



# City of Lawrence

DAVID L. CORLISS  
CITY MANAGER

City Offices  
PO Box 708 66044-0708  
www.lawrenceks.org

6 East 6<sup>th</sup> St  
785-832-3000  
FAX 785-832-3405

CITY COMMISSION

**MAYOR**  
ROBERT J. SCHUMM

**COMMISSIONERS**  
MICHAEL DEVER  
HUGH CARTER  
MIKE AMYX  
ARON E. CROMWELL

March 26, 2013

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 a.m., in the City Commission Chambers in City Hall with Mayor Schumm presiding and members Amyx, Carter, Cromwell and Dever present.

## **A. RECOGNITION/PROCLAMATION/PRESENTATION:**

1. Proclaim April 2, 2013 as World Autism Awareness Day.
2. Proclaim April 1 – 5, 2013 as Public Health Week.
3. Proclaim Saturday, April 13, 2013 as The BIG Event.
4. Proclaim the month of April, 2013 as Mathematics Awareness Month.
5. Recognition of Lawrence Memorial Hospital as one of the nation's 100 Top Hospitals.
6. Presentation of the BlueChip Healthy Community Award.

## **B. CONSENT AGENDA**

Amyx asked that item number 9a, Resolution No. 7013, authorizing the City's use of eminent domain for the acquisition of real property commonly located at 1106 Rhode Island, be pulled from the consent agenda for separate discussion.

Dever asked that item number 20, authorizing the City Manager to execute the First Amendment to Purchase and Sale of Real Estate between the City of Lawrence, Kansas and North Mass Redevelopment, L.L.C., be pulled from the consent agenda for separate discussion.

**It was moved by Amyx, seconded by Dever,** to approve the consent agenda as below, minus items 9a and 20. Motion carried unanimously.

1. Approved City Commission meeting minutes from 03/05/13 and 03/12/13.
2. Received minutes from various boards and commissions:  
Lawrence Douglas County Bicycle Advisory Committee meeting of 02/19/13  
Mental Health Board meeting of 02/05/13  
Parks & Recreation Advisory Board meeting of 03/12/13  
Public Health Board meeting of 01/22/13



Sustainability Advisory Board meetings of 11/14/12, 12/12/12, 01/09/13, 02/11/13, and 02/13/13

3. Approved claims to 278 vendors in the amount of \$3,518,766.38, and payroll from March 10, 2013 to March 23, 2013, in the amount of \$2,087,737.53.
4. Approved a Caterer License for Lawrence Arts Center, 940 New Hampshire; and, a Cereal Malt Beverage License for Cobblestone LLC, 3000 West Bob Billings Parkway.
5. Approved the reappointment of Eric Hethcoat and Chris King to the Electrical Code Board of Appeals to terms that will expire March 31, 2016.
6. Bid and purchase items:
  - a) Set a bid date of April 9, 2013 for City Bid No. B1324, Project PW1320, 2013 Overlay Program, Phase 1.
  - b) Set a bid date of Tuesday, April 16, 2013 for the Comprehensive Rehabilitation Projects at 1406 New Jersey Street and 1614 Powers Street.
  - c) Awarded the bid for contract mowing Districts 2 and 4 for the Parks and Recreation Department to: District #2 – Brayden’s Lawn & Landscape for \$15,915; District #4 Area 1 - Alpine Lawn Services for \$46,760; and District #4 Area 2 – Resource Services Solutions for \$33,730, total for all three areas is \$96,405.
  - d) Approved the sale of vehicles on Gov Deals.
  - e) Awarded the bid for two (2) heavy duty water trucks for the Parks and Recreation Department to Laird Noller Automotive for \$101,476.
  - f) Authorized payment to Lee Mathews in the amount of \$17,500 for pump rental during the Kaw Water Treatment Plant mechanical improvements of the traveling screen and valve replacement.
  - g) Waived bidding requirements and approve extension of the Intellution Software Maintenance (for software controlling water and wastewater treatment and distribution systems) to GE Fanuc Intelligent Platforms, Inc., c/o Industrial Network Systems, for \$41,051.63 for the period of March 13, 2013 to March 13, 2014.
  - h) Authorized reimbursement in the amount of \$29,479.75 to the Lawrence Public Library for moving services related to their relocation to the temporary library site at 700 New Hampshire Street.
  - i) Awarded City Bid No. B1309, Project No. PW1224, former Farmland property, street, storm sewer, and waterline construction to R.D. Johnson Excavating Co.,

Inc., base bid in the amount of \$4,293,827.40 and Alternate 1 in the amount of \$690,728.63.

- j) Awarded City Bid No. B1315, Project No. PW1319, 2013 Concrete Rehabilitation Program, to Sunflower Paving, Inc., for \$329,271.
  - k) Approved the purchase of a dump truck for the Utilities Department off the MACPP Contract for \$112,210.
  - l) Approved the lowest quote for electrical services and corresponding materials for the groundwater remediation system at the former Farmland Industries site to Lynn Electric & Communications, Inc., for \$21,595.
7. Adopted on first reading the following ordinances related to the International Building Codes:
- a) Ordinance No. 8793, adopting the International Building Code, 2012 edition.
  - b) Ordinance No. 8794, adopting the International Residential Code, 2012 edition.
  - c) Ordinance No. 8795, adopting the National Electrical Code, 2011 edition.
  - d) Ordinance No. 8796, adopting the International Plumbing Code, 2012 edition.
  - e) Ordinance No. 8797, adopting the International Mechanical Code, 2012 edition.
  - f) Ordinance No. 8798, adopting the International Fuel Gas Code, 2012 edition.
  - g) Ordinance No. 8799, adopting the International Energy Conservation, 2012 edition.
  - h) Ordinance No. 8800, adopting the International Existing Building Code, 2012 edition.
  - i) Ordinance No. 8801, adopting the International Property Maintenance Code, 2012 edition.
  - j) Ordinance No. 8802, adopting the International Fire Code, 2012 edition.
8. Adopted on second and final reading the following ordinances:
- a) Ordinance No. 8843, amending Sections 6-108.16 and 6-804 of the City Code regarding solicitor/peddler license fees.
  - b) Ordinance No. 8852, prohibiting the possession of glass bottles and other glass containers in the downtown district from 12:00 p.m. on Saturday, March 30 through 12:00 p.m. on Monday, April 1 and 12:00 p.m. on Saturday, April 6 through 12:00 p.m. on Tuesday, April 9, 2013.

- c) Joint City Ordinance No. 8841/County Resolution No. \_\_\_\_\_, for Comprehensive Plan Amendment (CPA-5-5-11) to Chapter 6 of Horizon 2020 to add policies for the Auto-Related Commercial Centers designation. (PC Item 4; approved 9-0 on 1/28/13)
  - d) Ordinance No. 8845, authorizing the possession and consumption of alcoholic liquor on the 100 block of E 8<sup>th</sup> St and the intersection of 8<sup>th</sup> St and New Hampshire St from 4:00 p.m. – 10:00 p.m. on 04/17/13, and on the 100 block of W 8<sup>th</sup> St from 4:00 p.m. – 10:00 p.m. on 04/18/13 for the Kansas Relays.
  - e) Ordinance No. 8846, adopting the 2013 Water and Wastewater Rates.
  - f) Ordinance No. 8847, adopting the 2013–2017 Water and Wastewater System Development Charges (SDCs).
9. Adopted the following resolutions:
- a) THIS ITEM WAS PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. Resolution No. 7013, authorizing the City’s use of eminent domain for the acquisition of real property commonly located at 1106 Rhode Island.
  - b) Resolution No. 7019, issuing general obligation bonds for 2013 water and wastewater projects.
10. Approved the Special Event, SE-13-00080, for Final Four merchandise sales at 2300 Louisiana Street (Checkers) from April 1<sup>st</sup> through April 14<sup>th</sup>, 2013. Submitted by Gene Wayenberg, Sun Creations Inc, with permission of 2300 Louisiana Co., LLC, property owner of record.
11. Approved the rezoning, Z-10-25-11, approximately 45.5 acres from A (Agriculture) to OS-FP (Open Space-Floodplain Overlay), located north and east of the intersection of W. 6<sup>th</sup> Street and the South Lawrence Trafficway. Adopt on first reading, Ordinance No. 8854, to rezone (Z-10-25-11) approximately 45.5 acres from A (Agriculture) to OS-FP (Open Space-Floodplain Overlay), located north and east of the intersection of W. 6<sup>th</sup> Street and the South Lawrence Trafficway. (PC Item 4; approved 6-0 on 2/27/13)
12. Approved the Text Amendment, TA-13-00001, to the City of Lawrence Land Development Code, for the definition of Family/Occupancy Limits. Adopt on first reading, Ordinance No. 8853, for Text Amendment (TA-13-00001) to the City of Lawrence Land Development Code, for the definition of Family/Occupancy Limits. (PC Item 6; approved 8-0 on 2/27/13)
13. Authorized the Mayor to sign project charter for RiskMAP project for Lower Kansas watershed mapping project.

14. Approved the development of a Benefit District for improvements to streets and water mains, including Atchison Street, 32<sup>nd</sup> Street, 31<sup>st</sup> Street modifications, and E. 1200 Road and Kasold Drive extended.
15. Approved the following items related to the Tour of Lawrence bicycle events, to be held in various locations on June 28-30, 2013:
  - a) Approved allocation of \$10,000 from the Guest Tax Reserve Fund to the CVB in support of the Tour of Lawrence.
  - b) Approved temporary use of right-of-way permit for the use of various city streets on June 28-30, 2013 for the Tour of Lawrence.
  - c) Approved the donation of various city services in support of the Tour of Lawrence.
16. Approved the following items related to the 2013 Bike MS event:
  - a) Approved a Temporary Use of Public Right-of-Way Permit for the 2013 Bike MS event from 6:00 a.m. Saturday 09/14/13 through noon Sunday 09/15/13 allowing the closure of Massachusetts Street between North Park Street and South Park Street, North Park Street from Massachusetts Street to Vermont Street, and the Community Building parking lot.
  - b) Approved donation of police and fire medical services in support of the 2013 Bike MS event.
17. Authorized staff to negotiate an Engineering Services Agreement with Professional Engineering Consultants for Design Phase Engineering Services for Project UT1302CS Pump Station PS04 Redundant Forcemain.
18. Authorized the City Manager to execute agreements with Kansas University regarding the sharing of fiber and conduit between the City of Lawrence and Kansas University.
19. Authorized the City Manager to enter into a contract with Windham Professionals to provide collection agency services for the City of Lawrence.
20. THIS ITEM WAS PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. Authorized the City Manager to execute the First Amendment to Purchase and Sale of Real Estate between the City of Lawrence, Kansas and North Mass Redevelopment, L.L.C.
21. Approved a request for signs of community interest, a request from the Lawrence Metaphysical Fair to place directional signs along the intersection of 23<sup>rd</sup> and Harper Streets from July 12 – July 14, 2013.

22. Approved a request for signs of community interest to place 5,860 small multi-colored stake flags and two 24 X 24 signs at the corner of 27<sup>th</sup> and Iowa Streets to promote the Week of the Young Child. The flags and signs will be displayed April 13 – 120, 2013.
23. Authorized Mayor to sign a Release of Mortgage for Preston C. and C. Jane Hoyt, 3817 Overland Drive.
24. Accept dedications of easements for Final Plat, PF-13-00007, for Rock Chalk Park Addition No. 1 located in the NE quadrant of the intersection of W. 6th St/Hwy 40 & Kansas Hwy 10 (K-10). Submitted by Paul Werner Architects, for RCP, LLC, property owner of record.

Regarding item number 9a, Resolution No. 7013, authorizing the City's use of eminent domain for the acquisition of real property commonly located at 1106 Rhode Island, David Corliss, City Manager, presented the staff report.

Amyx asked if there was a time after the adoption of this resolution that the current owner had the opportunity to make good on their property.

Corliss said absolutely. If the property owner would present a bona fide plan, staff would present that plan to the City Commission for review and determination. The process could be halted at any point.

Amyx asked if Corliss's recommendation for the use would be something residential in nature. He said some neighbors had concerns about commercial.

Dever asked if the costs of surveying and appraisals could be recovered.

Corliss said staff would track and try to recover those costs.

Amyx said staff had dealt with this property for quite a while and had gone to great lengths regarding code compliance. He asked if staff had ever gotten to this point with another property. Staff had always worked with the property owner, but this was the final deal.

Corliss said he could not recall a time, but staff had indicated in previous cases that they might get to that point. In the downtown area, he understood that there had been some dilapidated properties in similar circumstances. It was not uncommon in communities for this to occur.

Schumm said the goal was to save the property, but nothing had been done and the property was deteriorating. He asked if staff would draft a RFP for this property.

Corliss said yes, to see if there were parties interested in rehabilitating the property, but within the parameters that it remained housing stock.

Schumm called for public comment.

KT Walsh said empty houses were unhealthy for neighborhoods. She said if an RFP went out, she asked that it not be too limiting. Some people had talked about housing with an office. She hoped the RFP criteria would be broader than just financial and would look at the broader health of the neighborhood.

**Moved by Dever, seconded by Cromwell**, to adopt Resolution No. 7013, authorizing the City's use of eminent domain for the acquisition of real property commonly located at 1106 Rhode Island. Motion carried unanimously.

Regarding item number 20, First Amendment to Purchase and Sale of Real Estate between the City of Lawrence, Kansas and North Mass Redevelopment, L.L.C., Schumm said a citizen had raised a question regarding whether the property had been dedicated as a park property.

Toni Wheeler, City Attorney, presented the staff report. Regarding the concerns mentioned by the mayor, in 1972 in a letter to the Corps, the mayor committed certain properties to be park uses. She displayed a map showing current ownership of properties in the area. She said the city did have Riverfront Park and trails in this area. By the terms of this agreement, the City was not transferring any of that property. Without more information from Mr. Naramore, staff didn't believe they were transferring any park property.

Schumm said property that was being transferred was city property and it was not encumbered at this time.

Wheeler said yes. The city had authority to dispose of property and the city had determined that this was excess property. The Corps was in agreement with the plans.

**Moved by Carter, seconded by Cromwell,** to authorize the City Manager to execute the First Amendment to Purchase and Sale of Real Estate between the City of Lawrence, Kansas and North Mass Redevelopment, L.L.C. Motion carried unanimously.

**C. CITY MANAGER’S REPORT:**

David Corliss, City Manager, presented the report.

**D. REGULAR AGENDA ITEMS:**

**1. Reconsider the following items related to the NW quadrant of the intersection of W. 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10):**

- a) **Reconsider Comprehensive Plan Amendment, CPA-4-2-12, to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. Adopt on first reading, Joint City Ordinance No. 8740/County Resolution No. \_\_\_\_\_, for Comprehensive Plan Amendment (CPA-4-2-12) to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. (PC Item 1; approved 6-2 on 2/27/13)**
- b) **Reconsider Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. Adopt on first reading, Ordinance No. 8741, for Text Amendment (TA-4-3-12) to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. (PC Item 2; approved 8-0 on 2/27/13)**
- c) **Reconsider rezoning, Z-4-5-12, approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District. Adopt on first reading, Ordinance No. 8742, to rezone (Z-4-5-12) approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1**

**(Neighborhood Business) District to the pending district CC600 (Community Commercial) District. (PC Item 3; approved 6-2 on 2/27/13)**

Scott McCullough, Planning and Development Services Director, presented the staff report.

Amyx said earlier, when the City Commission looked at the southeast corner of the intersection, they had taken some commercial designation off of that area. He asked if the 60,000 square feet would get that area back to where it was originally.

McCullough said currently that area was designated as a CC400. He said 360,000 square feet were already allocated to Mercato which left the other three corners to proposed projects to fight for the remaining 40,000 square feet. When staff proposed CC600, the allocation was proposed between the southeast and southwest to go to 60,000 square feet between the two and if divided equally, it would be 30,000 each. Taking the 25,000 square feet away from the northwest corner and more directly placing it on each corner and not just to the south in the future, staff wanted to make sure that they allocated it in their planning documents based on the going home corner and the amount of commercial that was available. Essentially, it added more square feet to the southeast corner, about 30,000 square feet if things were equal.

Amyx said he couldn't remember the total amount of commercial on that corner before. He said he wanted to know if the 60,000 square feet that would be allocated would replace what was removed from the southeast area. He said he always thought that allocation wasn't fair.

McCullough said this was the new recommendation that discussed every corner whereas originally the southern corners were grouped together with 60,000 square feet and to be worked out in some future zoning application.

Randy Larkin, Assistant City Attorney, said item 1c was the rezoning of a single tract of property and the city commission would be acting in a quasi-judicial role. It would be appropriate to disclose ex parte communications at this point.

Schumm said he had spoken with Matt Gough who asked if he had any questions and he did not. He did not recall who else he might have talked to since it had been going on so long, but certainly nothing that wasn't already in the public records.

Dever said he had conversation with Matt Gough, Steve Schwada, one of the Planning Commissioners, maybe Josserand, Blaser, or Liese, but certainly nothing outside the public records.

Schumm said he wanted to add Josserand, and Belt, but nothing of any substance that wasn't already in the public records.

Amyx said Gough and Schwada asked if he had any questions. He also talked to Josserand and Liese, but nothing that wasn't already in the public records.

Cromwell said he had spoken with several people over time but nothing outside the public record or materials.

Carter said he had several conversations, but nothing outside the public record or materials.

Matt Gough presented the applicant's report.

Mayor Schumm called for public comment.

Michael Kelso said his property looked east toward the proposed rec center development and south toward 6<sup>th</sup> and the SLT. As he told the planning commission, at the three meetings he remembered, at two meetings they were very supportive. The third meeting went late into the night. Some of the commissioners seemed confused as to what they were considering. One of the commissioners he spoke with said he wanted to wait until the land was needed then

maybe vote for CC600. He said as he looks out there now they were out there in a fever working, even in the snow. He asked what the rush was and they said they wanted to have the ground ready for the 2014 Kansas Relays. He said he didn't think any neighbors were opposed to CC600. The land owner had said he would provide a buffer between the land and the neighbors. There was a protest petition that he thought was based on bad legal advice. Most of the neighbors signed the petition, but later when they talked to the land owner, they wanted to rescind their signatures, but legally they found out they could not do so. With the building across the road, as a lay person, he thought that land would need to be zoned appropriately for the facilities going in. He said there needed to be some retail/commercial development on this site. He asked the commission to support what the planning department already supported so the land could be marketed as CC600.

Schumm said the process seemed to work the way it should.

Amyx asked what changed between the original vote of the PC and the final determination.

McCullough said some of the problem was the frustration with the process. There was only one evening to take on the Commission's directive to do the best job they could in planning this node, and they were frustrated with that process. He said he thought a couple of the votes might have been in protest with the process given. It was not by any fault of the City Commission, but it was State law they had to operate within. He said they saw there was change in moving the rec center from the west to the east side of K-10 and they were confronted with some options. He said they could vote for it, against it, or could do nothing which at that time it meant voting for the original recommendation. A couple of the Planning Commissioners voted against it to preserve and protect their belief that they needed more time with this issue. He said he was not sure the criteria changed as much as when they received it

again in February because it came with different comments from the City Commission and a healthier staff report on the issues. He said by that time the Rock Chalk Park had progressed further and there were a few things that happened between the two.

Amyx said as he understood the uses that were still allowed in the CC600, he envisioned that it could be used as office complex. He asked if light industrial would still be allowed at that location under a Special Use Permit.

McCullough said yes. He said staff maintained the limited manufacturing and production with a special use permit. There was manufacturing production tech and research service that was allowed by right, but those were all manufacturing types that were interior. One of the ways staff looked at this project in accommodating the node to be supportive of the recreation center and the quality was trying to remove uses that were exterior that weren't aesthetically pleasing in nature. He said they strived to make it beneficial to the owner and the community to maintain some amount of primary job uses as well.

Amyx asked if this was the only place in Lawrence that could accommodate this.

McCullough said it would be the only one with that zoning.

Schumm asked how the buffer was designated and how would they make sure it continued to exist.

McCullough said through platting or private covenant. He said he would talk about addressing it at the platting and site planning stages.

Schumm asked if that was already in a plan.

McCullough said it was in the proposed West of K-10 Plan.

Amyx said there had been discussions about the multifamily to the south. He said they might want to remember that as this area developed with traffic flowing through that area, to make a connection so traffic didn't flow through the neighborhoods.

Schumm said the Commission wasn't dealing with the southeast corner at this time.

McCullough said they were, just relevant that corner picked up some commercial retail in the comprehensive plan designation. They needed to follow through with zoning, platting and site planning.

**Moved by Carter, seconded by Dever,** to approve Comprehensive Plan Amendment, CPA-4-2-12, to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600, and to adopt on first reading, Joint City Ordinance No. 8740/County Resolution No. \_\_\_\_, for Comprehensive Plan Amendment (CPA-4-2-12) to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. Motion carried unanimously.

**Moved by Carter, seconded by Cromwell,** to approve Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District, and to adopt on first reading, Ordinance No. 8741, for Text Amendment (TA-4-3-12) to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. Motion carried unanimously.

**Moved by Dever, seconded by Amyx,** to approve rezoning, Z-4-5-12, approximately 146 acres located in the NW quadrant of the intersection of West 6th Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District, and to adopt on first reading, Ordinance No. 8742, to rezone (Z-4-5-12) approximately 146 acres located in the NW quadrant of the intersection of West 6th Street/Hwy 40 and Kansas Hwy 10 (K-10) from County

A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District. Motion carried unanimously.

2. **Received staff report on possible rental registration program.**

Scott McCullough, Planning and Development Services Director, presented the staff report.

Carter said the cap was on the registration fee, not inspections.

McCullough said yes.

Carter said there were lots of things with asterisks, and those things appeared to be the kinds of things that could be more tenant related.

McCullough said they could be either landlord or tenant caused, such as a broken window.

Carter said the only other one to note on major violations was window locks.

McCullough said they needed to develop some of those mechanisms. It was an important subject because it determined eligibility for the incentive program.

Amyx said on the safety checklist, things like the furnace and gas, on the code, would that come from the new I-Codes.

McCullough said it was the property maintenance code which staff adopted tonight.

Carter said on the incentives, when saying no more than 5 violations, he asked if that was per unit.

McCullough said on average, per unit.

Schumm said for example, if inspecting ten units and finding 50 minor violations, those still had to be corrected.

McCullough said yes.

Schumm said one item on the check list that was minor that should be major, was dead bolts installed, especially for co-eds that could be a major safety issue.

Mayor Schumm called for public comment.

Tom Harper said people had clearly thought a lot about this inspection program. It was hard to narrow down and make manageable. He thanked staff for their work and the mayor and vice mayor for the stakeholder meeting. He had faith that this would come before the new commission in April. The big issue was the safety and welfare of our citizens and the side benefit was that it would help our neighborhoods.

Schumm said they had covered a lot of ground. In our stakeholder meeting they reached a lot of consensus, evidenced by the fact that no one from the apartment industry was present tonight with concerns. He asked that staff bring this item back in ordinance form to see if the City Commission could pass it.

Dever said he appreciated McCullough's work on this issue. He said on the annual vs. one time registration, he still thought it was reasonable to assume that if they placed strict parameters, if there was a change of ownership or management, there needed to be some key points, but he wasn't sold on that idea that they needed annual registration. He wasn't comfortable setting a cost of the program and then fit the fees. He would rather establish the program and have a fee associated with a major change. He felt like receiving all those registrations was creating work, and costs could be put off by not having annual re-registration. Staff tried to determine a reasonable sample size and for him that was a good thing that came out of this. He would like to talk about annual registration or something else, and also the inspection fee.

Schumm said he saw Dever's point of view and agreed with most in principle, but he said if not registering every year, the inspection fee had to go up substantially. The question he

had for staff was if they were trying to get to rentals registered, was there a way staff could track sales of properties and get back to the City Commission.

McCullough said what was really important to staff was the enforcement mechanism, and having the license to get back to. Tracking was also an issue. There were properties that go in and out of Section 8 housing and staff wouldn't know their status unless those properties register. Staff might be able to do something like a 2 year registration with the fee adjusted accordingly. He said he would have to research what staff could do to keep up with sales and changes of management to property.

Schumm said there were some licenses that were really easy to renew and there were others that were more onerous and registration application had to be filled out every year. This registration should be designed so if nothing had changed, check it off and submit application and it would be easy for everyone. The cost of inspection was a concern to people, and if staff couldn't collect enough registration money the inspection fees had to go up.

Cromwell said he appreciated the mayor and vice mayor's work. As far as the fees, he liked the structure. He said the idea of only worrying about it when a property changed hands might be dangerous because a lot could change over the years. It would also be onerous on staff to track all those changes. He said he liked the direction staff was going. The issues they were seeing, breaking them into major and minor violations, was important. He said he would like to see yearly registration, at a reasonable cost, so staff knew who owned what and where.

Carter thanked the mayor, vice mayor and staff. This city was moving in the right direction. He saw the reduction of staffing costs from 526 to 393 which was great. The main thing was to establish the minimum costs and making it as low as possible. He thought closer to a quarter million dollars was reasonable. He said it was possible that in 7 years down the road the City could see fewer problems as things were dealt with in the early years. He said he liked

the 10% on larger complexes and thought a cap of 15 units was adequate. More than 15 random inspections was a waste of effort. He said from an incentive standpoint, he didn't like reducing inspection fees and we needed to make sure those fees were right. If \$50 covered the cost, that was what the City wanted to charge. The incentives were counterintuitive if they caused a revenue shortfall. The incentive was being inspected every 5 years instead of every year which was reasonable and would only be paying for the amount of inspections done. He said annual inspection fees needed to be reasonable and could lower that cost as an incentive if passing inspections. The cap for larger complexes, reduction in frequency of inspections, and possible reducing the registration were his ideas for lowering the cost. As for program size and fees, he suggested focusing on the floor to the cost for the program. He said the total costs of the program didn't reflect either using the fire department or any contract labor, but reflected the costs of doing it in-house.

McCullough said correct.

Carter said if the end result was that in 5 to 6 years from now there were 80 or 90% that qualified for the 5 year inspections, then those costs would be lower and he hated to set it up maintaining the \$400,000. In the end staff would be pressured if not getting the revenue from this rental registration. In early years, using contracted labor or other departments, rather than adding staff, could keep the costs down and not have too many staff positions later down the road. He thought they could do with one fewer code enforcement officer. He also pulled out the one-time costs at the beginning like the furniture and vehicle. He also said the allocation of the code enforcement manager and planning director salaries was not necessarily new moneys needed.

McCullough said staff based the allocation on the model used for building permit fees.

Amyx asked about using private inspectors.

McCullough said staff had some discussion but haven't put extensive thought into that idea yet.

Dever said staff didn't need to create an expectation for people hired and then find out there was not as much work needed. There was room for some contractual labor to hold costs down, or using some existing people who were good at inspections like fire inspectors. They didn't go into it exhaustively, but the idea did come up.

Amyx said he would like to know the effect of that on the overall cost. He said he thought it was time to put this together and make a decision. He still hadn't made up his mind on annual vs. one time registration. It was a good point the mayor made about the renewal of licenses. He asked if the registration ran with the property owner and was it based on the number of units.

Schumm said per site.

Amyx said if he had a four-plex rental unit would he pay the registration fee, annually or a one-time fee, and then be charged for inspections on the number of units.

McCullough said correct, for the year of the inspection.

Amyx said he had concerns about the liability the City might be taking on. He said for instance, if staff sent an inspector in and then later something bad happened or something was missed in the inspections, he asked if the City would incur the liability. He said he also took into consideration the dollars per month, and it didn't take much to add up to a healthy increase in rent. The City needed to drive the cost down as much as possible while still keeping the program viable. He said the City adopted the new I-Codes tonight, and asked if there would be a lot of properties that might not be able to meet those codes.

McCullough said yes. There would be a number of properties that needed to bring their rental properties into compliance under the City's property maintenance code.

Amyx said rental units having to comply with the property maintenance code would have an effect on some renters.

McCullough said those were the same codes staff used on a complaint basis today.

Schumm said he thought it would cost more for a contract employee rather than an employee.

Corliss said he thought the idea was worthy of consideration. They would need to talk about structure and supervision. It would ultimately be supervised and adjudicated by city employees. The marketplace might tell us it was not economical, but it might be. It certainly wouldn't hurt to explore it. He said he appreciated Carter's comments about commitments to staff. If they could get past a compliance backlog, they wouldn't want to keep people on board just because they had this program.

Cromwell said if someone could perform the inspections for \$45, it would still cost the City more because staff had to supervise and do some cost control. There might be people that would be interested in this inspection process. Capping the number of properties in large complexes was a great idea. They would need to always inspect every building if there were multiple buildings, regardless of the cap.

Dever said he understood, but he was still trying to understand how the registration would work. He was okay with every year. He said for instance, if he had an apartment complex with 100 units at a \$10 registration fee, he would pay the city \$1,000 every year. He just wanted to make sure that just because someone had 600 units, the City wouldn't charge \$6,000 every year. It seemed like \$10 wasn't much for one unit, but costs could be evened out if it didn't take as much time to process.

McCullough said there was value to having a good database of information. The value of the registration was linked directly to enforcement and was the element that they could

remove and make a property not eligible to do business. The more units the more cost was true, but also more profit.

Dever said more risk too.

Schumm said they weren't opposed to registration every year as long as it was easy and efficient. It was an issue of equity on how much each type of structure paid. One thing staff had shown was a sliding scale based on numbers.

McCullough said it was based on some economies of scale and provided reduction in registration fees based on number of units.

Schumm suggested looking at a few different scenarios with the sliding scale and demonstrate what that did to the inspection fee. At the end of the day, the spreadsheet had to be revenue neutral. He also suggested looking at contract labor to see what that might do for or against the city.

Cromwell said if a property registered for the first time there would be upfront costs. He said they were designing a system that was revenue neutral and they needed to look at the costs to design the system. He said for example, it might be \$5 more upfront, but next time it was cheaper because of a little less paperwork.

Schumm said it looked like the consensus was to move forward and the motion would be to have staff continue working on this issue and bring back options on the fees and program as discussed tonight.

Corliss said you could direct staff to prepare an ordinance and a budget.

Schumm said it seemed like there were enough options to take a look at before an ordinance.

**Moved by Cromwell, seconded by Dever,** to direct staff to have staff come back with an updated report based on tonight's discussion. Motion carried unanimously.

3. **Considered the following items related to the establishment of an organized collection service for residential recycling:**

- a) **Considered closing public hearing from December 11, 2012 for the proposed plan for the establishment of an organized collection service for residential recycling and approved the plan;**
- b) **Considered adopting on first reading Ordinance No. 8851, establishing an organized collection service for residential recycling within the City limits of Lawrence; and**
- c) **Considered authorizing the Mayor to enter into an agreement with N.R. Hamm Quarry LLC for recyclables processing and marketing services.**

Kathy Richardson, Waste Reduction and Recycling Operations Supervisor, presented the staff report.

Schumm asked what color the recycling container would be.

Richardson said blue. Trash carts were green.

Amyx said under the timeline, the ordinance had to be passed by June 12, 2013. One of his concerns was what would happen to the small hauling businesses and had staff taken any further consideration of what the city could do for those businesses.

Corliss said staff was giving them the time period, provided by law, to transition to a different business plan. The City was not providing any compensation and was not legally required to do so. He said the City was not taking their business, but providing a similar service. Staff had not been directed to do anything in terms of compensation. He said staff would like to continue to work with those businesses to help with the transition.

Amyx said it was something of concern to him. These businesses stepped up and provided the service when the city couldn't. There was fairness issue that had to be taken into consideration. The task force struggled with this same issue and the City Commission needed to have some discussion. He said he didn't think it was the city's job to put someone out of business.

Carter said the city's delay in creating this program created a business for those recyclers. This city was behind the rest of the country in implementing this recycling program. He said they had discussed this program for a year, and had 2.5 years of notice. He asked if there were legal reasons the city should just not do any kind of compensation.

Corliss said there were legal issues associated with compensation. One would be that they would need to do it for all the different providers and couldn't distinguish between small and large recycling businesses. He said it was a fair comment that those providers were pioneers when the City could not provide curbside recycling, but it was provided through alternative means such as drop-off sites. He said there would probably be some legal issues. One might argue that someone was getting a better deal than others. He was not sure how to base the compensation – on number of customers, value of assets, or something else. The law did not require compensation.

Carter said it could be by basing it on what those recycling businesses were doing and set it up like a severance with three or four months. He said he understood, but the reality was that there had been a lot of notice and this was one of the unfortunate side effects of doing the right thing for the community.

Corliss said the city ran its sanitation division as an enterprise fund. If there were additional costs from the displacement, those costs would have to be made up for by rates. They wanted to drive the incremental increase down as low as possible.

Schumm said there was discussion early on having an equitable solution with the current carriers. The idea was to either give those carriers a piece of the action or some kind of compensation. It's been an evolutionary process and he would be open to ideas about equitable compensation.

Amyx said he wasn't sure how to do it, but this was basically the last time to have this discussion. After the ordinance was adopted, it was really too late.

Carter asked if that was really the case, he assumed if the Commission adopted the ordinance, they could still talk about that compensation separately.

Amyx said the cost would already be established.

Carter said in Corliss's explanation, in needing to recover those costs through the program, it would be less likely they would want to pursue it.

Schumm said it was an enterprise fund and they were trying to be all inclusive under recycling operation. If they decided they wanted to compensate the existing carriers, then the cost of recycling had to go up somewhat to take care of that.

Cromwell said the city calculated in its original proposal a number that included a compensation to the existing haulers which was around 60 cents.

Tammy Bennett, Assistant Public Works Director, said staff originally calculated about \$130,000 in the initial proposal which was pulled out based on the Commission's discussion for the current price structure. She said it was about a 48 cent per household cost difference per household, per month for the year.

Cromwell said there were a number of ways of structuring it, but they were talking about over 10% of the cost of the program. It was going to substantially increase by offering this compensation and it did not include any sort of compensation to Deffenbaugh whatsoever. He said that was probably not a great idea. If they were to come up with something in a form of a settlement, it needed to be universal or the city would be asking for trouble. He said they would need to find an equitable distribution which meant they would have to weight it toward customers. He said what this would really amount to was a decent size check to Deffenbaugh and a very low check to Jeff's Curbside Recycling. He said they struggled with this issue with

the Solid Waste Taskforce. Everyone had sympathy, but there was also concern of driving up the cost. He said when Deffenbaugh came to town with their recycling service which was less than half the cost of the current small haulers, there were some folks in town that would continue to utilize those smaller services for other reasons, but the reality was they were capped in the number of customers that they would ever achieve and they were going to see their customer base decrease every year due to the market. He said it had been years of discussion and the haulers would have another 18 months after this was implemented to have an opportunity to redirect their businesses plan. He said there were people in town who would still be interested in potentially paying those people to have weekly service instead of the every other week service which was something. He said it didn't look good for the small haulers in the future, but it didn't look that way before the city was thinking about enacting this ordinance. He said they were trying to keep this affordable to the community.

Schumm asked what other communities had done. He said it seemed like this statute was written to protect some of the folks that were involved in Wichita.

Corliss said that was his understanding. He didn't know if there was much community experience with this law. Other communities were talking to the city about our experience in navigating through this law. This city was fairly unique in the state in providing sanitation services in a community this size. At one time, this city was a leader in recycling with the yard waste and then the drop-off sites came. He said he was not familiar with other communities dealing with the small haulers.

Dever said he thought they were focusing on an important issue which was not taking business from private industry and putting it on the shoulder of the city. He said they were ignoring the fact that jumping into this with both feet finally, behind many other cities that they might be opening up the opportunity for those recyclers to go out to the County or other

communities nearby and bring that waste to a state-of-the-art MRF, which they didn't currently have. There was a positive and a negative, but the City might be actually creating opportunities for people in the County to be serviced. It was tough, but there were more pros than cons. The city would be giving people a lot of time to adjust.

Amyx said he appreciated the comments. It was tough to put all this together. He said a point was brought up about Deffenbaugh and the cost effect on the small haulers, but that was a private business. He said now they were talking about government forcing these guys out without compensation. That was the reason he was bringing it up.

Schumm asked staff to remind everyone why they continued the public hearing earlier.

Toni Wheeler said it had to do with the statute that was referenced in the report. They opened the public hearing and provided the notice that was required. She said they had the initial hearing and provided information about the plan, but staff didn't have all of the information they had today. Out of an abundance of caution, she recommended keeping the public hearing open so that the plan could be supplemented with additional information. She said in the event that they were challenged, the city could demonstrate that there plan was as detailed as possible.

Schumm asked if the Commission should take public comment before closing the hearing.

Wheeler said yes.

Mayor Schumm called for public comment.

Patrick Wilbur said he thought the city should propose that there be some kind of reimbursement or voucher system where if someone wanted to stick with their current hauler, to waive the city fee. He said he didn't think the private haulers wanted a payout or charity, but

a chance to survive. Everyone on the commission had been an independent business person and hoped they would be empathetic with the companies in that position now.

Tom Harper said tonight was the night to vote on this issue. Just by reading the paper, I would think that every vendor knew this was coming. This was the right thing to do.

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

Cromwell said he was pretty sure they had discussed a voucher system.

Corliss said in our agreement with Hamm, in the city's development of the financial portion, it was based on anticipation that the city would get all the materials possible to make the service financially viable. If diluting that, it affected the ability for the Hamm facility to work. He said they needed all the material to get to that Hamm MRF in order to make it financially viable. If diluted, it sets a bad precedent and clearly the city would have to amend the agreement that was set out with Hamm. It would be a little bit of an administrative hassle to keep track. The main issue was that the community needed to get as much of the material to the Hamm MRF as possible.

Bennett said the cost estimate of \$2.81 was based on spreading it over all the households, and changing that changes the amount needed for the fee.

Amyx said his real concern was with the private hauler. He thought this was our last chance to discuss this if the Commission adopted the ordinance. He would like an extension of time before considering the ordinance. He thought it was an issue of government taking over what private businesses were doing.

Cromwell thought that shipped had sailed. While his heart went out, he was ready to move forward. This started while he was vice-mayor. It had taken some time to make sure we did this correctly. As he looked back, staff had been amazing. There were over 20 meetings

with the Solid Waste Taskforce and the City Manager was present at every meeting, as well as other staff. Almost every member of the task force was there every meeting. This was the last part of that culmination. This was the unanimous recommendation from the taskforce providing the cost was reasonable. The fact that the city was able to build this program from scratch gave the city an opportunity to have a truly state-of-the-art facility. There would not be another community in the country that allowed their citizens to recycle so many materials so cheaply. This program was better than Portland, because it was being built new with new technologies. He challenged Hamm to get the glass clean enough that Ripple Glass could take it. This wasn't the culmination and the next step would be commercial recycling. The community was looking forward to that, and Hamm would be looking forward to the material. The city could work with surrounding communities and the university to have their materials sent to Hamm as well. This was a chance to be the progressive community that the community had talked about being.

Carter said previously they talked about reimbursement or something. He had wanted to hear the answer to the concerns and he felt comfortable now that they had properly vetted it. It had been thought through by staff and the taskforce and at this time he was ready to move forward.

**Moved by Cromwell, seconded by Carter,** to adopt on first reading, Ordinance No. 8851, establishing an organized collection service for residential recycling, Motion carried 4-1 with Amyx opposed.

**Moved by Cromwell, seconded Dever,** to authorize the Mayor to enter into an agreement with N.R. Hamm Quarry LLC for recyclables processing and marketing services. Motion carried unanimously.

The City Commission recessed for a ten minute break at 9:36 p.m.

The City Commission resumed the regular session at 9:46 p.m.

4. **Receive report from architects on design and plans for the Recreation Center at Rock Chalk Park. Consider establishing May 7, 2013 as the date for receipt of bids for the Recreation Center.**

David Corliss, City Manager, introduced the item.

John Wilkins, Gould Evans Architects, presented a powerpoint presentation outlining the plans and changes to the plans since last presented, and the schedule.

Carter said it was anticipated that construction would begin in June.

Wilkins said yes.

Dever asked when the City Commission would be able to see the bid documents and specifications.

Wilkins said the City Commission had drafts right now. He said Craig Penzler and KBS were reviewing those drafts and providing comments. As far as final bid documents, he said probably in a week.

Dever said if he had comments, they should be given as soon as possible, like tomorrow.

Wilkins said that would be great.

Schumm asked about the size of the concessions area.

Wilkins said the concept was to create a flow. They had talked a lot about having some people that would want to go up to the front counter and order something, but the majority of people might want to grab and go. There was room for a six foot hood in those plans. The big move was creating more wall space for future coolers.

Amyx asked about the occupancy of the building.

Wilkins said 3,800.

Amyx asked if that was adequate concessions for that many people.

Schumm said it depended how long people were staying. He said the reason he asked was that he stopped by the New Century Fieldhouse and they said concessions were a huge part of their revenues.

Corliss said staff had been in touch with various vendors the city might work with. Concessions were a revenue source, but it was also a service. They would want people to come back because they had a good experience.

Carter said there was also some space to set up things in public areas to supplement the concessions area.

Wilkins said there was a lot of open space. The concession space was also pretty open and flexible.

Craig Penzler said they had started sitting down with city staff and putting together a program on some critical things they wanted to be looking at. Early on, they wanted to establish some communication protocols. They had started a series of progress reports monthly as well as a weekly register. From early discussions it was clear that they felt comfortable that good design decisions were made. They hired some local professionals to do some peer reviews of HVAC engineering. That would be continual throughout the time the documents go out to bid. They also took a look at the roof, reviewing roof alternatives. They met with Ernie Shaw, Interim Director of Parks and Recreation and his team with a set of drawings. They were still going through the red mark process. They had been looking at long term quality and life cycle issues, as well as shorter term security and other needs. They would be part of the bid team reviewing and analyzing those things. The schedule had them on the job site at least once a week.

Mayor Schumm called for public comment. None was received.

Schumm asked if we need to amend the date.

Corliss said that was their request. Having the plans out for four weeks seemed wise.

Amyx said he appreciated the work that commissioners and staff had done. There had been a lot of opportunities for folks to get questions answered at the open house. He continued to have concerns about the project, but he appreciated everyone's work.

**Moved by Carter, seconded by Dever,** to set a bid date of May 14, 2013 as the date for receipt of bids for the Recreation Center. Motion carried 4-1 with Amyx opposed.

5. **Consider motion to recess into executive session for approximately 30 minutes for the purpose of discussing non-elected personnel matters. The justification for closing the meeting is to keep personnel matters confidential at this time and to protect the privacy of non-elected personnel. The open meeting will resume in the City Commission Meeting room following the executive session.**

**Moved by Amyx, seconded by Cromwell,** to recess into executive session for approximately 30 minutes for the purpose of discussing non-elected personnel matters. The justification for closing the meeting is to keep personnel matters confidential at this time and to protect the privacy of non-elected personnel. The open meeting will resume in the City Commission Meeting room following the executive session. Motion carried unanimously at 10:10 p.m.

The City Commission resumed the regular session at 10:40 p.m. Mayor Schumm said that the review of the City Manager had been completed. There would be a full report next week. He would communicate with the City Attorney what he would like her to amend in the city manager's contract, and it would be placed on the agenda next week. He congratulated the city manager on a successful review.

Corliss said he could not do it without a great staff.

**E. PUBLIC COMMENT:** None.

**F. FUTURE AGENDA ITEMS:**

David Corliss, City Manager, outlined potential future agenda items.

**G: COMMISSION ITEMS:**

Schumm said he would like to have staff look at possible parking options on Rhode Island, on the west side of the street. There might be room to have some parking to offset the parking lost due to the library and other projects. He said Downtown Lawrence had talked to the East Lawrence Neighborhood Association about it.

Amyx asked if there was currently parking on the east.

Schumm said yes, and it was a wide street.

**H: CALENDAR:**

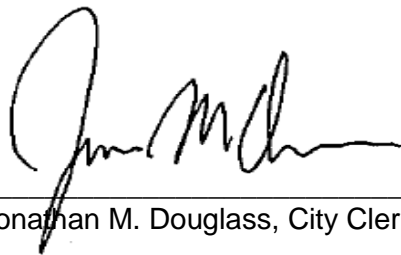
David Corliss, City Manager, reviewed calendar items.

**I: CURRENT VACANCIES – BOARDS/COMMISSIONS:**

Existing and upcoming vacancies on City of Lawrence Boards and Commissions were listed on the agenda.

**Moved by Carter, seconded by Amyx,** to adjourn at 10:46 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON APRIL 9, 2013.**



---

Jonathan M. Douglass, City Clerk