that short.

He had concern about the 72,000 versus the 62,000, but the comments were correct and the Planning Commission believed it was a very small part of this particular project.

Commissioner Chestnut said he also spent some time reviewing this plan and thought it was very exciting. He said as everyone went through this process and through the particular adjustments that needed to be made, in particular the gross square footage, and also read the Planning Commission notes and thought there was a lot of discussion. He agreed with the Planning Commission conclusion especially with the fact the northwest corner was going to be 20,000 or 18,000 less than what was approved, that it balanced out. He said the design really went beyond the nodal plan at the time it was put together. He thought it was a fantastic project to really look at as something that became a touchstone project to develop going forward and agreed it really used the land very well.

Mayor Hack said she agreed with the previous comments. She said it was a great step forward to the TND's and any kind of development was risky and any kind of project like this with the size and scope was a risk and thought what this project said was they as a community wanted to take a step toward those traditional neighborhood designs and the new urbanism concept. She said this was a transitional area because it was at the intersection of two major streets. With that, there were some additional kinds of complications that took place. She said if they looked at the 440, which there was discussion if that was approved there was still an unused allocation of 165. It meant that it was within the conversation that was had between the Planning Commission, staff and the City Commission when the CC200 designated started. It was designated to send the message that they did not want it to be a South Iowa feel. She appreciated the clarity in recommending the change to condition No. 3.

Moved by Chestnut, seconded by Amyx, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the request for rezoning (Z-06-07-07) a tract of land approximately 25.97 acres from PCD-2 (Planned Commercial Development) to PCD-2 (Planned Commercial Development) with modifications in the restrictions and adjusted by staff; and, direct staff to prepare the appropriate ordinance, subject to the following conditions:

1. Approval of a Preliminary Development Plan.
2. Filing of a Final Plat for the property at the Register of Deeds Office.
3. No single building shall be larger than 50,000 gross square feet of space.
4. The permitted list of uses be included as part of the rezoning ordinance.
 - without requiring retail/office on 1st floor with multiple-family residential on upper floors
 - Licensed premises
 - Liquor, wine and beer sales for consumption off the premises
5. There will be no more than 72,000 gross square feet of retail commercial space in the PCD-2 portion of the Planned Unit Development.

Aye: Amyx, Chestnut, Dever, and Hack. Nay: Highberger. Motion carried. (14)

Moved by Amyx, seconded by Chestnut, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the request for rezoning (Z-06-08-07) a tract of land approximately 16.53 acres from PRD-2 (Planned Commercial Development) to PRD-3 (Planned Commercial Development); and, direct staff to prepare the appropriate ordinance, subject to the following conditions:

1. Approval of a Preliminary Development Plan.
2. Filing of a Final Plat for the property at the Register of Deeds Office.

Motion carried unanimously. (15)

Conduct public hearings on proposed special assessments for the following special assessment benefit districts:

- a) **Conduct public hearing on the proposed special assessment benefit district for the improvement of the intersection of George Williams Way and West 6th Street.**
- b) **Conduct public hearing on the proposed special assessments for the construction of 25th Terrace, O'Connell Road to Franklin Road.**

Mayor Hack called a public hearing on the proposed special assessments benefit district for the improvement of the intersection of George Williams Way and West 6th Street.

Chuck Soules, Public Works Director, presented the staff report. He said George Williams Way had three benefit districts which were:

1. GWW (north) from Overland Drive to north City limits;
2. GWW (south) from Ken Ridge Drive north to 6th Street; and
3. GWW (north) from 6th to Overland Drive.

A protest petition was received protesting against the benefit district to the south from 6th Street to Ken Ridge Drive. The benefit district at 6th Street was split in half and the cost was split 50% to the north and 50% to the south. Without the southern benefit district, there was no way to finance half of that intersection improvement. One of the issues with the protest petition was the issue of cost. Project estimates were discussed a year ago and when those estimates were brought back to the City Commission to establish the benefit district, there was a huge escalation in construction costs and staff determined to include the right turn lane south and north at those intersections. Staff took a look at those costs and lowered those costs, but not significantly enough for the southern benefit district not to continue their protest. The petition for protest was valid and in essence, did not have a southern benefit district and could not do those improvements to the intersection.

Staff tried to determine a benefit district solely for the intersection improvements. That benefit district was still the same tracts of land that were in the other three benefit districts and the intent was the method of assessments and proportion of costs would be the same to all the tracts as before, except this way there would be a separate benefit district and no single tract had more than 51% and the City could not get a protest petition that would kill the benefit district and they would be able to get those signals and the right turn lanes that were anticipated.

He said the estimated construction cost was \$1,023,000 for the signalization, widening for the right turn lanes, and some work on the return to tie into the existing facility on the south. The method of assessment would be 50% to the north and 50% to the south, again the north 50% would be split the same way they had the benefit district distributed on a previous benefit district established. He said staff received correspondence again from the Diamondhead group expressing concern about the way the benefit district was established. He was under the presumption the concern was with the inclusion or exclusion of the Collister tract, on the east side of George Williams Way, south to the intersection.

He said staff was looking for the Commission to hold the public hearing and direct staff to develop the resolution determining the findings and ordering the improvements for the intersection. In addition, staff would adjust the resolution that went from the intersection of 6th to Overland Drive and take out the intersection improvements and that benefit district would become smaller because a separate benefit district would be formed. The resolution would be contingent upon the establishment of the intersection benefit district so that improvement would not be lost.

Commissioner Amyx asked what type of intersection improvements would be seen when going to the south.

Soules said from the intersection going south a six lane section was looked at, two southbound lanes, two left going out, and two going north with a right turn lane. Right now, there was a three lane section and when constructing the intersection improvement, the entrance would be the ultimate configuration that was proposed previously, but it would taper down to a three lane section as the improvements south of George Williams Way, which they also included a roundabout at Ken Ridge would not be installed with the intersection improvements. The remainder of the improvements would include signalization and the right turn lanes north and south.

He said when this property develops, the traffic study indicated the additional lanes would need to be done and at that time, the development would need to pay for those improvements.

Commissioner Highberger asked about the reason for excluding or deferring the Collister tract.

Soules said the Collister tract was included in the benefit district for George Williams Way when it was originally established. The assessments for George Williams Way had been deferred pending development or sale of the property. Similarly, Stoneridge Drive they had included the Collister tract in the benefit district. Those assessments were also being deferred until the property sold or was developed. The property, at this time, was not developing and the traffic study indicated for the Diamondhead Development that those improvements were needed for that development. Kasold and Peterson had a similar development with Hutton Farms and Fall Creek Farms, and the residential area. The southwest corner and those three corners shared in the intersection improvement at Kasold and Peterson, whereas the residential side did not.

Mayor Hack asked if there was also a question of access from the Collister tract to George Williams Way.

Soules said that was correct. The Collister tract was not intending or at this time would not be permitted to take access to George Williams Way. The access would be off of Stoneridge Drive.

Commissioner Amyx asked if this issue had to do with the commercial development approved on Diamondhead and as a separate issue what did the plan say about the Collister property and the type of density it would be developed at.

David Corliss, City Manager, said the plan was not to have any commercial on the east side of George Williams Way, which was what the nodal plan for that area indicated. There would not be any commercial on the east side of George Williams Way, which included the Collister tract. He thought it was envisioned as high density residential, probably some type of an apartment complex, taking access off of Stoneridge Drive. He said that was where the access was now and where they were building access with Stoneridge. He said it was an intersection benefit district and not the street. He said that property was encumbered with special assessments for the street and those assessments were being deferred and when that property did develop, the City would get its deferred payments back. He said that was the distinction which was similar to Kasold and Peterson where residential was at the southeast corner that was not included in those intersection improvements. This benefit district was just for the intersection.

Mayor Hack called for public comment.

Price Banks, speaking on behalf of Diamondhead Development, said the big issue was fairness and staff needed to look at what was wrong with that picture. He said 50% of the cost was going to a quarter of the property that was apparently benefited by the benefit district to be spread on a square foot basis. If spreading an equal square foot basis over the north and south, then they were not requiring the Diamondhead property to pay the lion's share of the project, and in this case they were.

He knew that staff was concerned and a little upset when they filed the protest petition against the original benefit district. The primary reason the protest petition was filed was because from the onset, the project cost went up 60% to the final numbers. It was a \$600,000 increase on a relatively small piece of property. They also had properties to the south of Diamondhead that were being benefited, and the Collister tract was going to be benefited by the project. Kansas law said the benefit from improvement was presumed to the project itself, the property itself, rather than to any particular use or future use being made of it. Those properties were going to benefit. There was a comment the Collister property would not have access, but how would anyone know. Earlier that evening they substantially changed a development that was proposed, and that subsequent change to a development plan occurred all the time. When a development proposal came in for the Collister property, it was likely they were going to request access and possibly get access to George Williams Way. At one point, the Diamondhead property had direct access on 6th Street, but as part of the project, it was planned away in order to accommodate staff. There was going to be more benefit to the land to the north from those intersection improvements than there was to the Diamondhead property. They had a huge commercial tract to the north and in essence a regional center, and the Diamondhead property was relatively small.

In addition, there was some substantial benefit to the City at large from improving this intersection. This intersection was going to be the only north/south route in this area to get from neighborhoods to the south out to 6th Street. Those neighborhoods would be benefited by this traffic signal. Certainly the east/west traffic along 6th Street was going to be benefited. The city at large ought to be sharing in the intersection improvements.

He said it was not fair either not to include properties to the south or the Collister property in the benefit district, or it was not fair to divide it 50/50 when there was such a great area of land to the north that was receiving substantially more benefit from intersection improvements.

Kenny Liu, Diamondhead LP Managing Partner, said his personal concern was just the issue of fairness. He was not protesting the construction or the cost of construction for the improvements. Based on the chart, 50% was covered by Diamondhead LP and from his personal view, he thought it was unfair. He remembered the first time George Williams Way was reviewed and a benefit district was formed and everyone on both sides of the street shared the cost for the street. He said the traffic light for the intersection was for the city at large and for the people. He asked for more discussion about this issue for the fairness of Diamondhead LP.

It was moved by Dever, seconded by Chestnut, to close the public hearing. Motion carried unanimously.

Commissioner Amyx said the only benefit district in question was the benefit district at the intersection that made improvements to both turning lanes and stop lights.

Soules said there were originally three benefit districts and the benefit district to the south filed a protest petition. Staff was proposing to establish a benefit district for just the intersection improvements which included all of those properties and staff would change the resolution from 6th Street to Overland because included in that resolution was half of the intersection improvements at 6th and George Williams Way. The signal and right turn lane to the north was included in the northern side, and a signal and right turn lane to the south was included in the southern benefit district. Without the southern benefit district being established, they only had authority to build the right turn lane to the north and the signal on one side. At the time those benefit districts were established they thought everyone was on the same page, and it worked out instead of having four benefit districts.

He said staff needed direction on establishing the intersection and know that staff would be changing the benefit district north so intersection improvements could be taken out of the benefit district to the north.

Commissioner Amyx said in looking at those two benefit districts for the improvements of that intersection and the amount of property to the south compared to the property to north was a concern.

Soules said they had that same question with Collister's tract with Stoneridge. When that subject was all said and done, it was decided to base the costs on a square footage basis because it seemed fair. The size of the tract that was included in the benefit district was reduced to the same size of 50/50.

Vice Mayor Dever asked about the normal way to determine the percentage of assessment for the benefit district.

Soules said typically costs were based upon front footage which was how George Williams Way's costs were assessed. It was 50% based on front footage because it was the same front footage. With intersections, costs were assessed 50% to one direction, north/south or east/west, depending on how the benefit district laid out, and then typically square footage from that point.

Vice Mayor Dever asked if Tract 2 on the map was being assessed in this benefit district.

Soules said yes.

Vice Mayor Dever asked at what percent that tract was receiving.

Soules said 50% to the north, and then it would be based on square footage for just the intersection.

Vice Mayor Dever said the complaint was if they were dividing it 50/50 north and south, the south half was only one individual or corporation owning that land and all the 50% to the south was going to Diamondhead.

Banks said the complaint was Diamondhead Group was going to be paying about three times as much per square foot and that would affect the land value.

Corliss said it was accurate that the property owners to the north had more property to spread their costs. He said with the decision of who paid what for public improvements was something they talk about. He said the property owner was paid for their access rights along 6th Street and the public paid close to \$5 million for right-of-way access and access control along 6th Street. The public spent over \$13 million on that road, and the City of Lawrence including KDOT spent close to \$6 million for 6th Street. He said it was not that the City had not contributed as a City for that road. The City of Lawrence paid KDOT and KDOT paid for right-of-way access along 6th Street, which included whoever owned that property on the south side of 6th Street they were talking about including in a benefit district. He asked if Diamondhead received any money for right-of-way.

Banks said Diamondhead did not receive any money.

Liu said Diamondhead dropped off the access on 6th Street and they would not allow Diamondhead access on 6th Street.

Corliss said it was his understanding that KDOT paid for right-of-way access between George Williams Way and K-10 for the property on the south side. He said

staff would find out KDOT's comment on this issue.

Commissioner Chestnut asked if Soules wanted to do the improvements for George Williams Way north, and signalization of George Williams and 6th south, as one project. Those improvements would be in stages, but Soules planned it as one project.

Soules said as all of that area was developing together, yes.

Commissioner Chestnut said he had a concern about moving forward. If they moved forward with the benefit districts that were on 6th and north George Williams Way, they left the question open south of George Williams Way, which meant there might be no improvements, depending on where it all came out. He said his concern was less about the property owners and more about the neighborhoods that reside south of 6th Street down George Williams Way. As they went through the process of looking at all of the traffic flow down 6th Street and KDOT studies, they really worked hard with the neighborhood to design that street along with Stoneridge, Branchwood and Congressional to talk about how they were going to try to mitigate the cut through traffic going toward Harvard and ultimately toward Langston Hughes. One of his major concerns was it put it somewhat in jeopardy in that entire design.

Soules said without the commercial development, a lot of the improvements and steps taken to keep traffic out of neighborhoods, there would not be the traffic generator.

Commissioner Chestnut said there would not be a traffic generator at that location, but a significant traffic generator across the street. His biggest concern was leaving a big question unanswered about George Williams Way going south which shot right to a school zone.

Mayor Hack asked what Commissioner Chestnut's suggestion would be in terms of going forward.

Vice Mayor Chestnut said he was at a conundrum because when discussing the project and looking at Mercato, traffic flow at that intersection was discussed. He said he remembered the drawings of the right turn lane coming off of 6th Street onto George Williams and a nice traffic calming situation to not allow for cut-through traffic, but now that was eliminated. It might or might not happen depending on how this issue would be resolved and hesitated to move forward without having that issue resolved because it was an arterial that did not have a solution that could become a real problem. He said he did not want to do it incrementally. He understood the discussions Diamondhead had about the fairness issue, but he was also thinking about the neighborhoods at large because it was an issue that if they did not resolve in a system, an arterial could be left that produced more traffic going to the roundabout in front of Langston Hughes.

Soules said staff could look at what was being done at Congressional with the proposed Wal-Mart and that type of signalization. He said as part of the intersection improvement, traffic calming could be added. He said that traffic calming might need to be removed if commercial developed, but at least safety would be in place.

Commissioner Chestnut asked if by doing that, it would become much more expensive. If they did it in total, it would be cheaper than doing it incrementally.

Mayor Hack said yes. She asked how much time was of the essence in moving forward.

Soules said the development to the north wanted to get moving and the Oregon Trail development was moving forward. The City had a contract with BD Consultants to start the design phase of George Williams Way, but staff had not told BD Consultants to proceed at the intersection and it needed to be tied in somehow. Staff would like to get the signals in before the development established.

Mayor Hack asked about deferring the project for a week.

Soules said if there were any discussions about the Collister tract, Ms. Collister had an accident and she was unable to express her opinion at this time.

Commissioner Amyx said he did not have any desire to discuss the Collister's property as part of this benefit district. He said the question was the best assessment method that was left and make those improvements along George Williams Way and the improvements of that intersection.

Corliss said staff could show the City Commission options where a benefit district was entirely assessed on a square footage basis all together and not a north/south distinction and suggested placing it back on the City Commission's agenda in two weeks.

Soules said George Williams Way intersection would be entirely built next summer.

Mayor Hack said the Commission wanted to do what was best for the safety of the entire community at that intersection to ease the situation from the pressures from the north and also be cognizant of the fact that traffic was being funneled toward the school.

Commissioner Chestnut said his comments were predicated toward the neighborhood and he did not want any unintended consequence. He said the neighbors in that area had expressed a lot of concern about that density.

Moved by Dever, seconded by Amyx, to defer providing direction on the item for two weeks. Motion carried unanimously.

Mayor Hack called a public hearing on the proposed special assessments benefit district for the construction of 25th Terrace, O'Connell Road to Franklin Road.

Chuck Soules, Public Works Director, said the street would be 36 feet from the back of curb to back of curb and included bike lanes, stormwater improvements, sidewalks on both sides and a roundabout at O'Connell.

The method of assessment for the Improvement District located on the north side of 25th Street Terrace was 50% and all lots and tracts located on the north side of 25th Street Terrace would be assessed equally on a square foot basis. All property in the Improvement District located on the south side of 25th Street Terrace would be assessed 50% of the costs of the Improvements, and all lots and tracts located on the south side of 25th Street Terrace would be assessed equally on a square foot basis.

Staff planned to set the bid date for this project next month and all the easements and rights-of-way have been dedicated by the benefit district and property owners. There was no City participation and was 100% paid for by benefit district.

Mayor Hack called for public comment.

Art Queen, property owner, said at one time he had 20 acres in that area, but K-10 and the jail took some of that acreage and he ended up with 16 or 17 acres and now the City was going to take another 81 feet. He said he understood that he would be paid for his ground that the City took and then need to pay that money back, but instead he would just give the land to the City free.

He said regarding the benefit district portion, he said Bill Newsome and Doug Compton would pay his small portion of the benefit district for 10 years.

Corliss said that was worked out between Queen and Compton.

Queen said when the jail was constructed, during that time, they took 10 of his big pin oak trees that he had grown for 20 years, and some of his property and he received \$5,000 for his property, but he also had advantage to that road. He said he did not understand what benefit he was receiving unless someday he sold his property to someone and that person would be able to hook onto the sewer. He said the benefit district, to him, was an absolute joke. He said he was curious how many years Newsome and Compton were going to pay for his portion of the benefit district. He said the property he had worked out fine and he wanted to leave it that way.

Corliss said the benefit district special assessments were paid off in 10 annual installments. He said the property was not in the City or a portion that was dedicated because the developers worked out with Queen and Queen indicated the property was never going to be developed.

Queens said the logic of the street for the jail and his little piece of property as part of the benefit district, no one said it was a benefit district when it had the nice front. He said there could be a benefit district someday when the street went through to the K-10 bypass and there was a big clover leaf and could not get into his property and the access could be on the south side.

Corliss said on their long range transportation plans, they showed Franklin as an important north/south arterial street and may get to visit with Mr. Queen again about acquiring some property interests from him if they were fortunate enough to do the large intersection improvement at 23rd Street and Franklin Road.

Moved by Chestnut, seconded by Amyx, to close the public hearing. Motion carried unanimously.

(15)

Moved by Amyx, seconded by Chestnut, to place on first reading Ordinance No. 8144, establishing the maximum special assessments for the construction of 25th Terrace, O'Connell Road to Franklin Road, to include street, storm sewer, and waterline improvements. Motion carried unanimously.

(16)

Consider authorizing staff to advertise a Request for Proposals (RFP) for design and construction phase engineering services for Phase I of the Kaw Water Treatment Plant Transmission Main to the Southeast Lawrence area.

Philip Ciesielski, Assistant Director of Utilities, presented the staff report. He said some direction given to the project was to get the transmission line phased and identify a phasing plan so they could incorporate that in the rate structure and have the line in place in time for water supply to the Wakarusa Water Reclamation Facility. Their phasing plan looked toward a 2010 end day and as such, they ended up with 3 phases they could identify. They were asking to issue the RFP for the first phase of engineering and construction engineering phase services. The first phase started with the Kaw Water Treatment Plant at 3rd and Indiana, ran northward through Burcham Park through the existing well field, to a point just south of I-70, crossed the Kansas River, goes under the railroad tracks, the levy, and what was North 3rd Street and came to a point of connection they have identified even with North 7th Street. At that point they could terminate at the location of a 36 inch diameter water transmission main and tie it back into the North Lawrence system and have a functional part of the system. He said construction would be in 2008. They would start design through the remainder of 2007, construct phase 1 in 2008, concurrent with that they would design phase 2 during 2008 with construction in 2009 and have design of phase 3 in 2009 with construction in 2010. Phase 2 went from that point of extended north 7th Street and brought them in the eastern end of North Lawrence, under the Kansas River and down to a point even with 11th Street extended east at which point they would come back west and tie into the system on 11th Street. It would give them a third feed into North Lawrence and again a functional loop of the partial construction of the overall transmission main. From there, they continued southeast along the railroad tracks, basically to a point even with O'Connell Road, extended north, come down O'Connell Road and tie into 23rd Street. He said the original project in the master plan was a point to point idea of they started the Kaw Water Treatment Plant and had to go down to southeast Lawrence. They looked at those alignments, verified the pipe sizing, updated the water demand based on some of the new growth ideas, not only in Lawrence but in Baldwin City and rural water. They verified the master plan and the need for the project in the master plan, updated the sizing of the pipe from when the master plan was in the range and identified as part of this project and came up with financial requirements and a rate plan. He said there was potentially a fourth component that could also be potentially a 2010 component which would go from 23rd and O'Connell down to a point on the new Wakarusa Wastewater Reclamation Facility property. It would allow connection to the Wakarusa Water Reclamation Facility for its firefighting and water process needs, but could potentially allow rural waters from Baldwin to move their points of connection from 31st and Haskell and get out of the maintenance of their water main which was in the Baker Wetlands.

He said the longest route was going through North Lawrence and combined two Master Plan projects; the transmission main from the water treatment plant to the southeast area. There was also in the master plan a second feed to North Lawrence. In the master plan, it was envisioned to be on the bridge of the KTA. The timing of it did not match and the maintenance of a pipeline on a bridge was tight. The river crossings were better for the City and gave them control of infrastructure in the future. He said they were within 5% for the cost of all three routes and did not vary more than 5%. They had a lot more pipe in the ground, the additional connections in North Lawrence, ended up in an area in the Farmland property they had potential to construct in the future.

Vice Mayor Dever said he was mentioning the cost comparisons and was comparing this total cost to the project going from across town. Also in the master plan he mentioned the fact that there was the North Lawrence redundancy in there. He asked if he had a cost assigned to that because to him for the 5% they get the redundancy, but if they throw the other project on the mass, it would probably be a lot cheaper than the two together.

Ciesielski said it was included in that analysis.

Vice Mayor Dever said in this route proposed, the right-of-way issues were going to be much less than they would be otherwise, so they might even run into potential significant cost risks involved in trying to acquire right-of-way by going straight through town.

Corliss said he did not want to minimize the inconvenience factor when they had something like this down the street for several weeks. They had good luck with the engineer and those things for the downtown waterline project and it had worked fairly well, but it would be a similar thing down numerous blocks through the community.

Mayor Hack said it did not solve a major concern with water to North Lawrence, which this does. They would have to do it anyway.

Ciesielski in this case they get the additional feed in the next 18 months.

Mayor Hack said she thought it was a great plan that solved a lot of issues as well.

Commissioner Amyx said he appreciated all the work Ciesielski did. He said in this particular case he liked the idea of being able to serve North Lawrence with this line and obviously being able to establish a new easement that was going through various areas was very important and could set a standard to what they wanted. He said he appreciated all the work and it made good sense.

Moved by Amyx, seconded by Chestnut, to authorize staff to advertise an RFP for design and construction phase engineering services for Phase I of the Kaw Water Treatment Plant transmission main to the southwest Lawrence area. (17)

PUBLIC COMMENT:

K.T. Walsh, on behalf of the East Lawrence Neighborhood said at their recent August board meeting they agreed it was time to directly and publicly ask the City Commissioners for help with two neighborhood problems that must be dealt with. First was the Brownfield Pollution north of 8th and Pennsylvania Streets. It was the site of the manufacturing gas plant that was there from 1869-1905. A by product of that process was the release of some hazardous byproducts into the ground and ground water. Chief among these was benzene, a common industrial chemical that the Environmental Protection Agency classified as a human carcinogen. The Center for Disease Control and Prevention listed long term benzene exposure could cause leukemia and other blood cancers. After much testing, in February 2001 Utili Corp United, which became Kansas Public Service, which became Aquila, entered into a restricted covenant requiring that the property not be used for residential property or have anyone there that would have frequent contact with the soil. Water wells should not be allowed on the property, full disclosure of the land was sold and continued testing in the future, and any workers doing any digging or excavating should be warned of the dangers there. The well was removed and taken to a waste site. Most of the area was fenced but now it was open again. It was accessible to any child on a bike exploring and digging in the dirt. The dust they breathed was toxic to their developing bodies. As they knew, Bo Harris will be building dense housing on the land immediately south of the polluted site. They foresee more families moving in, more kids on bikes, and so it was past time for a true cleanup. During the approval process for Bo's projects, she made copies of the covenant for the City Commissioners and spoke at a Commission meeting about the benzene pollution. She assumed it would start the process but was a foolish assumption on her part because they have had so many pressing issues. Recently Bo Harris led a walking tour of the East Lawrence Industrial District that was sponsored by the Lawrence Preservation Alliance and EPA scientists attended the tour and hearing about the benzene problem, he told her the State of Kansas had the dollars available right now to clean up these brown fields and that benzene was relatively simple to remove by removing the soil and replacing it. It removed the present danger of people breathing it in or taking it in through skin contact. The chemical had been leaching into the river through run off all the years and removing the polluted earth would end this source point pollution. Their former Assistant City Manager, Rod Bremby, was now head of the Kansas Department of Health and Environment and was sure he would help Lawrence solve this. East Lawrence tonight was formerly requesting the city to ask KDHE for the dollars and professional expertise to remove this dangerous pollution.

She said they had a second problem she wanted to address the City Commission about. They need their help with an apartment house at 1200 New York. This property was owned by the Reverend Paul Winn, pastor of the Praise Temple Church of God and Christ at 7th and Connecticut. It was called Hope Housing and thought the admirable intent was to help people get off the street, get clean and move onto a healthier life. It appeared that it had the opposite effect and has become a drug house. For two years there have been out of town cars continually stopping for a short while, and then driving off. Neighbors do not want to walk by with their kids because of the negative comments and cat calls by some tenant and visitors. When good tenants move in, they move out quickly because of the tenants. East Lawrence saluted the many faith communities and others that provide housing in their community, such as the Pelathe Indian Resource Center, Habitat for Humanity, the Salvation Army, Tenants to Homeowners, the Lawrence Land Trust, the Islamic Center of Lawrence, and many more, were all churches, mosques, and the Jewish Community, etc quietly and consistently donate and volunteer productively on housing issues, the healing of addictions and the serious food shortage. Unfortunately, Hope Housing at 1200 New York looked like an unsupervised attempt that had gone seriously wrong. Neighbors have called the City, inspectors who have inspected have done their best to help, the Police Department had been called by neighbors many times, and recently when their two new community police officers started, they have tried their best to help. Neighbors have repeatedly called Reverend Winn and his wife to complain. They no longer return calls. These problem apartments were in the four block area where the tragic Glover family fire occurred last year. There have been many small and two large arson fires in recent years, none of them solved. They have counted and there were at least 20 children under 10 who walked or biked by those apartments to get to New York Elementary. The neighbors in this area do not feel safe. Many people have tried on their own to work through the proper channels. The neighborhood association was asked and they tried the proper channels. They fear the situation that their sister neighborhood to the east, Brooke Creek suffered through. They had a dangerous meth house with customers lined up in their cars and a young woman conveniently delivering product out to them. For some reason, Chief Olin could not help. After many attempts to get help from the City and Police, some neighbors finally found a clause in the Section 8 housing rules that shut down the operation. They have decided to go public with this because they need a solution. They were asking the City Commission for their help.

Mayor Hack said they would ask staff for help to get the issues resolved.

Corliss said he wanted to be transparent as they possibly could be on 1200 New York, because he knew K.T. related this to him a couple weeks back and was familiar with some of the issues. Some things could be publicly discussed as far as law enforcement, and some could not. He understood the frustrations and did not want to keep it below the surface. They would probably want a public discussion about it because there were a lot of people interested in that.

He said the Aquila site, it was privately owned property but they would check with KDHE about how that worked. He did not know they could request that on property they did not own.

(18)

FUTURE AGENDA ITEMS:

09/04/07	<ul style="list-style-type: none"> • Burroughs Creek Trail & Linear Park Master Plan
TBD	<ul style="list-style-type: none"> • Chapter 7 of Comprehensive Plan (Industrial Chapter) • Staff report on Intangibles Tax and Impact Fees, requested by City Commission on August 7

(19)

Moved by Chestnut, seconded by Amyx, to adjourn at 9:10 p.m. Motion carried unanimously.

APPROVED:

Sue Hack, Mayor _____

ATTEST:

- _____
Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF AUGUST 28, 2007

1. Contract – Change order No. 2, LRM Industries for KLINK Resurfacing, Iowa, 6th to Yale & Irving Road to 23rd.
2. Bid Date- Sept. 11, 2007 for Stoneridge Dr., 6th St. to Silverstone Dr.
3. Sale – Surplus computer hardware on Gov Deals.
4. Ordinance No. 8150- 1st Read, adopt 2007 Standard Traffic Ordinances for Kansas.
5. Ordinance No. 8151- 1st Read, allow temporary sale, possession & consumption of alcoholic liquor on W side of S Park on Sept. 8, 2007.
6. Ordinance No. 8149 – 2nd Read, , "No Parking" W side of Grand Circle; "No Parking" N side of 30th from Crestline W to 1st property line; and permit parking W side of 4 Wheel Dr between N & S driveways of 2801-2835 & along E side of 2858 to 29th Terr.
7. Ordinance No. 8152- 2nd Read, temporary sale, possession & consumption of alcoholic liquor for Lawrence Chamber of Commerce's "Get Downtown" event, Sept. 14, 2007.
8. Site Plan – (SP-07-51-07) Outdoor dining at Ingredient, 947 Massachusetts.
9. Sidewalk Dining License for Ingredient, 947 Massachusetts.
10. Ordinance No. 8153 – 1st Read, allowing possession & consumption of alcoholic beverages on certain city property pursuant to Ingredient's Sidewalk Dining License.
11. City Manager's Report.
12. Management Plan – Freedom's Frontier National Heritage Area, future organization plans & funding for the development.
13. Rezone (Z-06-07-07) 25.97 acres, PCD-2 to PCD-2, modifications in the restrictions, NE corner, W 6th St. & Wakarusa Dr.
14. Rezone (Z-06-08-07) 6.53 acres from PRD-2 to PRD-3, NE corner, W 6th & Wakarusa Dr.
15. Benefit District – Public hearing for George Williams Way & W 6th.
16. Ordinance No. 8144 – 1st Read, max assess for construction of 25th Terr, O'Connell Road to Franklin Road.
17. RFP - Phase I, Kaw Water Treatment Plant transmission main to the SE Lawrence.
18. Public Comment.
19. Future Agenda Items.