



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

August 26, 2008

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

At the applicant's request, a Regular Agenda item regarding the consideration related to a Comprehensive Plan Amendment (CPA-2008-10) and a rezoning (Z-05-12A-08) of property located at the southwest corner of Clinton Parkway & Crossgate Drive was deferred indefinitely.

Commissioner Amyx pulled from the consent agenda, Ordinance No. 8274, amending the requirements for obtaining Sidewalk Dining and Hospitality License, for a separate vote.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve the City Commission meeting minutes of August 12, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive the Library Board meeting minutes of July 15, 2008. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve claims to 501 vendors in the amount of \$12,417,666.75. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to approve the Drinking Establishment Licenses for The Wheel, 507 West 14th; Johnny's Tavern, 401 North 2nd; Crosstown Tavern, 1910 Haskell Ave No. 6; Alumni Association of KU, 1266



Oread Ave; Harbour Lights, 1031 Massachusetts; and the Retail Liquor License for Mass Beverage, 3131A Nieder Road. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to concur with the recommendation of the Mayor and appoint Tom Rainbolt to the Aviation Advisory Board to a term which will expire May 31, 2011; Jim Adams to the Convention and Visitors Bureau Advisory Board to a term which will expire July 1, 2010; and Brenda O'Keefe to the Lawrence-Douglas County Housing Authority to a term which will expire June 30, 2012. Motion carried unanimously.

The City Commission reviewed the bids for the Major Control Center Preventive Maintenance Program for the Utilities Department. The bids were:

BIDDER	BID AMOUNT
P1 Group	\$16,671
Lynn Electric	\$38,343
Electric Power Systems Inc.	\$40,000

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to P1 Group, in the amount of \$16,671. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the City Manager to execute a contract agreement and purchase order with I-CON for \$884,218, to complete the Cured-in-Place-Pipe (CIPP) Project No. 2. Motion carried unanimously. (2)

The City Commission reviewed the bids for one backhoe with ride control for the Parks & Recreation Department. The bids were:

BIDDER	BID AMOUNT
Sellers Equipment	
Backhoe	\$66,863
Trade, Unit No. 598	<u>-14,850</u>
	\$52,283 cost less trade
Option, Ride Control	<u>\$1,120</u>

Victor L Phillips	\$53,403 total cost
Murphy Tractor	No Bid
	No Bid

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to Sellers Equipment, in the amount of \$53,403. Motion carried unanimously. **(3)**

The City Commission reviewed the bid for electrical service upgrade at the Central Maintenance Garage for the Public Works Department. The bid was:

BIDDER	BID AMOUNT
Quality Electric	\$71,500

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to award the bid to Quality Electric, in the amount of \$71,500. Motion carried unanimously. **(4)**

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the purchase of off duty/back-up firearms for police officers to OMB's Express Police Supply for \$16,724.40. Motion carried unanimously. **(5)**

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the City Manager to enter into a contract with Nutri-Ject Systems for the 2009 Biosolids Land Application with the option to extend for additional years at both parties consent to allow for inflationary increases. Motion carried unanimously. **(6)**

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt on first reading, Ordinance No. 8314, adopting the 2008 Standard Traffic Ordinance. Motion carried unanimously. **(7)**

Ordinance No. 8307, establishing water and sewage disposal rates for 2009, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, and Highberger. Nay: None. Motion carried unanimously. **(8)**

Ordinance No. 8308, establishing system development charges for water utility and wastewater utility connections for 2009, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, and Highberger. Nay: None. Motion carried unanimously. (9)

Ordinance No. 8284, establishing solid waste service rates for 2009, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, and Highberger. Nay: None. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6770, establishing September 16, 2008 as the public hearing date to establish a benefit district for sanitary sewer improvements to Bauer Brook Estates. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6771, establishing September 16, 2008 as the public hearing date to establish a benefit district for water improvements to Bauer Brook Estates. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6793, condemning property interests, Lot 1, Block 4, Overland Addition (4500 Overland Drive – Fox Run Apartments). Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to adopt Resolution No. 6794, for the Preserve America Community Program Application as recommended by the Historic Resources Administrator. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to receive a request from America Real Estate & Investment, Inc., and initiate a text amendment to the Development Code to include Light Equipment Sales/Rental, which includes car rental agencies, as permitted in the CN2 zoning district and to clarify that this use includes an

accessory wash bay and storage of vehicles onsite in the CN2 zoning district. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the City Manager to execute a three-year lease with Riverfront LLC for utilization of space for city offices at the Riverfront Plaza. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Amyx, seconded by Chestnut**, to authorize the Mayor to sign Releases of Mortgage for: Bert Nash Community Health Center, 1334 New Jersey; Community Living Opportunities, 1311 East 21st Street; and Women's Transitional Care Services. Motion carried unanimously. (17)

Commissioner Amyx pulled from the consent agenda, Ordinance No. 8274, regarding sidewalk dining for a separate vote.

It was then moved by Chestnut, seconded by Highberger, to adopt on second and final reading, Ordinance 8274, amending the requirements for obtaining a Sidewalk Dining and Hospitality License, and approve related administrative compliance and enforcement procedures. Aye: Dever, Chestnut, and Highberger. Nay: Amyx. Motion carried. (18)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said staff from the Planning and Development Services Department staffed the Chapman, Kansas building inspection operation and assisted with recovery after a tornado struck in June 2008.

Other items in the City Manager's Report included: Traffic Division completed a striping project at 9th and Iowa; Lawrence Transit won an award for their outstanding communications efforts; a recent CDBG loan that helped rehab a home created excitement for a homeowner; and Parks and Recreation activity was underway (bike path maintenance; renovation of playground surfacing at Hand Park Playground, and, road resurfacing at Memorial Park Cemetery).

(19)

REGULAR AGENDA ITEMS:

Consider approval of the following Memorandums of Understanding for 2009:

- a) **Consider approval of Memorandum of Understanding with the International Association of Fire Fighters (IAFF) Local 1596 for Calendar Year 2009.**
- b) **Consider approval of Memorandum of Understanding with the Lawrence Police Officers Association (LPOA) for Calendar Year 2009.**

Diane Stoddard, Assistant City Manager, presented the staff report. She said this item was in consideration of the agreement for the calendar year 2009 with the Lawrence Police Officers Association (LPOA) and the International Association of Fire Fighters Local 1596 (IAFF). The agreements had been ratified by employee groups and staff was pleased to provide joint recommendations for approval of those agreements. Staff recommended the City Commission authorize the Mayor to sign both agreements.

Commissioner Amyx said one of the key points was the longevity payment and taking into account the City's financial situation. He said he understood the issue of longevity pay would be discussed at a November 2009 meeting to make a decision at that time.

Stoddard said correct. She said the agreements stressed the continuing discretionary nature of the longevity payment and at a City Commission meeting in November 2009 longevity would be discussed. She said there were a variety of options set forth in the language in the agreement and the City Commission could make a discretionary decision at that time. The agreement suggested the City Commission look at the City's financial situation and the revenues and expenditure status at that time.

Mike McMillen, International Association of Fire Fighters (IAFF) Local 1596, thanked their negotiating team for the firefighters because without that team his job of helping to facilitate those negotiations would have not been possible. He also thanked City staff and stated it was a long road to present an MOU jointly. He said when moving forward, they looked forward to working with City staff and updating the resolution to get it more in line with the City budget to do things more efficiently and effectively; talking to City staff about members of their

departments that were not covered by MOU; discussing the evaluation system which would help strengthen the pay for performance plan that was already in place to make those plans better; and lastly, the meeting in November to discuss longevity because it was a vital component of their pay plan.

He said they understood the City had financial obligations and they wanted to recognize that issue, but they also understood that in their profession, as first responders, tenure mattered and when they responded to a call, experience counted in which they relied on that experience for newer and older members to help mitigate those situations.

Mike McAtee, Lawrence Police Officers Association (LPOA) thanked the LPOA Board that helped throughout the negotiations as well as other City staff members. He said he was also looking forward to discussions about longevity in 2009. Their members believed that longevity was a vital part of their pay plan, but knew the City had a number of obligations and their staff was willing to work with the City Commission and City staff to enhance the issue of longevity. The biggest hurdle the LPOA were able to overcome was the current Pay for Performance Plan for the LPOA. He said they looked forward to working with City staff to make that plan better so their members could be compensated at a fair rate for the service provided to the citizens, but also that the citizens know they had the best police officers responding to citizen calls in providing the most important services this City received.

Mayor Dever commended McMillen and McAtee for their professional nature in which they handled this process and taking the time to meet with him and his fellow Commissioners which was necessary to educate them on what the LPOA and IAFF needed. It was tough talking about receiving less compensation, but he was proud of the LPOA and IAFF for serving this community. He said he looked forward to the conversations in November.

Commissioner Highberger echoed what the Mayor stated and wished the City Commission could have done better for both groups. He said he hoped whoever was sitting on the City Commission in 2009 would have the resources to pay all of the longevity.

Commissioner Amyx said the top priority was the City's emergency responders and people in public safety. He said he wanted to thank the LPOA and IAFF for recognizing the dilemma this City was in, but it would not be like this forever. He also thanked staff for putting together a good agreement for 2009.

Mayor Dever called for public comment.

After receiving no public comment, **it was moved by Chestnut, seconded by Highberger**, to authorize the Mayor to sign the Memorandums of Understanding with the International Association of Fire Fighters (IAFF) and the Lawrence Police Officers Association (LPOA) for Calendar Year 2009. Motion carried unanimously. **(20)**

Receive Performance Audit on Financial Indicators from the City Auditor

Michael Eglinski, City Auditor, presented the performance audit on financial indicators. He said the intent of this audit was to take an overall view of the City's financial condition, and identify any potential audit topics for the future. He said he took the City's audit financial statements from the last five years, compiled some financial indicator ratios and evaluated those ratios by looking at the trends over five years and comparing those trends to the median of ten similar cities, but for the medians, he used one year, rather than five years. The measures included were based on some work done by a group of authors who were at the Government Accounting Standards Board (GASB) which was an organization that looked at government accounting.

He said one of the tables in his performance audit showed unrestricted net assets which were basically resources the City had to meet immediate service provision and future service provision needs. He said in looking at the graph, it was not a good sign, but it leveled out and was above the median. He said it was not a warning, but if it continued in the wrong direction, it would be a problem.

In the new government accounting model, government was accounting for all of the capital assets which was reasonably new and was a little more like what the private sector

practiced and it made some of those ratios a little more meaningful than information ten years ago.

Also, the audit showed the level of long-term liabilities. For the most part, long-term liabilities would be debt and the trend was going up which was a little bit of a concern and the level was above the median which was also a concern. It was hard to interpret the appropriate level of long-term liability because it was very specific to the situation of the specific government. Based on that long-term liability, he recommended staff provide the City Commission additional information about the levels of debt to help the Commission monitor debt and make good decisions.

Another graph showed the revenue per capita and adjusted for inflation which was basically the type of budget issue the City dealt with all the time and was more short term than the other graphics. He said the revenue was slightly declining in a couple of the years and overall the revenue had gone down and there was a significant drop in the last year which the City was struggling with for quite a while.

On the expenditure side, there was quite a big drop in 2007 which was reflecting the steps staff and the City Commission took to address that tight budget situation, but he could not reach a conclusion, but it was better than not taking that step. The only thing that could be said was it was a warning sign with that drop and the analysis did not include information on service levels. Directly, at some level, if services kept decreasing, the City would begin to have problems meeting the needs of the community. He used that information to suggest in the next audit plan, staff and the City Commission think of ways to look at service levels. A couple of the projects this year would be in to look at that which was street light and street pavement audits were starting to look at the service levels.

Commissioner Highberger asked if medians were looked at.

Eglinski said he did not look at medians because medians were trickier, but those audits told the picture pretty well.

He said two recommendations in his audit were to provide staff and the City Commission with more information on monitoring debt in which the City Manager agreed with that recommendation. In the City Manger's response, it included some of that information.

The other recommendation was to document the method and calculations for some of the transfers from the business type activities which were things like water, sewer, and sanitation into the governmental side. Those methods and calculations should be documented to provide more transparency and make it easier to follow.

He said this was his first significant large audit project for the City and he had very good cooperation from the City Manager's Office, Finance, and Utilities Department, which made his job easy.

Mayor Dever said the business type activities, net revenue, declined between 2006 and 2007.

Eglinski said yes.

Vice Mayor Chestnut said that was a result of the transfers.

Eglinski said he also thought water and sewer did not receive much revenue.

David Corliss, City Manager, said it was a combination of that expenditure on the transfers and also revenue. He said they had talked about the fact the City's Utility Department revenue was not growing like it had in the past based on population growth.

Commissioner Amyx said regarding governmental activities in the audit report and the long term liabilities ratio, along with the recommendations about information the City needed from staff to make decisions, when an expenditure came along in which the City would need to borrow money, he asked if the question they needed to ask dealt with what effect it had on their future budget and what was the liability going to be on an annual basis to pay back what the City borrowed.

Eglinski said yes.

Commissioner Amyx said asked if that was the type of in depth information the City needed in making decisions and if the Commission would make a decision based totally on looking at that revenue to pay that money back.

Eglinski said yes.

Commissioner Amyx said most of that information was received from comments between the City Commission and City Manager's Office. He asked if Eglinski's recommendation was to go even further in documenting that information.

Eglinski said he recommended making sure when the Commission was thinking about debt when issuing debt and taking on a long-term liability. He said the measures in the audit were to look at the entire set of long-term liabilities had and look how a particular project would affect that entire set. He said within the City's debt policy, there was a set of those measures called debt guidelines and that was the type of information he wanted the City Commission to see regularly.

Corliss said when Bond Counsel asked staff to have the City Commission adopt resolutions on the City's debt, staff included the City's current debt measures. Staff needed to continue to look at Eglinski's report to see if there were other measurements to advise the City Commission when staff asked the Commission to proceed with debt. The measurement staff traditionally looked at was if the existing mill levy would be enough to pay for roughly a level stream of debt over time. He said Eglinski's report was pointing out that if looking at the full fiscal health of the community, the Commission also needed to look at that long-term liability and also the assets that were created and the trends was part of that analysis, but had not been part of the City's analysis which was a helpful point to include. He said for example, the issue of delinquent special assessments. He said in the most recent debt issuance the City would be receiving in September, the notes were heavily weighted toward special assessments. He said on the notes the Commission would be asked to approve in September, 18% was at-large debt and the rest was special assessment debt. He said that meant the taxpayers were not being

asked to pay for roughly 80% of that note debt. He said staff needed to monitor those special assessments, continuously, to make sure those delinquencies were looked at. He said the report was helpful in a number of ways, but the report raised questions that staff wanted to continue to find good answers.

Commissioner Amyx said the Commission made a decision to proceed with the Carnegie Library Building and one thing missing from that decision was that they approved the project in principle, but the discussion of funding was missing. During those times of discussions, the Commission should look at the financial impact on the City's future year budgets and whether the current mill levy could pay for that project. He said the Commission would be asked to deal with that financial question in the future. That type of information was needed for those large projects the City would be borrowing money on.

Commissioner Highberger said in Figure 9 of the Audit Report, it showed where the City's long-term liabilities was relative to the value of the City's assets which was above the median and asked if it was fair to interpret that part of that was because the City had not been spending enough on maintenance of the City's assets or was it an irrelevant factor.

Eglinski said not spending enough money on maintenance could be a factor. He said he looked briefly at depreciation and it was pretty significant in any given year. The most recent year was 7 million. If the City did not do anything, the asset number would go down by 7 million.

Vice Mayor Chestnut said it would be a good follow up to see those peer communities. At that ratio, there were so much debt and assets and was not necessarily that the debt level was super high. He said what that debt was being used against was not tangible assets. It would be helpful if there were broad categories of assets such as buildings and streets, but he did not know how those were capitalized. It could be the City was issuing debt against a lot of assets that were depreciating rapidly. He said the City knew they were doing some General Obligation funding on street maintenance which meant they were financing stuff that was probably not being recognized as an asset which worked toward that ratio.

He said the City clearly had to look at the guidelines and set the guidelines based on some benchmarking. Right now, outstanding GO Bonds and Temp Notes, 60% was the debt limit and it might not need to be the guideline, but something less.

Ed Mullins, Finance Director, said the debt limit was 75%.

Vice Mayor Chestnut said 60% was probably well outside the means of putting that data together and saying was that the right number. He said in the allocations there was a big change in 2007 which was coming from the CAFR (Comprehensive Annual Financial Report) numbers in trying to reconcile those numbers with the budget. He said they needed to understand that from 2006 to 2007 where those changes came from and to provide the transparency that was discussed. He said it was time to look at a more global perspective since many of those allocations had been established over a long period of time making sure those allocations made sense. He said this audit was a great benchmarking exercise that he would even suggest replicating on an annual basis.

Mayor Dever called for public comment.

Dolores Tolars, Lawrence, said at one time, she did the books for a family hardware store. She said she had glanced at the 2009 proposed budget which was very complex. She said she went through the 2007 Financial Report and was inspired to check on that information because the fact the City did not seem to have enough money for the bus system or pay for a fire ladder truck, but the City seemed to have money for tennis courts and other things that did not appear to be high priority. She said she asked the City Auditor to provide a copy of his report. She said she understood there was a difference between performance auditing and financial auditing, but nevertheless, considering the City had never had an auditor, she looked at the debt in 2007 Financial Report and did not see any numbers. She said she realized it was performance, but since the City had never had an Audit Report, she said it would be helpful to know how much long-term debt the City had. She said she was shocked that a person called an auditor could give a report and presentation and not mention any numbers.

She said her analysis of the 2007 Financial Report, read that at the end of 2007 the City owed about \$130,000,000 in long term debt, plus \$42,000,000 to the State of Kansas revolving loan fund which was \$172,000,000 long-term debt. On top of that, at the end of 2007, the School District owed \$81,000,000 in long-term debt. As everyone knew a City was not a profit making operation. She said the City paid over \$2,000,000 in interest last year. She said she did not see how the City would ever pay that money off. She said the City needed a debt clock in City Hall and every time the City discussed borrowing millions of dollars for big ideas, look at the debt clock and realize how much debt the City had. If the City of Lawrence could not make their payments at any time, things would get worse and the City's credit rating would go down.

Vice Mayor Chestnut asked about the City's bond rating.

Ed Mullins, Finance Director, said on the General Obligation Debt it was AA2 which the highest was AAA, then AA1, and AA2, so the City was a couple notches below the highest rating Moody gave.

He said 1997 the City's debt rating had been AA2 on the General Obligation side. On the Water and Sewer side, the City had an upgrade, 3 or 4 years ago, from a single A3 to AA2 which was at the same rate as the GO debt. Moody's was an independent source that evaluated the City's debt with the idea of how strong Moody's felt the City had the capability of repaying that debt. He said if looking at the global rating which Congress was starting to dictate, they would like to put that rating on Moody's and the City would probably go to AAA because if looking at this City's debt compared to most private sector debt that was rated AAA, the City's credit rating standard as going to be above that. The public sector had been probably been given a disservice by rating agencies in terms of the way a cities debt was evaluated.

He said in the last 10 years, the City had increased the debt levy by about .03 of a mil and in the last 6 years that debt levy had also decreased by .10 of a mil. He said when looking at that debt levy information, the two most important measures were the City's bond rating, because that rating was done independently and secondly the levy paid for debt service. It had

been relatively constant and since 2002, it actually decreased. Looking at the future, if the assumptions held, which was a 2% increase in assessed valuation and 5 million dollars in at-large debt per year, the City could continue that for the next 10 years. He said when he looked at 2014 the City would have balanced budget under that scenario within that service fund and a little over 2 million dollar fund balance. He said he did not think the City's debt was a big concern providing the City stayed within the guidelines. He said the best way to stay within the guidelines was to adopt a multi-year Capital Improvement Program. He said when those projects came up the City Commission could decide how those projects fit in and if there was something of lower priority that could be moved out. In order to continue with a AA2 rating and a relatively constant mill levy rate, if the City Commission chose to move ahead, and if exceeding those parameters then they needed to find something to provide that additional income. The City also had a lot of sources that paid governmental debt, too.

He said net assets were a fairly new thing that appeared in governmental funds. Up until about 5 years ago, the City did not have those net assets or value their infrastructure. He said when cities put those infrastructures on books, a number of methodologies and guesstimates were used. Historical cost was what it was based upon. A lot of those assets, like streets, were around for 50 years. It also depended upon when those assets were put in place. Newer cities with a lot of infrastructure built within the last 10 – 15 years were going to have a lot higher asset value than an older city. In Kansas it was relatively easy to issue debt and in Missouri, if wanting to issue debt, it would need to be taken to the voters. As a result, there were a number of work outs and lease purchases and other things to get away from that voter requirement. He said when looking at the level of debt compared to other cities, state statutes had to be reviewed to see what those statutes allowed in terms of debt. The big factor for the City was the rating, debt levy, and how they saw debt levy in the future and both of those had been relatively constant in the last decade.

Commissioner Amyx said when looking at stagnate property values it was important to adopt a multi-year Capital Improvement Plan now.

Mullins said that multi-year CIP would allow the City Commission options to list out the projects which would give the Commission the option to cut those projects back and what the result would be. It was important, under any occasion, to look at it long term and set up a strategic plan on how to address infrastructure needs.

Commissioner Highberger asked if the financial statements were audited every year.

Mullins said yes. The difference was that it was an independent audit as opposed to an internal audit.

Corliss said the performance audit was new and the City had an annual audit that was done by an independent auditing firm every year which was on the City's website and had the amount of debt, what was being retired, and what the revenues were. It was what Eglinski had used along with the Comprehensive Annual Financial Report. He said Eglinski had used all the CAFR's from all the other jurisdictions as well to prepare his report.

Commissioner Amyx said other than the City's website, were hard copies of the audit available at the library.

Corliss said staff could make those audits available at the library.

The Commission received the report.

(21)

PUBLIC COMMENT

Chris Armstrong, promoter for the Music of the Masses concert, said his concert was run by local bands and businesses. In May or June of each year he handed out letters to businesses giving those businesses advertising incentives. He said he wanted to keep his concerts locally funded and locally run.

He said this year he was moving the concert from Burcham Park to South Park. It had been at Burcham Park for three years in a row. He said he could have spent hundreds of dollars, if not thousands, fencing the area off, security, vendor passes, and permits, but he was

not doing it for money or a business venture or to anyone for that manner. This year, it was an open and free event.

He said he had a recent disturbance with City management. He said the people he had to talk with and organize with were simply doing their jobs. His interactions in general with those members had called into his trust of City operational procedure. He said his initial proposal to the City Manager was to have a temporary five day billboard erected on the west side of Massachusetts Street near South Park with no more than the name of the event, location and time, cost and date. The most obvious issue initially was that it was going to be on City property. He understood of having private enterprise on City grounds.

He said he was told that the sign would interfere with the general use of the park. When said he was not clear on what was meant by interfering with the general use of the park, the short answer was there was no obvious reason other than a code violation of the sign being on city property.

He said he wanted to set precedence with the Ironman convention earlier in the summer which had an extremely large banner on the parking garage with extremely large events in years past. He thought if he could not do it on City property he could at least get it on the building next to the park. That idea was discussed as an alternative, but he did his investigation with Barry Walthall, Code Enforcement Manager, and he essentially told him he could not have offsite advertising. He did not know what he ran into and did not know if it was the game of the boy with the bigger stick with half enforced rules and standards, but hoped it was rather a game of reason and logic and there was precedence and could get what he was trying to get done through the City Commission. Even though the event was free and in the City Park, it was not deemed an event of community interest, which was a significant hindrance in getting this event approved in the first place.

He asked the City Commission to give him some level of feasibility, reason or compromise on what he could do to get this information out to the public in an effective manner,

preferably with a temporary sign. He said he was not asking the City Commission to break the law, but for priorities and standards for this event to be promoted.

David Corliss, City Manager, said Jonathan Douglass, Assistant to the City Manager, and John Miller, Staff Attorney, worked on that issue and forwarded to the City Commission, correspondence on file from Mr. Armstrong regarding this matter. The letter sent to Mr. Armstrong dated August 12th outlined the City's interpretation of the code. They were trying to facilitate his use of the park, but had a concern about the location of the signage and duration of how long the sign was up. In some cases where signage had been allowed for a longer purpose was because it was part of a special use permit or special event permit. That was the example of the Ironman event, which was a City sponsored event and was City property. They allowed that use and the distinction they were drawing was that people were going to be using South Park and Mr. Armstrong was asking that the sign be up for longer than the day of the event. Staff, as a precedent, stated that was not allowed in South Park because there were other events going on there, such as weddings. Staff was trying to help and not run up any unnecessary regulations other than the regulations the City Commission previously adopted and wanted staff to enforce.

Mayor Dever asked Armstrong if he had a sign when it was in Burcham Park.

Armstrong said he had a sign for two years that was on someone's lot and did not get a sign permit for it because he did not know he needed one. The point was as far as other events ongoing in the park, Tim Laurent, Facilities Operations Supervisor of Parks and Recreation, checked the permit system and this event was the only event requested for five days prior. He understood if the City did not want it to be on public property, but being on private property, which he contacted the owner of the building and they have approved that, he did not understand where the restriction was at that location. He said he understood why he was being restricted because technically the event was not at the Camelot Ballroom, but about five feet left of that building. He did not want to fight staff about the issue, but felt it was disenfranchisement

because of events that have taken place in the past, let alone on City property. He said the Ironman sign was enormous and the proposed size for his sign was 4x16 or 4x20 and location was negotiable. He was not able to go anywhere with it past the initial draft.

Commissioner Amyx said the individual who owned that private property could make an application for a temporary sign on his building.

Armstrong said correct.

Corliss said the property owner had the ability to get a temporary sign that would advertise his business.

Commissioner Amyx said he did not ever remember seeing a sign in the park for a period of five days or any length of time. He said the use of South Park was a little different in the way it was donated to the City.

Corliss said because of South Park's unique nature, the City guarded that park a little bit differently than other city parks.

Commissioner Amyx said when he was a member of the County Commission they discussed the expansion of parking on the north end of that lot and it seemed impossible because of the way that park was accepted by the city. He said he would suggest having the property owner make application for a temporary sign on that building and have it go through the normal process.

Corliss said the difficulty with that idea was the City did not allow advertising on one business for an off site sign for another business. He said he did not know if that would help much because Armstrong was not conducting his business at that location. The City traditionally had not allowed that type of advertising in South Park, ahead of an event, particularly when it was not a City sponsored event. He said the City did watch South Park a little bit differently.

Commissioner Amyx said he would suggest placing this item on a future agenda prior to the event to allow for public comment, but he would not be too friendly about the idea of putting up a sign because that was not the use of that park.

Armstrong said it was almost a semantics issue because the City did not regulate signage within a business. The front of the building was all windows and he could put a sign inside the building, but he was not trying to be a sore thumb. It was more practical to put it on the outside. There was a member of City staff that stated he should just put the sign up and everyone would have assumed it was approved, but he was not going to do that because he had rapport with Parks and Recreation for having this concert and thought he would do it the right way considering the amount of money, time, and community involvement in the project.

Mayor Dever said the City appreciated Armstrong's hard work on this event and suggested placing the event on a Commission agenda and invite people who were affected by this event and put it up to a vote. He asked if putting up the sign needed some sort of variance.

Corliss said he did not know if it could go to the Sign Code Board of Appeals or not, but thought the City had an out right prohibition on off-site signage.

Armstrong said he wanted to mention that initially he asked the City Manager's Office to put this issue on the consent agenda and it was rejected twice.

Mayor Dever said if they placed it on the consent agenda, the City Commission would not talk about it or draw public comment unless it was removed, so it would have to be a separate item on the regular agenda. The consent agenda dealt with issues that did not need discussion.

Corliss said staff could place the issue on the regular agenda next week.

Armstrong asked about the process for submitting his request for the regular agenda next Tuesday.

Corliss said if the City Commission advised him to place it on the agenda and if it was the Commission's desire, staff could place it on the agenda next week.

Vice Mayor Chestnut said it was appropriate to try to figure out if it was going to be a sign in South Park or an exception to the signage.

Armstrong said he understood the clash of public/private sector, and understood if they did not want to negotiate on that. He said it was the lesser of two evils if the City Commission wanted it on park property or private property. He asked what the City Commission's recommendation would be.

Commissioner Highberger said he was not sure what the agenda item would be. Both were a clear violation of the current code and there was no variation procedure, the only way they could do it would be to change the code.

Commissioner Amyx asked if it could be considered similar to the library book sale signage.

Corliss said if it was a City sponsored event it would be a sign of community interest and put it there. He said he had questions about the size of it. He was not sure if it met the requirements of signs of community interest because usually they were directional signs directing people to a location.

Armstrong said that was what he was trying to do. It was purely informational and it was literally name, date, and location type of sign.

Commissioner Highberger said he did not necessarily have any objection, he did not understand how to address the issue at this point.

Mayor Dever asked if there was a rule that specifically stated no signs allowed in South Park.

Corliss said they had a strong practice not to advertise non City events in South Park.

Commissioner Amyx asked if the City Commission had the authority to permit signage in South Park.

Corliss said if there was a "sign of community interest" that this was the location of a certain event in the future, the Commission could direct staff to do that. Staff would like

clarification if there were other users of South Park, did the City Commission want those users to have the same privilege for certain duration, or did the Commission want to vote on each user. There were other “signs of community interest” that came before the City Commission and the Commission could decide which ones they wanted and which they did not.

Mayor Dever said he would be happy to put the issue on the agenda and there would be five Commissioners present to make a decision if they had that opportunity based on the information provided.

Armstrong asked if there was anything he needed to do.

Corliss said staff would place the issue on the City Commission’s regular agenda next Tuesday and Armstrong should be present. Staff had Armstrong’s letter from last month and if there was anything else besides the letter and proposed sign to get that information to staff. Staff also had the letter stating to Armstrong the City’s practice regarding South Park. Signs of community interest were a challenging part of the sign code, but they would take a look at that.

Armstrong said for clarification, the proposal that stood was a sign in South Park.

Mayor Dever said correct.

Corliss said he would discourage the City Commission from moving down the lines of Commission granted variances on off-site signage because that was down the road to billboards and a lot of things in the City’s sign code.

FUTURE AGENDA ITEMS:

- 9/02/08
 - Adopt on second and final reading, Ordinance No. 8293, rezoning (Z-04-08-08) approximately 155 acres located on the northwest corner of NO. 1800 Road and E. 900 Road; I-70/K-10 Business Park, from A to IG. ***Because valid protest petitions have been received, a super-majority vote (4 votes) would be needed.***
 - Receive staff memo regarding green burials.
- 09/09/08
 - Oread Inn distance restriction waiver public hearing.
- 09/16/08
 - Receive presentation of results of Recycling Survey.
 - Public hearing on establishing water and sewer improvements for Bauer

Brook Estates.

10/28/08

- Employee Service Awards.

TBD

- Consider a request for a marked crosswalk together with pedestrian refuge islands on Louisiana Street adjacent to Dakota Street (Considered by the City Commission and referred back to the Traffic Safety Commission on 05/06/08).
- Consider city laws regarding the keeping of live fowl and domesticated hedgehogs in the city limits.
- ***This item deferred from June 10, 2008.*** Consider approving CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, Ordinance No. 8283, for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (PC Item 11; approved 7-2 on 5/21/08)

ACTION: Approve CPA-2004-02, amending Horizon 2020, Chapter 7, and adopt on first reading ordinance 8283, if appropriate.

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

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

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

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

- c) Consider adopting Text Amendment TA-11-24-07 regarding the Lawrence SmartCode and, Pursuant to the provisions of K.S.A. Chapter 12, Article 7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The “Lawrence SmartCode” is an optional development code that is parallel to the City’s existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas. Copies of the “Lawrence SmartCode” are available for review at the Office of the Lawrence-Douglas County

Planning Department, City Hall, 6 E. 6th Street, Lawrence, Kansas. The "Lawrence SmartCode" is also available at www.lawrenceplanning.org. Adopt Ordinance No. 8286 on first reading regarding TA-11-24-07 for the Lawrence SmartCode. (PC Item 15; approved 8-0 on 5/21/08)

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

- K-10 and Farmer's Turnpike Plan.
- Consider approving Text Amendment, TA-03-01-08, to amend Article 4 of the Development Code relating to uses permitted in the GPI District. Initiated by Planning Commission on 3/24/08. (PC Item 4; approved 8-0 on 6/23/08)

ACTION: Approve TA-03-01-08, if appropriate.

- Draft Rural Water District #5 contract – awaiting finalization with RWD and City.
- Consider approval of Text Amendment TA-12-27-07, to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands. Adopt on first reading, Ordinance No. 8304, an ordinance providing for the amendments to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands. (PC Item 18; approved 7-1-1 on 7/23/08) **Please note: This item will be reheard by the Planning Commission to consider additional language to make other articles consistent with the proposed text.**

ACTION: Approve TA-12-27-07 to Section 20-1101 and 20-1701, Lawrence City Land Development Code, relating to environmentally sensitive lands, and adopt on first reading Ordinance No. 8304, if appropriate.

- **Consent Agenda Item:** Approve Text Amendment TA-06-10-08, to Section 20-806(d)(1), Subdivision Regulations, to clarify the number of RDPs that may be created based on the classification of the bounding roads. Initiated by County Commission June 23, 2008. (PC Item 16A; approved 9-0 on 7/23/08)
- **Consent Agenda Item:** Approve Text Amendment TA-12-26-07, to Section 20-806(b)(3) and 20-806(d), County Zoning Regulations, to clarify that a parent parcel may be divided to create 1 residential development parcel, and is not required to create 2 or 3. Initiated by the Planning Commission November, 26 2007. (PC Item 16B; approved 9-0 on 7/23/08)
- **Consent Agenda Item:** Approve Text Amendment TA-06-11-08, to Section 20-804, 805 and 806 to include requirement that RDPs must comply with the lot requirements in Article 18, County Zoning Regulations. Initiated by County Commission June 23, 2008. (PC Item 17; approved 9-0 on 7/23/08)

- **Consent Agenda Item:** Approve Text Amendment TA-05-09-08, to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations) that require the submittal of a certificate that all taxes or special assessments due and payable for properties included in Certificates of Survey or Minor Subdivision requests have been paid. Initiated by County Commission April 14, 2008. (PC Item 6; approved 9-0 on 7/21/08)
- **Consent Agenda Item:** Approve Text Amendment TA-05-08-08, to Chapter 20, Article 8 of Lawrence City Code and Chapter XI of Douglas County Code (Subdivision Regulations) that define “Easement, Cross Access”, clarify the process for creating such easements, and provide minimum construction standards for access drives within such easements. Initiated by County Commission April 14, 2008. (PC Item 5; approved 9-0 on 7/21/08)
- Consider the approval of Text Amendment TA-04-03-08, to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. Initiated by City Commission April 29, 2008. Adopt on first reading, Ordinance No. 8300, an ordinance providing for the amendments to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities in certain zoning districts with use standards. (PC Item 4; approved 7-2 on 7/21/08)
- Consider authorization of City contribution toward site work for the 87 acre tract adjacent to the East Hills Business Park.

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

APPROVED:

Michael Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF AUGUST 26, 2008

1. Bid – Major Control Ctr Preventive Maintenance Program to P1 Group for \$16,671.
2. Contract Agreement – Cured-in-Place-Pipe project to I-CON for \$884,218.
3. Bid – Backhoe for Parks & Rec to Sellers for \$53,403.
4. Bid – Electrical upgrade to Central Maintenance to Quality Electric for \$71,500.
5. Purchase – Off duty/back-up firearms for P.D. to OMB's Express Police Supply for \$16,724.40.
6. Contract – 2009 Biosolids Land Application to Nutri-Ject Systems.
7. Ordinance No. 8314 – 1st Read, 2008 Standard Traffic Ordinances.
8. Ordinance No. 8274 – 2nd Read, Amend Sidewalk Dining & Hospitality License.
9. Ordinance No. 8307 – 2nd Read, Water & Sewer disposal rates 2009.
10. Ordinance No. 8308 – 2nd Read, System Development Charges-Water & Wastewater 2009.
11. Ordinance No. 8284 – 2nd Read, Solid Waste Rates 2009.
12. Resolution No. 6770 – Public Hearing Date Sept 16, for Bauer Farm Estates, sanitary sewer.
13. Resolution No. 6771 - Public Hearing Date Sept 16, for Bauer Farm Estates, for water improvements.
14. Resolution No. 6793 – Condemn Lot 1, Blk 4, Overland Add.
15. Resolution No. 6794 – Preserve America Community Program App.
16. Development Code – Include light equip sales/rental in CN2 zoning district.
17. City Lease – Riverfront LLC for 3 years.
18. Mortgage Release – Bert Nash, 1334 NJ, Community Living Opportunities & Women's Transitional Care Svcs.
19. City Manager's Report.
20. Memorandum of Understanding – IAFF & LPOA.
21. Audit on Financial Indicators, City Auditor