



# 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**  
MICHAEL H. DEVER  
  
**COMMISSIONERS**  
SUE HACK  
ROBERT CHESTNUT  
DENNIS "BOOG" HIGHBERGER  
MIKE AMYX

February 17, 2009

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, Hack, and Highberger present.

## **RECOGNITION/PROCLAMATION/PRESENTATION:**

With Commission approval, Mayor Dever proclaimed February 22, 2009, as the WBCA Pink Zone Initiative.

## **CONSENT AGENDA**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve the City Commission meeting minutes of February 3, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to receive the Public Transit Advisory Committee meeting minutes of November 11, 2008; and the Board of Electrical Appeals meeting minutes of January 7, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve claims to 349 vendors in the amount of \$1,448,701.91 and payroll from February 1, 2009 to February 14, 2009, in the amount of \$1,704,515.97. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve the Drinking Establishment Licenses for On the Border Mexican Grill, 3080 Iowa; and Willie's Bar, 2919 West 6<sup>th</sup>. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to concur with the recommendation of the Mayor and appoint Grant Fitch, to the Lawrence Cultural Arts Commission. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to waive the bidding requirements and approve the sole source purchase of 23 Dell Optiplex 755 desktop computers from Dell, through the State Contract No. N39913562, for a total of \$23,529. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to set a bid date of March 3, 2009 for City Bid No. B09014, Project No. PW0904, 2009 Crack Seal Program. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to concur with the Planning Commission recommendations to adopt the findings of fact and approve a Special Use Permit (SUP-12-10-08) to allow Light Equipment Repair for Car Toys (stereo installation) at the Mall's located at 711 West 23<sup>rd</sup> Street, subject to the following conditions:

1. Execution of a Site Plan Performance Agreement;
2. Provision of a revised site plan to include a note that all installation activities shall occur in the building; and
3. Publication of an ordinance per Section 10-1306(j).

Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt on first reading, Ordinance No. 8369, authorizing the Special Use Permit (SUP-12-10-089) to allow Light Equipment Repair for Toys (stereo installation) at the malls located at 711 West 23<sup>rd</sup> Street. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning (Z-11-18-08, of approximately 11,715 square feet located at 1245 Connecticut Street from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential Office), subject to the following condition:

1. Remove use category of Financial, Insurance & Real Estate; and,
2. Remove use category of Homeless or Transient Shelter.

Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt on first reading Ordinance No. 8370, the rezoning (Z-11-18-08) of approximately 11,715 square feet, from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential Office), property located at 1245 Connecticut Street. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning (Z-12-21-08, of approximately 37,500 square feet located at 1740 Massachusetts from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip). Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt on first reading Ordinance No. 8372, the rezoning (Z-12-21-08) of approximately 37,500 square feet, from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip), property located at 1740 Massachusetts Street. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve a sidewalk dining and hospitality license for The Noodle Shop Co. Kansas, LLC, doing business as Noodles & Company, 8 West 8<sup>th</sup> Street. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize Administrative Service/Human Resources Division staff to distribute a Request for Proposals for Employee Benefits Broker/Consulting Services. Motion carried unanimously. **(10)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to receive the 2008 fourth quarter report for Lawrence Freenet. Motion carried unanimously. **(11)**

Commissioner Amyx pulled from the consent agenda, for separate discussion, the bids for electrical, plumbing, HVAC, concrete, excavation, and carpentry work for the Parks and Recreation Department. He said those bids for building type work were incredible compared to bidding out single project because bids would be much higher. He said he had a question about the elimination of the positions in Parks and Recreation and asked about the money saved from those positions to cover those costs.

David Corliss, City Manager, said he did not know that there was a direct relationship between the five positions that were eliminated from the City's budget. He said those five positions responsibilities were distributed to the different maintenance districts as long as that staff was involved in maintenance work. All were related to maintenance work except one administrative position.

Commission Amyx asked if the City was saving money because of the positions that were not filled.

Corliss said those position were not being funded.

Mayor Dever asked about how much the City was saving by not filling those positions.

Corliss said the City was saving an average of \$40,000 for each of those positions which included benefits.

Commissioner Amyx said it would be interesting to see the flatwork sidewalk on the CDBG projects and comparing those bids to the Parks and Recreation bids.

Chuck Soules, Public Works Director, said he was not sure if they bid that by the square yard or linear foot, but the low bid was \$25.55. He said staff would make that comparison.

Vice Mayor Chestnut said in awarding the bids for Electrical, HVAC, and other work, he asked if at no time, the City was resourced internally to do some of that work, but not nearly all that work because he assumed some of the site work and excavation work would not be anything City staff could do such as excavation work.

Corliss said there were staffing abilities for some of that carpentry work, but that work was awarded to those bidders because of the highly skilled level and emergency time constraints on crews.

The City Commission reviewed the bids for electrical, plumbing and HVAC work for the Park & Recreation Department. The bids were:

#### Electrical

Bidder	Electrician	Apprentice	Electrician Overtime	Apprentice Overtime	% Mark Up on materials	Response Emergencies	Response Non-Emergencies
Randall Electric	\$60.00	\$30.00	\$90.00	\$45.00	20%	1 Hour	2 Days
Rand Construction	\$71.72	\$41.00	\$98.96	\$61.00	10%	4 Hours	24 Hours
McElroy's	\$65.00	\$43.00	\$88.00	\$58.00	20%	2 Hours	24 Hours
Mohl Electric	\$55.00	\$42.00	\$80.00	\$60.00	15%	Immediate	As Requested 1-5 days
P1 Group	\$59.19	\$39.59	\$82.22 OT/\$105.94 DT	\$53.75 OT/\$67.70 DT	15%	4 Hours	24 Hours

#### Plumbing

Bidder	Plumber	Apprentice	Plumber Overtime	Apprentice Overtime	% Mark Up on materials	Response Emergencies	Response Non-Emergencies
First Management	\$60.00	\$28.00	\$90.00	\$42.00	10% 0 - \$1,000 = 30%	30 Minutes	60 Minutes
P1 Group	\$66.50	\$56.50	\$90.00	\$80.00	\$1001 - up = 25%	1 Hour	Same Day or As Needed
Chaney	\$65.00	\$55.00	\$90.00	\$90.00	25%	30 Minutes	1-2 Days

## HVAC

% Mark Up on materials	Response Emergencies	Response Non-Emergencies					
Chaney	\$65.00	\$55.00	\$90.00	\$90.00	25%	30 Minutes	1-2 Days
McElroy's	\$65.00	\$43.00	\$88.00	\$58.00	20%	2 Hrs On-Site	24 Hrs. On-Site
Rand Construction	\$86.00	\$42.00	\$129.75	\$63.00	15%	1.5 Hrs	24 Hrs
P1 Group, Inc.	\$66.50	\$56.50	\$90.00	\$80.00	0 - \$1,000 = 30%	One Hour	Same Day or as needed
					\$1001 - up = 25%		

**Moved by Amyx, seconded by Chestnut,** to award the bid for electrical work to Randall Electric because Mohl Electric was a very small company with only one or two employees and would have a difficult time performing many of the Parks and Recreation's tasks; HVAC work to Chaney, Inc., because McElroy's never worked for the Parks and Recreation due to location and experience with equipment; and award the bid for plumbing to First Management Inc, all total not to exceed \$135,000. Motion carried unanimously. (12)

**Moved by Amyx, seconded by Chestnut,** to award the bid for concrete work for Parks and Recreation to Hick's Classic Concrete, not to exceed \$100,000. (Bid results can be found on the posted City Commission's agenda). Motion carried unanimously. (13)

**Moved by Amyx, seconded by Chestnut,** to award the bid for excavation work for Parks and Recreation to RD Johnson, not to exceed \$25,000. (Bid results can be found on the posted City Commission's agenda). Motion carried unanimously. (14)

**Moved by Amyx, seconded by Chestnut,** to award the bid for carpentry work for Parks and Recreation to BA Green, not to exceed \$25,000. (Bid results can be found on the posted City Commission's agenda). Motion carried unanimously. (15)

A member of the public pulled from the consent agenda for separate vote, the Planning Commission's recommendations to adopt the findings of fact and approve the rezoning (Z-11-

20-08, of approximately 140,090 square feet located at 2141 Maple Lane from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential Office).

Joe Rexwinkle, Planner said this item was a request for rezoning from RS7 to RMO on 21<sup>st</sup> Terrace between Harper and Haskell Avenues, a current preschool since approximately 1970. The applicant was requesting the rezoning to develop the south half of their property with an administrative office building for the Kansas Family and Children Foundation. The Planning Commission recommendation was unanimous in approving the rezoning as well as staff's recommendation for approval.

Commissioner Highberger asked about the surrounding existing zoning.

Rexwinkle said the zoning was RM12D to the east, which was a multi-dwelling and duplex zoning district, and a mixture of duplexes and single family houses in that area. To the north was RS7 and were predominantly single family houses on the north side of 21<sup>st</sup> Terrace and further north was a single family neighborhood. To the west was zoned RM12, which was the multi-dwelling zoning district and there were some apartments and duplexes in that area. To the south it was commercial strip.

Paul South, a resident in the neighborhood, said he had a little trouble grasping why putting an office building in a residential area was needed. He lived in the area and saw nothing but residences unless closer to 23<sup>rd</sup> Street. According to the site plan, the applicant was asking for 12,500 square feet and 50 parking spaces. He said talked to a number of property owners, in the area, and none of those property owners knew this rezoning was going to happen. He seemed to be the only one that knew, but could not find anyone who was interested or thought this was a good idea. It was an office building in a neighborhood, which was his main objection.

He said he talked to Betty Lichtwardt and was told if that area was rezoned, the traffic would increase. He said his home was in a quiet neighborhood on a dead end street. Now, if

opening up 22<sup>nd</sup> Street, there would be access to that office building by way of his neighborhood. The neighbors were feeling left out of the decision making process and did not know how this business would benefit the neighborhood because it was not a service people in the neighborhood would use. He said he wanted to go on the record to say this office building was a poor fit and wanted the City Commission to revisit it.

Scott McCullough, Development Services Director, said at the Planning Commission meeting and subsequently in conversations with South and David Woosley, the City's traffic engineer, one remedy for the traffic issues was to have the Traffic Safety Commission look at the parking issues along the main street. He said South was the only one who attended the Planning Commission meeting and made comment outside the applicant's presentation along with the League's letter that was also discussed. He said if the applicant's representative was present, he might want an opportunity to speak to South's comments.

Vice Mayor Chestnut asked if the existing day care was a non-conforming use now.

Rexwinkle said the existing day care was permitted by special use permit.

Dean Grob, Grob Engineering Services, said he wanted to summarize the process and knew there were questions about the office building. The proposed zoning was RM zoning, a transition between the CS zoning and commercial and heavy commercial that was on the north side of 23<sup>rd</sup> Street into the RS zoning to the north. He said the property owner was the Kansas Family and Children's Foundation, which provided social services. They had owned this property for quite some time and were presently renting property off of 24<sup>th</sup> and Alabama. He said the Children's Foundation said RMO, zoning filled their needs better in terms of what they were trying to do for the community. He said property owner complied with all regulations which did not trigger any larger traffic impact studies.



Several people mentioned a parking problem, but because of the RM duplexes in the area, on-street parking took place in certain areas of 21<sup>st</sup> Street, which were perceived as congestion problems, but was more parking related. The Planning Commission indicated that discussion needed to take place at the Traffic Safety Commission level about possible no parking on part of the block. He said the property owner was not trying to construct an office building that did not fit into the neighborhood. The owners wanted the ability to use property they already owned and get out of the "hard core commercial" because of the service they provided. He said they were requesting the City Commission to approve the rezoning.

Mayor Dever asked if the use of the office would be solely for the Sunshine Acres Preschool activities or strictly related to the Kansas Family and Children Foundation.

Grob said the Kansas Family and Children's Foundation owned the entire property. They owned Sunshine Acres and several Montessori schools throughout the state and in some ways were involved in child development services. It was strictly going to be the sole tenant for their use and there were no provisions for renting space or anything in that nature.

Mayor Dever asked if access to the site would be off of 21st Street Terrace and no additional access points were needed.

Grob said no additional access points were proposed. They looked at the Elmwood and 22<sup>nd</sup> dead ends, but a lot of the right-of-way was vacated so without purchasing offsite property they could not have any. The foundation was not looking to splitting the property.

Commissioner Amyx asked about the hours of operation for the new facility.

Grob said it was for the most part 8:00 a.m. to 5:00 p.m. and on occasion, evening hours because of parents and passing off a child from one parent to another. Some of those services were done in the evening and did not have any weekend hours. It was for the most part an 8 – 5 type of environment.

Commissioner Highberger said the Planning Commission minutes noted 300 invitations were sent out for a meeting. He asked if that was correct.

Grob said that was correct and those invitations were done by Dan Sabatini and his firm.

Commissioner Highberger asked for the coverage area of where those invitations were delivered.

Grob said they covered 200 foot area which was required by rezoning in September and no one attended the meeting and was sorry South did not get the notice, but those notices were sent out.

Dan Sabatini, Sabatini Architects, said basically a few notices were sent out adjacent to the south, but the majority went to the north, almost to 19<sup>th</sup> Street and Harper Street. He said to answer the question about the hours of operation the majority of the activities were during the day. There were a number of case workers that went out on calls and were out most of the day and some of the offices were honestly quite rarely used and the offices would be used mostly for the case workers to check in.

Mayor Dever called for public comment.

KT Walsh, Lawrence, said she was at the Planning Commission when this issue came up and served on the board for Accessible Residential Options. The board members did maintenance work on their property, which was two doors down from this property. They were aware of some pretty severe drainage issues in that neighborhood because of all the apartments.

The area was a difficult neighborhood to organize, even if mailing out notice of change of zoning. It was a very transient, modest neighborhood and hard group of people to get to meetings. It was a very narrow street, had traffic problems, and had a narrow entrance to the Montessori School. At the Planning Commission meeting, they were talking about quite a few

drop offs and people driving in and out. She asked the City Commission to pay attention to the neighbors' concerns and the traffic. She said in this climate, every foundation was looking at splitting their land and sell it because every foundation was hurting. They had to think about the future of the land closer to 22<sup>nd</sup> Street might be split off at some point.

Mayor Dever said it appeared the drainage issue in the site plan was addressed and from what the report indicated, the project would not generate additional traffic.

Commissioner Hack said from a procedural standpoint she had a hard time overturning a Planning Commission unanimous vote. She said she was not convinced if the problems were traffic and drainage; the problems of drainage had been addressed and did not anticipate the traffic would be a significant problem. Every decision that was made and every site plan approved, there was always the possibility of splitting and selling off property. She did not think the City Commission could make decisions based on what the future might hold and was not the Commission's authority or responsibility to make those types of future decisions. She said she was inclined to support the Planning Commission recommendation.

Commissioner Amyx said he was looking at this issue from a standpoint of the surrounding zoning and land use based on the recommendation of the planning staff and ultimately the Planning Commission. There was RM12 zoning to RM12D to the east and to the west along with a commercial strip to the south with a mini warehouse and bus storage and RS-7, to the north. There was a natural progression of lesser use when going back into the neighborhood. He was concerned because the City Commission looked at a piece of property for redevelopment a couple of weeks ago and did not know if it was a similar situation, but when he looked at 22<sup>nd</sup> Street to the west, he asked if it was similar to the property of the northwest with the duplexes and single family where they had the emergency exit onto Monterey Way. He asked if there was a chance this street would need to pass through.

Rexwinkle said he knew the right-of-way did not continue across, but once did, as did Maple Lane, but was vacated some time in the past. With various City departments reviewing the request, there was no comment made about extending the right-of-way so he could not speak if other departments would ask for the extension of right-of-way and assumed they would have brought it up at this point. He did not believe there was any expressed need on behalf of the City to extend that right-of-way. It would require the dedication of right-of-way and not just the extension of the road.

Commissioner Amyx asked if a secondary emergency entrance was needed at the back of that property.

Rexwinkle said no.

Mayor Dever said what it would take for the landowner to access 22<sup>nd</sup> Street.

Rexwinkle said where the building was shown, they would have to move it northward and dedicate the right-of-way. The road was centered such that the two properties to the south would have to dedicate right-of-way to keep the street on a straight alignment to go westward. It would have to involve more than just this property owner.

Mayor Dever asked if they could gain access without a full right-of-way.

Rexwinkle said he did not believe they could. It had happened before for fire access, but it was probably a question better answered by Public Works.

Commissioner Highberger said it would more likely be a need for 22<sup>nd</sup> Street to be connected if the lot were to develop as RS-7 because otherwise it would be hard to develop as residential.

He said he did not review this issue thoroughly because this item was on the consent agenda. He said he understood South's concern and looking at the zoning map, it was a long finger of RS7 sticking between RM12 and commercial. It seemed that RMO provided a

reasonable transition at that location. The use did not sound very intense and did not see it having a serious, negative impact on the neighborhood. He would be inclined to support the Planning Commission recommendation, although part of him was inclined to say they should defer this and put it on the regular agenda for next week.

Vice Mayor Chestnut said while Commissioner Highberger had a good point on RS7, if it were to develop with the current zoning the second access was more likely and East 22<sup>nd</sup> Street would have to have some dedication of right-of-way. Because there were other property owners involved, it was improbable. He shared some of the same concern as far as notice. One thing that was true that was because this was a lot of multi-family, the notifications went to the property owners and not necessarily the residents, which was probably the reason no one received the notification. He did not want to reverse something the Planning Commission had put on, but thought that there was a process issue. It was not anything they did not do, but everyone around it did not know about it because they were not the property owners. He said that was something they should look at when looking at the intense use type of situations and how they would notify people who were present on an ongoing basis.

Commissioner Amyx said he assumed the site plan would be administratively approved and this was the last time the public could speak to this issue to the City Commission.

McCullough said correct.

Commissioner Hack asked if a site plan approval could be appealed.

McCullough said yes. He said he was not sure staff had talked to anyone about the site plan, short of South.

Rexwinkle said besides South, he spoke to three other people and those people had site planning issues. He said those three people were provided a copy of the plan and were

satisfied. He said if this plan was approved, anyone could appeal that plan to the City Commission.

Commissioner Amyx said if the City Commission felt the notification process was not enough in this case he did not think it hurt to reschedule this discussion. When looking at the surrounding property, the property would be zoned RM12. If that request came before staff and the Planning Commission, they would be looking at RM112 zoning use and the development would be more intense in a 24 hour period. He said it came down to the notification process.

Vice Mayor Chestnut said the City Commission could defer this item for a week and try to organize and all interested parties could meet with the Planning Staff next week or this week to go through the concerns.

Commissioner Amyx said the only other option was that the City Commission had the authority to consider that site plan.

Commissioner Hack said the other option was that the City Commission could approve the ordinance on first reading and the ordinance would come back on second reading next month. She said they could explain some possibilities of getting together on what had been done and the alternatives which could calm some concerns.

Vice Mayor Chestnut said he agreed. He said the ordinance could be approved on first reading and then the ordinance would have to come back to the City Commission for second reading and that gave time to get with staff on other concerns and then the second reading could be placed on a regular agenda.

**Moved by Hack, seconded by Amyx,** to approve the rezoning (Z-11-20-08, of approximately 140,090 square feet located at 2141 Maple Lane from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential Office) and adopt on first reading, Ordinance 8371, to rezone (Z-11-20-08) 140,090 square feet located at 2141 Maple Lane from RS7

(Single-Dwelling Residential) to RMO (Multi-Dwelling Residential Office). Motion carried unanimously.

#### **CITY MANAGER'S REPORT:**

During the City Manager's Report, David Corliss said the sales tax distribution was received toward the end of January which was attributed to the 2008 budget. For 2008 what staff accounted for was \$457,000 more than what was budgeted. It was good news and had been seeing that good news for some time. That would help the City in a number of items in the general fund, particularly some of the revenue shortfalls, like investment income. City staff was working to finalize the 2008 documents and as soon as he knew what staff had concluded as far as their revenue and expenditure postings, he would like the City Commission know as well.

He said the City continued to make progress in having a number of materials on the website, both as transparency and accessibility for the public and also as a measure to reduce some of the printing costs. The Board of Zoning Appeals agenda packets were now online and would provide a history of their work.

He said he, the Mayor and others had discussions looking for alternative fuel options for transit vehicles which were part of the sales tax initiative. Staff as working on a Clean Cities Coalition Grant Application and would be providing the City Commission with information and asking for Commission authority to proceed with applying for that grant. Staff would be talking about the stimulus bill and had opportunities in this area and would be providing recommendations.

He said staff put together information regarding drinking establishments and public safety. Staff had successfully appealed the State license renewal for Last Call and was looking at other establishments as well. They were not inclined at this time to pursue ABC's consideration for licenses for any drinking establishments in the community which was primarily based upon the understanding of ABC's interpretation of the law that a City needed to have

incidents that harm public safety within the establishment. Staff was pursuing with ABC an opportunity to have state law changed in the area where there was additional opportunities to have ABC review licensing and thought that was appropriate.

He said Barry Walthall, Building Codes Administrator, put together a report that looked at building permits not only in Lawrence for 2008 but area communities. It was interesting to see there was activity in Lawrence and other communities. There were some large projects in Lawrence last year and almost all the communities were seeing a decline in building.

He said the Commission asked in response from a citizen inquiry about Manhattan's law regarding possible escrow of tenant rents in situations where there was substandard housing. Manhattan had not used it extensively and staff did not see that as something that was worthwhile to pursue at this time. If it was something that the City Commission wanted to do, it could be placed on a future agenda for further discussion if appropriate.

Commissioner Hack asked if Corliss anticipated any repercussions or concerns headed in this direction with the information they received with the failure to pay income tax refund for the state employees.

Corliss said it was his understanding the Governor signed the rescission bill that was a reduction to the planned state spending in the fiscal year of 2009. With the signature and all the different cuts, the state finance council tomorrow would approve the certificates of indebtedness where they would borrow one state fund to another. It would allow the state to pay payroll and income tax refund checks. (18)

#### **REGULAR AGENDA ITEMS:**

**Receive staff report on the Lawrence Freenet request to install wireless devices on City light poles in the downtown area and provide direction as appropriate.**

Diane Stoddard, Assistant City Manager, presented the staff report. She said Lawrence Freenet was requesting to place wireless devices on City light poles in the downtown area in ten locations. The City Commission received this request on an agenda in December and since



that time, had been working with Freenet on various clarifications of their request to provide additional information. Representatives from Freenet would speak to the request and provide more detail on what they hoped to achieve, but in summary Freenet was looking to provide free wireless services to downtown businesses who would opt into a wireless program so businesses would have an opportunity to participate or not. If they chose to participate, Freenet would provide that business with wireless cards which would offer a free daily pass to patrons at those businesses. She said staff understood the installation would reduce Freenet's number of solar powered newspaper boxes currently in the downtown area by five.

Several years ago, Freenet made a similar request regarding equipment in the downtown area along with a larger request to place similar equipment throughout the community. At that time, the City Commission opted to approve Freenet's request to place wireless internet equipment on various light poles throughout the City, but not in the downtown area. She said, at that time, there were some concerns about the size of the units and potential impact of downtown. It should be noted that Freenet drew attention that the units proposed in this request were smaller than the units proposed several years ago.

There were several issues City staff thought was important to summarize for the City Commission and might wish to consider regarding this request. The first issue was the stealth nature of the equipment. She said City staff had quite a bit of discussion with Freenet on whether the installation proposed was as stealthy as it should be. They heard from Freenet that it was as stealthy and Freenet might want to comment further on that issue. There were several photos in the packet that showed an installation on one of the light poles. City staff thought the units might have an aesthetic impact on downtown and was something to consider.

She said if the City received another similar request from a company, the City Commission needed to know how that might be handled. As staff discussed, if the City Commission wished to go forward with Freenet's request, perhaps place an agreement that in the event of additional request and the City Commission wanted to grant the second request, there was some kind of

triggering for the need to have more stealthy equipment at that time. It was important to note that Freenet indicated no potential aesthetic impact on downtown as a result of the existing newspaper boxes which they planned to reduce as a result of the request.

If the City Commission planned to move forward, City staff thought it was important to have an agreement with Freenet regarding the use of light poles downtown which would be similar to the agreement the City had with Freenet for the installations in other areas of the City. That agreement needed to touch on a variety of details like under what circumstances the units were pulling the City's electricity and from time to time the electricity might be down for maintenance purposes. Staff wanted to make sure there was no interference with the City's equipment in the downtown area. City staff thought all of those issues could be worked out if the City Commission wished to proceed.

She said comment was needed from the Historic Resources Commission regarding any impacts on the downtown area. If the City Commission wished to proceed with this request, she suggested the City Commission give general guidance to the Historic Resources Commission about this request prior to consideration by the HRC. She said after HRC review, the City Commission might want to direct staff to work with Freenet in developing an agreement that would govern the installation of this equipment as proposed. Staff thought that if the City Commission wanted to proceed, those issues could happen simultaneously since Freenet had an interest in moving forward.

Vice Mayor Chestnut asked if the installed equipment would be owned by Freenet or Community Wireless Communications since there was that relationship. He asked if the agreement was between the City and Freenet or was there another party involved.

Joshua Montgomery, Lawrence Freenet, said the agreement was strictly between the City and Freenet. Community Wireless provided the equipment and the service, but Freenet was ultimately responsible for it.

Commissioner Amyx asked if the unit could be painted to match the color of the pole.

Montgomery said yes.

Kris Adair, Lawrence Freenet, said she sat in the meetings with City staff and believed Stoddard did a very good job in summarizing what they proposed to do and all the details of the project. She said she wanted to reiterate that this would reduce the newspaper boxes. The proposal today had significantly smaller boxes than the boxes proposed three years ago. It might also address the issue if someone else made the request later on and had any stealth issues, the technology was changing almost daily and was something they could revisit in the future if there were some other requests and could look at something smaller in the future. This was their best stealth option to date.

Mayor Dever asked how many newspaper boxes would be left after the five would be taken away.

Adair said there were seven boxes downtown so they would be left with two.

Mayor Dever asked if the service would be better.

Adair said yes. The service was reliant on whether or not they could get the power supply continuous, which currently lead acid batteries were used and had to be changed daily. When the power went down the power to that particular radio was down. Two solar panels were stolen off the newspaper boxes, not allowing continuous power and therefore, had to supply that battery power. Installing those wireless devices, would provide service like in the rest of the community.

Mayor Dever asked if the alleys were an option.

Adair said signal strength was needed in those buildings to provide free service to downtown merchants and their patrons. Coffee shops and places of that nature liked that option for their patrons.

Mayor Dever asked how this service differed from the free wireless hotspots that the current cable provider offered.

Adair said she was not certain of cable provider terms of service. Freenet's service was completely free to the business owners. The business owners did not need to do anything other than placing a sticker in their window, letting people know Lawrence Freenet service was available. She said there were other options for internet service downtown, but did not know if the businesses had to pay for that service or not. Freenet was providing free service for all downtown merchants.

Mayor Dever called for public comment.

After receiving no public comment, Commissioner Amyx said initially, the boxes were considerably larger and there was concern by the City Commission whether or not those boxes would detract from the downtown historic district. He said since that time, Freenet came back with a smaller unit which probably would not be noticed by the public, especially if the unit was painted to blend in.

He said Freenet had done a good job in trying to meet requirements and it was time to proceed with this proposal. He said if another request was made, they would handle that request at that time, but the City had the language and agreement to take care of a request.

Mayor Dever said the biggest concern was if the City received more requests, how to handle those requests.

Commissioner Highberger said the HRC approval process would take care of that. He said his only concern was the rationale for free use of right-of-way providing service to people who might not otherwise receive that service. He would like to see the agreement be conditioned on continuing to provide quarterly reports and would like to see the downtown usage information added to quarterly reports. Given the parameters Stoddard outlined, he was comfortable with letting the HRC make the call.

Vice Mayor Chestnut said there were issues for him that went outside the aesthetics. He said Community Wireless Communication was a for-profit organization and Freenet was a non-profit organization. He had issues using public right-of-way for that use. It was difficult for him to

understand what the charter was for this. He said when considering the use of the water towers, it was an attempt and a lot of the focus on that was to provide access to people who might not otherwise have that service. In this case, there was a lot of free coverage downtown now. He did not know how much coverage there was in the downtown area and what this could provide, but knew that access was free to everyone. There might be a relationship between the cable provider and the merchant to provide service, but was a wide open network that could be used by anyone as long as they could pick up the signal. He thought it was difficult from a process standpoint to say some people could have the right-of-way and others could not, especially when they were talking about a situation when there was some return there in some point. Secondly, what he did not know was what the rights would be if the structure or organization changed. He did not know if what they were granting in the right-of-way also carried to the next owner. He saw this problematically from a policy standpoint and aesthetically they had done a great job of designing it and was pretty unobtrusive and knew that was the initial resistance, but he could not justify denying another request for use of public right of way. There was some not for profit element here, but a for-profit organization would own the equipment and he was not sure how they would make that distinction. For him, it was a process standpoint more than the aesthetics.

Commissioner Hack said she was struggling with the same issues as Vice Mayor Chestnut. She said it was beyond their purview to talk about the "what if" in the future. She had a concern when future organizations would want that and agreed with Commissioner Highberger that it could be written in some way by the HRC to make that call, but concerned her that they were talking about downtown design guidelines and were allowing something that could conceivably have an impact on the aesthetic appearance of downtown. The for-profit and not-for-profit existing companies she had some concerns about. With that all jumbled together, she was not sure she could support it at this point.

Mayor Dever said there were 10 free hotspots and confined to the buildings. The signal might leak out to the outside, but the concept was they had some service, but not the same as what they were proposing and was not a duplication of service but a new level of service. They were continuing the current process of allowing them to use the right-of-way and were allowing them to use it throughout the community. As long as the HRC was happy, he did not see how it was different than what they were allowing to occur under the current agreement. He did not know what the original agreement was with Lawrence Freenet, but it was important they revisit it and make sure they were comfortable with it. He saw it as an extension of what was already occurring in other parts of the community and did not have a problem if they continued the same concept which was allowing Freenet to use the light poles in other parts of the community. He did not think they should discriminate against downtown because it was saturated with people. He said they should be clear about the language, but saw it as a continuation with the agreement. He said he was supportive of their initiative and would like to address Vice Mayor Chestnut's concern about the for-profit and non-profit considerations and be clear in the language.

Corliss said the arrangement was modeled on the fact that they had a public asset with the right-of-way and the City required compensation to the City for the use of public right-of-way. It was a little different now for internet service because the City did not receive any franchise fees but still required companies in the public right-of-way to use it according to City regulations. In the case of Freenet, they had the desire to be in the right-of-way, in many cases on City facilities and in some cases using electricity the City paid for. It was a very nominal amount and did not know if it would cost more to meter it. The compensation to the public was they provide internet service at free or reduced cost to individuals who would not have it. That was where they would see Commissioner Highberger's comment about the quarterly report. As part of the agreement, Freenet was required to, and provided, a quarterly report. It was a commission

discussion on the use of right-of-way. He said he did not think the concerns were on safety but more on the aesthetic.

Mayor Dever said if staff could revisit the relationship, he saw no reason to consider sending this issue back to the HRC based on the fact this was a continuation of their service and coverage that Freenet was trying to provide. He said the removal of five of those boxes would trump not seeing the radios on the antennas. He said he would vote to direct staff to consider the HRC implication and discuss future installation.

Commissioner Highberger said he had a question about the model and asked if Freenet chose a model where people needed a card to access internet inside a business rather than blanketing downtown with free open wireless coverage.

Montgomery said Freenet wanted to give businesses the choice to not provide free WiFi Service for their clientele. There were a lot of businesses, especially retail restaurants that need to turn tables quickly and did not want someone sitting at a table with a laptop for 6 hours with a cup of coffee. He said he would also like to speak of the issue of transparency. He said Freenet had requested in every quarterly report for the City to appoint someone to attend board meetings to improve transparency in their organization and the City could improve transparency by having a member of city staff sitting in on those meetings as an on-going member and report to the City what went on behind closed doors.

Commissioner Highberger said Montgomery had a great idea and would like to see it in part of the agreement, as well as the usage figures audited by an outside party once a year.

Montgomery said they could work that into the new agreement.

Commissioner Hack said she would like to see an agreement and receive feedback from the HRC. She said she wanted to move to the next step.

Commissioner Amyx said by allowing HRC to make a decision about whether or not there were too many antennas and if they were in conflict with HRC policy, he asked if a

problem would be created. He said the agreement needed to be written in a way of not granting one company to provide service in the downtown area.

Mayor Dever said Stoddard made a comment that the City Commission needed to consider what happened if two, three or four other companies wanted to do the same thing and how to address that issue. He said that would be a decision to make later on.

**Moved by Hack, seconded by Highberger,** to refer the item to the HRC for review and directed staff to develop an agreement with Freenet to facilitate their request for the installation downtown. Aye: Amyx, Dever, Hack, and Highberger. Nay: Chestnut. Motion carried. (19)

**Consider authorizing the submittal of a water and wastewater utilities projects to KDHE for consideration for possible federal economic stimulus funds.**

David Corliss, City Manager, introduced the item. He said he wanted to brief the City Commission on some of the staff activity in response to the new federal stimulus bill. President Obama signed the legislation and it was now law and that would start a number of counter items underneath the new law. Staff was receiving a lot of information about it and tried to pass that information onto the City Commission. It was his understanding the Metropolitan Planning Organization was meeting on Thursday and would be discussing the list of transportation projects as well. There were a number of different funds available and met as an executive staff today to look at those funds. There were probably more departments impacted than not. One thing he wanted the City Commission to be clear on was while staff would be in discussions with federal and state agencies for funding opportunities staff would be presenting the grant applications to the City Commission.

He said staff was guided by a number of principles. One principle was this was one-time money and did not want to create any continuing budgetary commitments for the City. There were funds for hiring police officers and firefighters. In many cases, those require a local match and in many cases, would be new positions to the budget and obviously they did not have those



positions budgeted. Staff was going to see if there were ways to utilize those funds because they had vacancies in those departments.

There were a number of different funding opportunities that went beyond transportation. There were transit funds that were included in transportation and staff was looking at that and talking with the University of Kansas. There was energy efficient money that would be block grants from a federal energy bill that was enacted two years ago and there was now funding for it in the stimulus package. Staff would be looking at a number of different City facilities that might qualify and were actively engaged and would be talking to the City Commission in weeks to come about which applications to follow through on.

Mike Lawless, Assistant Director of Utilities, said at this point staff was not sure of all the timeframes and initially KDHE stated they wanted projects that could be under construction by May or June. In the list of eight projects he provided, there were two on the water side and two on the sewer side that met those criteria. There were an additional two in water and two in wastewater that were farther out either in later 2009 or 2010. They had approximately \$20 million in each fund and KDHE's indication was that they wanted to apply that to projects as soon as they could because they did not want to be the group that turned back money because they did not get it spent.

Commissioner Highberger asked if storm water was possible for either of these categories.

Lawless said no it was only water and wastewater.

Corliss said staff was looking at stormwater under Corps of Engineers. They understood their top stormwater priority was the Maple Street Pump Station. Chuck Soules had put together a timeline on that project and was still in draft form, but reflected where they might be on that project over a traditional delivery system. On some of those projects, there was a substantial lead time on design.

Mayor Dever said since it was not really money for sure available, would the potential readiness of a project bump projects up on the list.

Lawless said that would move projects higher in KDHE's eyes.

Corliss said they needed to go through public process through all the different notifications on these projects.

Mayor Dever said even though a particular project might not be what staff wanted, if the project was ready, the City would more than likely get that project.

Lawless those were projects that were in the City's Capital Improvement Plan and were on-going. The main criteria would be having those projects ready for that May or June timeframe.

Commissioner Amyx said with a construction ready for May or June, the awarded projects could be fairly quick.

Lawless said there would be a public hearing scheduled for late March and assumed shortly after that time, those projects would be awarded and staff would know what projects to bring back to the City Commission, if any.

Corliss said with those projects, the City would set the bid date. He said the City Commission would get another opportunity to look at those projects. He said KDHE needed to go through a public process for notification on all those projects, talk to the City understanding the City's priorities and out of 40 million dollars, the City hoped to competitively compete for some of that money.

Mayor Dever called for public comment.

Sarah Hill-Nelson, Bowersock Mills and Power Company, said she was present to address agenda item 6, but in looking this item over, their company had been in touch with KDHE regarding the Bowersock Dam. She said given those funds would be made available for public water supply and the Bowersock Dam provided approximately 50% of the water supply for the City of Lawrence on a daily basis, she suggested that they might work with KDHE if they

could get a placeholder on this project. Bowersock had suggested a project that could possibly be conducted in August 2009. There would be two reasons KDHE might consider this project and the most important was that it was 50% of Lawrence's water supply and second the Bowersock Dam had been determined by Black & Veatch to be possibly in danger of immediate failure. Given the pressing nature of that issue, she wanted to suggest to the City that they could consider putting that project on as a request to submit to KDHE.

Mayor Dever asked if Bowersock Mills and Power Company had a project that could be submitted to the State in addition to the shovel ready projects identified.

Hill-Nelson said they had been working with the City to talk about getting an August start date for a project that had been outlined in the past and the details of the project. She thought it was possible for it to begin in August and perhaps KDHE would be flexible with the start date being delayed until August based on water conditions of the Kansas River that would require low water in order for the project to take place.

Commissioner Hack asked if Corliss had a comment on the submittal.

Corliss said staff would learn more next Tuesday. As he understood, the City had approximately \$1 million budget to do the repair work on Bowersock Dam now, in the City's rate base. He said Bowersock Mills was recommending the City not proceed with that project now, but proceed with a larger repair project later. The City did not have funds budgeted for the larger repair project and did not have it built into the City rate base this year for a larger project. Clearly, it would be great to have State funding for the larger project as well and might compete favorably as a prioritization, but City staff was thinking out of that \$40 million, the City would likely receive \$1 - \$2 million dollars, or possibly more. In March, if the City had that \$2 million dollars for public water supply, it was committing the City Commission in March, to raise rates to come up with the \$4 million dollars that would be necessary in August. He said if the City wanted to proceed down that path, it could be done. He said if that was done, that would free up funds to do other repair and maintenance work elsewhere within the City's utility system,

perhaps including additional funds for Bowersock. Staff was planning on proceeding with their proposed projects, because those projects were built in the City rate base already. He said if the City committed now, for something like a 6 million dollar Bowersock repair project in August, the City was not going to get 6 million dollars from the State. He said staff would advocate for that dollar amount, but also look at other sources of funding. If that was the project the City stated was their highest priority, then he doubted the State would fund it fully and were committing it for additional funds beyond which the City had budgeted for and raised rates earlier this year.

Mayor Dever said there could be pools of money available from the same stimulus package that would be directly related to the repair and maintenance of the states' aging dams and bridges.

Corliss said he agreed and staff was looking at that idea as well. He said it might be appropriate to indicate in some of the other funds that they wanted to look at those funds. He said his concern was that staff thought they had a good shot of getting some of that \$40 million dollars, but if the City stated that Bowersock was its highest priority, then the City was committing toward funding the rest of the project as well. Whether they did a \$1 million repair project or \$6 million repair project, they had to come up with the funds. They had the \$1 million and did not know where the \$6 million would come from.

Commissioner Highberger asked if they had \$2 million dollars in stimulus funds to address some of the other projects, it would free up \$2 million dollars in the rate base that could be applied toward Bowersock.

Corliss said that was correct. If the City received money for their proposed project, it would free up money to do other capital projects or reduce rates or whatever the City Commission wanted to do. He said the list from Lawless was following what was in the existing CIP and those were not new projects, but projects needed as top priorities.

Mayor Dever asked if Corliss thought that by adding the Bowersock to the list, that project would be top priority because of the dollar value. He said clearly, those other projects would be available by April, May or June and this project was not ready to go. He said he doubted the proposed Bowersock project would be first out of the shoot. He asked if it would be better to punctuate the need for this project and the importance of the project to the City and whether it made it more confusing or magnified the importance of this asset to the community. He did not know if it would move to the top of the list but the more the City could find ways to fund that project, the better off the City would be if not placing the project at the top of the list.

Corliss said he did not disagree including the Bowersock project in the list, but then staff would have a discussion with KDHE on some of the projects where the State might say they were not so sure they could fund all of the Cured In Place Pipe Project because the City was asking for \$1 million and if KDHE gave \$750,000, would the City be able to proceed with the project, and the City would be able to respond yes. The City had it budgeted this year and would be able to proceed with that level of work. They could also change the scope and only do \$750,000 worth of work for the CIPP. He said his concern was if they put the Bowersock project in, he asked how the City Commission wanted staff to advocate for that project. He asked if the City Commission wanted it to be all or nothing, which if it was all and the State gave the City \$6 million for that project that money would help, but it was the City Commission's decision. He said it was more likely the state would ask the City to show its local effort and the City would not be able to fully fund that project. A discussion needed to take place on how to advocate for that money.

Vice Mayor Chestnut said what he was not clear about was the contractual obligations under the 1977 agreement to maintain the dam. It seemed like one thing they needed to have a discussion about had something to do with how they prioritized those projects. He said if the City was committed to the maintenance of that dam and had the ability to not maintain it anymore, but there were implications to Bowersock, but also to the City's water supply as far as

the intake on the Kansas River and so on. It seemed like they needed to vet that out because there seemed to be consequences going either way. Those were discussion points and it was true that if they put a big project in and the project was approved, it would be at the expense of the other projects. He said he wanted to understand from a legal standpoint, the City's responsibilities with the dam because the City had responsibilities that needed to be discussed.

Commissioner Amyx said the City had to match funding on the projects and with some of those smaller projects, the City could meet those matches whereas with big projects, like the dam, if that project was the City's top project and received a \$1 million, he did not know where the City would find \$5 million to take care of the rest of the funding. He did not think the City had the ability, unless raising rates.

Corliss said they could defer other projects and there were consequences to deferring those projects.

Commissioner Amyx said if there were other avenues to apply for stimulus money to take care of maintenance project, he thought they were better off in taking care of some of the maintenance projects now. He said the City had been looking for pots of money to help fund those projects.

Commissioner Hack said if there was a possibility each time those projects came up to mention that was an issue they wanted to address as a community because it was critical but the four projects the Utilities Department presented were also critical and they had been waiting to do them.

Mayor Dever said those project needed to be done anyway.

Commissioner Hack said the dam also needed to be done, but the issue was the matching funds which the City did not have. She said she would rather go with the four projects the Utilities Department had worked through and were ready to go, but every time they had the opportunity to do so, apply for that money through other avenues.

Corliss said there were a number of reasons why the dam was important to the community. It helped the City with the water supply and had some flexibility. It was important for the bridges, community aesthetic, the boathouse, and Westar up the river. He said the community was committed toward keeping the dam there, but the issue was the community's cost and how the City wanted to respond and commit.

Mayor Dever asked what they were contractually obligated to do.

Corliss said the City had contractual obligations toward the maintenance of the dam, which was not spelled out if it was for certain levels of satisfaction or not. It was one of the reasons why Bowersock indicated they wanted the City to renew it. He said his recommendation was not renewing the agreement until knowing the costs. If the Commission agreed it was the cost the community could bear, staff would work on an agreement accordingly, but the Commission had to see that cost in connection with all the other utility needs as well, which were not inconsiderable.

Commissioner Amyx said with the importance to Westar and the boathouse, he assumed the match could come from Westar and the athletic corporation.

Corliss said that was an assumption that had not been helpful so far. He said he thought the community had to pay for that cost, but asked how much for the ratepayers and how much for the property taxpayers which was a fair discussion. Staff did not object to pointing that out as a Utility Department request but wanted to make sure the City had the funds to proceed. It was essentially going to be a negotiation with the different agencies. He said staff wanted to begin discussions with KDHE to receive as much of that \$40 million dollars coming to Lawrence. He said for a different pot of money, there might be something else.

Commissioner Highberger said in a couple of the second group of projects that would be done in-house, he thought it would weaken the application a lot because it would be hard to say the City was creating more jobs.

Lawless said it was not so much as a job that would be contracted out, such as installing a water main, but the purchase of materials. It was not just truly for staff to hire a contractor to do the work, but also for purchasing those materials.

Hill-Nelson said she wanted to second Commissioner Hack's suggestion that by bringing it up to KDHE, it was a course of negotiation with KDHE but the idea of beginning to bring it up to the state and saying there was an issue as a community and wanted to draw the issue to the State's attention, perhaps through the course of those negotiations, the City might decide that it was best to put that project with the four projects on the list, but from Bowersock's perspective it did not hurt for KDHE to begin to understand that this was a water supply and water quality issue for Lawrence. Certainly, water supply was number one and if the dam did fail, there was no mill pond. Further in terms of water quality, the stream bed degradation issues and siltation issues that would then face the river were a significant issue for KDHE. There was a valuable political aspect to that project.

Commissioner Hack said she would like to move forward with staff's recommendation, but at the same time ask Corliss to continue to have that conversation with KDHE regarding the dam and the critical need for that to function at its highest ability in the community for a variety of reasons. She said they were talking about water supply for the community.

Commissioner Highberger said he would abstain from this vote, due to his employment situation.

Mayor Dever said he would like to see any language added, but that could be done later. Those were great suggestions and were planning to spend money. He said he would like to move forward with approving the utility projects. He said staff needed to mock up a plan that related to more than one area of the environment whether it was water or sustainable energy. There were a lot of opportunities and it would be silly not to find the money because the Bowersock project would be necessary soon.



**Moved by Chestnut, seconded by Hack,** to authorize submittal of utilities projects to KDHE for consideration for possible federal economic stimulus funds. Aye: Amyx, Chestnut, Dever and Hack. Nay: None. Abstain: Highberger. Motion carried. (20)

**Consider the following items related to the Downtown Design Guidelines and Urban Conservation Overlay Districts:**

- a) **Consider approving revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)**
- b) **Consider approving Text Amendment TA-10-18-08 to revise Article 3, Section 308(g) – Appeals to be consistent with the adopted Downtown Design Guidelines and to revise Section 308(h). (PC Item 6; approved 9-0 on 1/26/09)**
- c) **Consider approving Text Amendment TA-10-19-08 for Article 3, Section 308(h) to add an ordinance number and reference for 8<sup>th</sup> & Pennsylvania Urban Conservation Overlay District. (PC Item 7; approved 9-0 on 1/26/09)**

Lynn Braddock-Zollner, Historic Resources Administrator and Lawrence Douglas County Planner, said she was going to talk about the Downtown Design Guidelines and the Urban Conservation Overlay Districts section of the development code.

She said in 1966 there was the National Historic Preservation Act which first started federal reviews of projects for their impact on historic properties. Staff did that review with CDBG grant funds and other projects in the City. She said the City had its first National Register Historic District in 1972 with the Old West Lawrence Historic District which was based on the 1966 National Historic Preservation Act that held district nominations. The Kansas Historic Preservation Act was in 1977 which was when the City started reviewing projects the Kansas government did on their impact of historic resources. By 1981 the Kansas Preservation Act was amended to also include all the license and permitted actions of local government entities. It was when they started the state law review and when the environs review started with the Kansas Preservation Act. She said in 1988 there was Chapter 22, the conservation of historic resources was passed by the City Commission. They have had the Historic

Preservation Chapter for 20 years now in the City of Lawrence and added a layer of review for properties listed in the Lawrence Register of Historic Places or within 250 feet of properties listed in the Lawrence Register of Historic Places. Also in 1988, the Kansas Historic Preservation Act was amended again and this time it was to help define what environs meant, which was where they came up with the 500 feet within the City or 1000 feet within the County. Up until that time, it was a broad term that was not specifically defined as a notification boundary. In 1989, the City of Lawrence became a certified local government and had a partnership with the National Parks Service, the Kansas Historic Preservation Office and the City of Lawrence to protect historic resources. It was a good funding source for preservation planning work within the City and be recognized nationally as a community with the preservation ordinance and Historic Resources Commission. The Kansas Preservation Act was amended again in 1996. This allowed for certified local governments to take that state law review on at the local level. She said the City did in 1999. In 2001, the City also worked out a memorandum of agreement with the University of Kansas on how they handled environs reviews with state properties and local jurisdiction. She said in 2001 they had the original downtown conservation overlay district with the design guidelines. She showed the downtown overlay district and the 8<sup>th</sup> and Penn overlay district. They only had two conservation overlay districts in the City currently.

She said she was going to explain what a conservation overlay district did. It was to encourage development that conformed to existing situations. It was most helpful not only in new green field development but when they were trying to manage change in an area that was already developed and how to manage that change in such a way they could continue with economic vitality, growth and changes in the area without losing the basic characteristic or character that helped. She said in 2001, the City Commission felt the downtown area was one of the areas that needed special consideration and did not meet with existing zoning codes with

setbacks and massing. It was a unique place that needed its own set of design guidelines instead of just those by the zoning district.

She said overlay districts did not change the underlining zoning district which controlled use and did not deal with use in any way, shape or form. Those districts did not change the uses allowed or other development requirements such as site planning or special use permits. She said when they were looking at design guidelines the purpose was to create infill development that helped create the character of downtown, which was the infill development. She said the Downtown Design Guidelines were approved by the City Commission in 2001 and the community and staff had been using those guidelines. She said it was important to note that it was a taskforce that came up with the original design guidelines. It was a community effort and involvement from architects and business owners, property owners, tenants and landlords.

She said after using the design guidelines for about 5 or 6 years, staff started to notice some difficulties with that product. The main things were the meat of the design guidelines were really good which probably came from the public process, but it was not a user friendly document and was not a way to tell someone which page to go to or which guideline to look at. It did not take into effect one of the most important things that happened in the downtown area when a large section of the downtown area was listed on the National Register of Historic Places as a historic district in 2004. City staff applied for a grant from the certified local government status to hire a contractor to come in and meet with landlords, tenants and people who lived downtown, the Historic Resources Commission and different groups to update the design guidelines so they could be user friendly and take into consideration the new listing of the downtown historic district. The City Commission had looked at a set of sidewalk dining guidelines and at the time, decided those guidelines should be incorporated in the overall downtown design guidelines so that people developing in the downtown area could go from one document and have an ease about the expectation of redeveloping downtown Lawrence.

She said the downtown design guideline revision had been a lengthy process with quite a bit of public input. The Historic Resources Commission held a study session once the guidelines were in draft form and those guidelines were on the Planning Department website for many months and the Historic Resources Commission took public comment at their meetings from May until September of 2008.

The format for those guidelines was one of the biggest changes for users and staff. Also with the downtown historic district, staff looked at a lot more properties impacted by that State Kansas Preservation Law and the 500 foot environs. Each of the listings had consequences for review and those review standards were based on the Secretary of the Interior Standards.

She said the entire conservation overlay district had properties that were either listed or within the environs of listed properties. It made sense to have downtown design guidelines that met the Secretary of the Interior standards and the standards for evaluating the affected projects on the environs. She said it made sense to make all those guidelines in one complete document so it would be easier for developers to develop downtown.

The sidewalk dining had changed to the sidewalk dining and hospitality area and the section of the guidelines in this document were the guidelines the City Commission looked at almost two years ago and told staff to take back and incorporate those guidelines into the design guidelines document to have the one overall comprehensive document for downtown.

She said the other thing that was very confusing about how the overlay conservation district was set up was that it had its appeal process in an administrative policy which set up for the downtown conservation overlay district. If disagreeing with staff's determination, that appeal was to an ad hoc committee. The ad hoc committee was made up of the Planning Director, the Codes Enforcement Manager and the Historic Resources Administrator. That committee made a determination and if disagreeing with that determination, then the appeal was to the City Commission. On the other side, if going through the state law review process, which everyone in the conservation overlay district had to because it was covered by environs or listed

properties, that review process was staff determination and appealed to the Historic Resources Commission with an appeal to the City Commission. If one was a property owner downtown and had a project, there was a possibility they were going through two different appeals processes and it was confusing and frustrating for an applicant to go through all those meetings and processes for the same project to meet similar standards. One of the recommendations for this was to do away with the ad hoc committee and have the appeals process from staff to the Historic Resources Commission with the ultimate decision body to be the City Commission and that way the applicant had one appeals process instead of two to get through to seek the final judgment.

She said there were also two text amendments. Staff initially was going to bring the design guidelines in December that would require two text amendments and the legal staff asked staff to start the text amendments because the Planning Commission initiated those amendments and took them back to the planning Commission and bring this all back to the City Commission in one package. The first text amendment was to revise Article 3, the appeals section, to change to the flow chart. She said the administrative policy was no longer needed because of the appeals section in the development code for urban conservation overlay districts and the only change would be to change from the first appeal to the City Commission so the first appeal would be to the Historic Resources Commission and then following through.

The text amendment was to add the 8<sup>th</sup> and Penn conservation overlay district because there was an oversight when the new code came online and they did not include the 8<sup>th</sup> and Penn conservation overlay district in the code. It would be to add that conservation district to the code so it was recognized as a conservation overlay district which was adopted by the City Commission on August 8, 2006.

In discussions with Legal Services it was their recommendation to separate this chart from the chart that just identified the conservation overlay districts and to incorporate by reference the design guidelines that were adopted by the City Commission so sometime in the

future, if the City Commission wanted to amend a section of the design guidelines, the Commission only needed to amend that section of the code and not go back by amending the entire section or the section that established the conservation overlay districts.

She said along with staff's recommendation for the design guidelines, staff asked that the City Commission direct staff to change the sidewalk dining and hospitality ordinance to take out the design standards that were limited, but were in that ordinance, and refer to the downtown design guidelines for design standards.

Mayor Dever called for public comment.

Dennis Brown, President Lawrence Preservation Alliance, said preservationist realized that change happened and recognized that within a historic district, certainly one as vibrant as the downtown, change would occur. There would be restorations, renovations, maintenance activities, new infill construction and additions. In some cases, there might be demolitions. The goal of preservation, in recognizing this reality, was to carefully evaluate the existing historic resources and their condition and then enumerate ways prospective changes could occur that would not cause damages to those resources. They needed to know what they had so they could take better care of it. In an ideal world, which happened sometimes, thoughtful and compatible change could improve those resources. Great modern design could reflect on the old, enhance it and become tomorrow's history. The existing downtown design guidelines were adopted by the City in 2001. The downtown historic district was nominated to the National Register of Historic Places in 2004. Aside from the basic updating of language and contact information that were generic to any bylaws review and acknowledgement of sidewalk hospitality areas, this revised document attempted to incorporate the Secretary of Interior Standards for rehabilitation into the design review process and clarify for the public the policies and standards to which design review in downtown Lawrence must comply. If a property owner wished to make changes to the downtown property, this document would point them in the

correct direction of appropriate ways to address design issues that if followed would ease their way through the design review process.

The Historic Resources Commission did not rush through the approval of the revised document and deliberated over several months and allowed public comment while LPA made no public comment at that time, they could attest to the City Commission that they observed that deliberate process the staff and HRC followed. The downtown was perhaps the most consequential historic district and LPA felt strongly that those with the power to contemplate change understood the value of what existed and that the changes that enhanced as well as those that devalue were clearly defined, thus they were wholeheartedly in support of adopting this revised document.

Commissioner Amyx said there was a lot of good work and changes to this document and appreciated the work of the HRC.

Commissioner Highberger echoed Commissioner Amyx's comments. He said it was a nice looking document, but the only problem was a map on page 32 was flipped around with the east on the left.

Commissioner Hack said she would echo Commissioner Amyx. Anytime the City could make a document that was this important clearer, more user-friendly, and the ability to make changes if necessary without having to unload and start over again, it was very appropriate.

**Moved by Chestnut, seconded by Hack,** to approve the revisions to the Downtown Design Guidelines, approve Text Amendment (TA-10-18-08) and Text Amendment (TA-10-19-08); to place on first reading, Ordinance No. 8363, revisions to Downtown Design Guidelines and amending Chapter 20, Article 3, Section 308, UC Urban Conservation Overlay District; and directed staff to prepare an ordinance revising Chapter 6 Article 12 of the Code of the City of Lawrence to reflect the design standards for sidewalk dining and hospitality. Motion carried unanimously. (22)

**Receive staff report on the Rental Registration Program.**

David Corliss, City Manager, introduced the agenda item. He said last summer he provided a recommended budget that included the initiation of a rental registration program and budget authority for that program. The City Commission approved that portion of the recommended budget with the understanding the Commission was not making a decision on rental registration at that time, but expected staff to follow up with additional budget and program information for such a program later on. Staff worked on that information and conducted several public meetings and outreach opportunities to get the word out on the proposed ordinance which would expand the current rental registration program essentially to residential structures 50 years in age or older. Staff had proposed that and the proposal from last summer was an attempt to provide additional assurance to the residents and the community that the basic life safety code requirements, the City had in the existing code, were being complied with because then the City would have those property owners registering their property and the opportunity for those properties to be inspected. He said it was important to tenants and for neighborhood integrity.

He said he provided an additional memo, while he thought the project was worthy, he was not recommending they proceed at this time, because of the economic and budget concerns. The cost to the property owner would likely be passed onto the tenant and had concerns about adding staff when at a time the City was looking at reducing staff. He said he thought this program was worthy and something they would like to consider in the future. He gave options for the City Commission to make their decisions.

Brian Jimenez, Codes Enforcement Manager, said from a code enforcement standpoint, he completely agreed with the City Manager that this was a valuable service that showed great benefits in the past on the current program, but understood the situation the City was in with funding.



This agenda item had nine lives and as early as 2003 and 2004 this item had been brought up. It seemed that when staff was involved in a case with housing code violations, it made the media outlets again and reconsidered. The most important thing about this issue was that it regulated minimum housing property maintenance standards through periodic inspections. The City was targeting aging structures and had been before the City Commission many times on demolition by neglect issues. He said he was not saying additional rental registration would solve the problem, but help address those properties. He said staff's memo outlined costs, what was needed, and outlined the approximate number of rental units rental registration affected.

Vice Mayor Chestnut said he looked at the correspondence received last fall and was trying to get a sense of magnitude and something jumped out at him. Parallels were done to the existing program with single family and it stated that 7,000 citations were issued since the beginning of that program in 2001 which was about 2,000 units a year. He asked if staff cited half of those houses every year.

Jimenez said in the tracking system, he could break down good numbers but did not get into how many violations existed in the three year inspections down the road. They were probably up around 7,500 now. The theory was if inspecting a property today and there were violations, hopefully when going back three years from now the property was still code compliant. It was not always the case and was a hard question to answer other than the fact that staff saw a high majority of properties inspected and in 3 years, the property was code compliant. The key was to get that property code compliant and hopefully the property stayed that way. He said 75 – 85% of all houses inspected had a code violation initially. There were property owners that contacted the City to ask if something was code compliant because the property owner wanted to pass the inspection the first time around. In those situations, staff would give pre-inspection advice on code compliance and then the house would be more likely to pass. A simple smoke detector in his mind was critical and it was not uncommon for staff to

go into a property that needed five smoke detectors and one detector was found. It was not uncommon for them to go back three years later and find one or none. Some of that could be directly related to the tenant responsibility of not taking it down. Especially with older structures and multiple levels, it was very important from his standpoint.

Vice Mayor Chestnut said under the current program they had about 2,000 single family homes.

Jimenez said it might be closer to 1,900 right now because it fluctuated.

Vice Mayor Chestnut said if they had 2,000 homes and 1,000 citations per year and had the program seven years, they would probably anticipate the same number of citations at the same rate of 2,500 structures and maybe even more.

Jimenez said he would say it would probably be a higher rate.

Vice Mayor Chestnut said 1,250 citations a year and two people working 240 days that was three citations a day. He said he was starting to question the staffing issue and whether or not the City had appropriately sourced this to be realistic. Based on that statistical trend, the City would have each inspector writing three or four citations every day. He asked if that was typical.

Jimenez said yes and it was not uncommon for staff to go into a house right now for a complaint and write 12 or more citations. He said every situation was so different and typically staff would be writing up citations on every house they went into initially.

Commissioner Highberger asked if there was a rough estimate on start up costs.

Jimenez said the City's current fee was \$25.00 per year per dwelling unit. Some cities charged per bedroom. To be cost neutral, the fee would increase significantly to be totally cost neutral the first year. Under the proposal, each year that went by, there would be additional units that would fall under the age requirement, therefore the revenue would increase. He said it was a very time consuming type of inspection with follow up and compliance. Two inspectors would be a good beginning in meeting those goals with an administrative support position.

Right now, the department did their own administrative work and that would be a key addition to that implementation.

Commissioner Highberger asked if it could be restructured so by the end of the year the revenues would be close to matching start up and operation costs.

Jimenez said currently there was one person overseeing the registration. It was probably real close to being cost neutral now with the one person. However, that person was pretty taxed on daily responsibilities so it was important to have two staff members oversee registration. Looking at the number of units he was estimating, it was not perfect science and using GIS records to come up with a good ballpark. With the current fee proposal, that was what it would take to get it cost neutral for the first year. There was a payment schedule on those fees so from February to October those fees were coming in at various times throughout the year.

Scott McCullough, Planning/Development Services Director, said Jimenez did not have the benefit of some of the former memos. He said it would take roughly \$150,000 of first year cost to establish the program based on the assumptions staff made in the computations. The other thing staff tried to express recently was each year additional units were received in the program and believed they could utilize current staff needed to expand the program and not need to ramp up staff for several years' worth of adding units and fees into the annual program.

Commissioner Amyx said under the scenario just laid out, he asked if the City had to come up with \$150,000 right now to start this program.

McCullough said that was staff's estimation for a year's worth of salaries, which was \$146,000. They had to start employing people to kick off the program to do work.

Commissioner Highberger said it would not take the City a year to get the program running.

Commissioner Amyx asked how long it took the current registration inspection before it became cost neutral.

McCullough said the current program was not cost neutral and did not cover training or inspector costs or a portion of Jimenez's costs to supervise that program. At \$25.00 per unit, it did not generate that kind of revenue.

Jimenez said it was important to note there was an additional person and the cost was even more.

Mayor Dever said if the City was to implement this additional rental registration proposal and conducted inspections, the City would go about picking out the first group, conduct inspections, and write citations based on the population staff would be surveying with a high likelihood of more than typical number of violation found in the current inspection stock.

Jimenez said yes because staff would be dealing with a different type of structure.

Mayor Dever asked how Jimenez envisioned the process working when someone received a notice of violation, the time period to comply, and what level of prudence that had to be put forth to re-inspect a building.

Jimenez said he would walk the City Commission through a complaint process. The Kansas Landlord Tenant Act gave every tenant the right to call for City inspection to make sure the building was code compliant. Usually when the City was involved it was after much debate between the tenant and landlord for things not completed or was not taken care of. The City staff would then get called out for an inspection. At that time, staff would write up a report and mailed a copy of that report to the property owner. A phone call might occur, City staff listed the violations. Depending on the severity of the issues, City staff had the discretionary ability to say two weeks, a month, or whatever it might be to fix the problem. The perfect scenario was for the landlord to respond and take care of the violations. It was very common for a landlord to call and say they needed more time and City staff worked with the person to come to a resolution. Occasionally, that did not work out and the current options were to take that property owner to court for violation of the International Property Maintenance Code which regulated existing structures. Under this ordinance, the City would be proactive and eliminate the tenant complaint

base and setup inspections with the property owner. Staff would perform inspections with the property owner present and would re-inspection to make sure everything was completed and sometimes the re-inspection took weeks or a month. Going through the court process was always the last straw and was the slowest process and staff always tried to receive compliance through voluntary basis.

Mayor Dever said he was trying to calculate how much time it took with this different housing stock, assuming the City Commission implemented this additional rental registration. He said he could not wrap his hands around the number being \$150,000 only because the City might not be able to complete new inspections in order to see the inspections already committed were completed and were committed to making those changes and have completed the changes requested. He said there would be more maintenance, babysitting and oversight required on some of those inspections because if things getting older and more than likely be more concerns.

Jimenez said he agreed. There was currently one staff person for 1,900 inspections which was not adequate and staff was asking for two staff members for 2,500 inspections the first year, which was a rough estimate. Oread alone was approximately 1,500 properties. The current ordinance was zoning specific and this was throughout the City. There would be some areas in the City, for instance North Lawrence, where there was spot zoning and might have industrial zoning designation that staff did not currently inspect, but it as a typical structure house.

Mayor Dever asked how Jimenez envisioned staffing if needing to catch up. If people were paying those fees for inspection and staff was still starting on the first wave of inspections. He said staff would either need to put off those additional inspections or hire additional people to complete the inspections while the other re-inspections were being completed.

Jimenez said new software was recently added to help staff with better efficiencies and such. A lot of the answers he might not know right now, but the new software could track that

information. It was setting up the initial inspections and being organized to set up the re-inspections. There would never be an end point and would always be revolving and continuing. The theory was once getting through the first batch staff tried to get those homes on a periodic schedule.

McCullough said the program did more than just require inspections, but helped track the landlord's information, contact and local representation. The program was doing things immediately for the consumer, but to summarize some of the staffing issues because there were different ways this could be organized, but there were tradeoffs. If the City wanted to approach a program with less staff, then staff might be performing inspections every five years instead of three. What staff tried to do in the past memos was put forth a reasonable program expansion and then provide in staff's opinion, estimates, and assumptions, what the staffing levels should be knowing those structure were more complicated and were typically larger than the single family structures. It would take a little bit more time to get to the older structures in particular. He said with the two inspectors and administrative staff was based on a program that hit what staff estimated to be multi-dwelling structures and inspections once every three years at a minimum.

Commissioner Hack asked if staff anticipated the fee payment schedule to be similar to the single family schedule and staff would be assigned by month, a certain alphabet.

Jimenez said yes. It was something that worked out well and was running smoothly. Initially, when the single family came through, inspections were all at once.

Commissioner Hack said that was why the start up finances was not going to be complete until the end of the 12 month cycle, but the costs would be complete at day one. She said that was something else to think about financially.

Vice Mayor Chestnut said there was some impact in the 2009 fiscal year and they were all struggling to figure out what that was because the revenue would not come in as the program started.

He said he understood the process now with complaint driven, but when getting to a situation where the City was going to court, it was not going to change regardless of what program the City had. If someone was not going to comply, the City had to take recourse. He said if the City was going to court, it was generated through the legal department.

Jimenez said no, it was through his department.

Vice Mayor Chestnut asked if his department did the filings and everything.

Jimenez said yes. He did not have concrete numbers, but there was an adversarial and initial contact with the tenant complaint which sometimes created problems and stalled the process. He said though the single family current program those situations arose but were not as frequent as staff going to court. He said if someone did not comply, that was the end result. Staff could potentially abate the problem, but traditionally staff did not do that because there was an associated cost. If things were severe enough, court might not be an option and staff might say the landlord had so much time to take care of the problem and if they did not, there was only one option which was to vacate that property which happened.

Commissioner Amyx said this item originally was brought to the City Commission by the Oread Neighborhood. He said since staff was talking about overlay districts and how up front costs were so expensive right now, he asked if it was possible for the City Commission to consider one section of the community if they felt like there were health safety issues.

Corliss said if setting out just one location in the community, there would need to be a compelling or at least a strong rationale behind that one location.

Commissioner Amyx asked if it would be the same rationale of properties of 50 years of age and older.

Corliss said the distinction could be draw on age, but if singling out homes in a particular location to be registered but there were a similar homes, same age, across the street, that did not need to register, there would be a problem on why that distinction was made. He said using the rationale of properties 50 years of age and older no matter where in the community, there

was support behind that that older structures were more likely to have some safety issues as opposed as something that was newly constructed, inspected, and given a certificate of occupancy with a newer code.

Mayor Dever called for public comment.

Candace Davis, Vice President Oread Neighborhood Association, thanked Jimenez for putting the proposal together. She said she was disheartened already and found it interesting in listening to the discussion about how the City Commission had heartedly admitted there were many, many problems that existed in terms of code violations in already single family home zoned neighborhoods and would anticipate that to be much greater in multi-family zoned neighborhoods. She understood the money of the \$150,000 as a startup but had a hard time understanding why it was not worthy of very serious consideration. She said she wanted to explain that the Oread Neighborhood Association, as an association, had supported the City-wide effort for rental registration for many years now. The Lawrence Association of Neighborhoods (LAN) had also supported a rental registration program. She wanted the City Commission to know that Tad Holcomb, a campus minister, was concerned about some of the student housing conditions and voiced his support for this program.

Those who lived in the Oread Neighborhood had been dealing with the erosion of the neighborhood and in large part due to poorly maintained and overcrowded rental property. Existing codes that placed responsibility on tenants to complain about health and safety issues were not effective. Right now, students refer to part of the Oread Neighborhood as the student ghetto. She said if every student called Neighborhood Resources to complain about issues in their housing, Jimenez and his staff would be overwhelmed. Just because this was going to create an overwhelming problem did not mean it should be ignored or written off.

She said in March 2007, the City Commission voted unanimously of formulating a proposal to be considered at the next budget hearing. At that time, landlords were represented



by about three attorneys, which she referred to as their dream team. In spite of that, they still had the support of the City Commission to move forward and had no attorneys present.

The rental program had been in existence for single family zoned areas for over 5 years and had been successful. There have been many citations and over 85% of all complaints by tenants came from multi-family zoned neighborhoods. To stress, their concerns were about health and safety issues of residents. It had to do with fire, sanitation and structural stability. She said they were all aware in the news media there were things that seemed to go on, on a pretty regular basis in the high density areas. They were also concerned about blighted property that created some demolition by neglect and was a burden on the neighborhood and City resources. The areas became less desirable to live in.

She said as a resident in an older neighborhood, she viewed this as a matter of infrastructure. Just like infrastructure in other parts of the community, she believed this was an infrastructure concern and knew there had been a lot of money set aside for infrastructure in other areas and would say in observation and driving down Kasold Avenue, all the huge lights and noticed that over half of those lights were removed and her guess was it cost well over \$150,000. There were decisions to be made, and there were priorities. She thought safety was really important.

She was a landlord and considered it a business and as a business it should require minimum health and safety standards. Obviously, if they were honest and responsible people they would not have to have something like rental registration program or rental inspection program. That was also why they had laws and regulations in their community because they would want to ensure fairness, but substandard and unsafe housing was not fair.

While this proposal might not be perfect, she believed it was a good start to maintaining infrastructure in all areas of the City, not just in areas or roads that tended to be outside of core neighborhoods. She believed it would help create safety, stability and enhance the living for all who lived in multifamily zoned neighborhoods. It was one of the few City proposals that were a

revenue generating proposal. In some respects they could call it better than matching funds. She really thought the City Commission needed to consider the revenue generating potential and also even now landlords and property owners who were renting needed to pay something into the services that the City offered. When the tenants do call to complain, the City was spending their resources, money and time to go out and try and right those problems. The Oread Neighborhood Association strongly supported the long overdue program.

James Dunn, Lawrence, said while he is the President of the Lawrence Landlords Association, the comments he would be making would be as an individual. He said one thing he heard that came out of the discussions was that the ordinance was designed for 50 year old and older properties. Some of the comments were why those properties were selected and not every property if they were going to have this kind of ordinance. It was a comment many people made at the landlord meeting because they felt like they were being segregated out. She said the attorneys at the meeting were not from the landlord association, but he thought they were from the big complexes and most of the big complexes would not be 50 years old or older and would be exempt from the registering process.

He said he wanted to comment on the 50 year old ruling which stated that a structure that was identified by the Douglas County Appraiser's Office as being 50 years prior to the present date. He said his understanding was if a property was renovated, then it would have a different date. He said earlier in the discussions they had talked about properties coming online every year and might turn out that properties would go offline as people put in enough money to that property and all of a sudden the County Appraiser deemed a property a different date and would not need to be inspected or pay a license fee. One of the unintended consequences was if a property had many units a property owner might raze the building and put something new at that location or do such an extensive renovation and turn it into a boarding house which would not be inspected because it would not be 50 years or older anymore. Some of the densest properties would no longer be under the purview of the division.

Another part of the proposed ordinance they read about had to do with motels. Just recently in the Lawrence Journal-World there was an article about how hotels were moving toward long term housing opportunities. He said why a 50 year old motel would be exempt when a motel would be housing people like regular tenants on a long term basis.

Mayor Dever asked if he was referring to the actual age of the building versus the effective age of the building. He said they needed to find out if the Douglas County Assessor changed the actual age versus the effective age because if that was so, substantial upgrades and changes could be made and would affect the age.

Dunn said yes and when he visited with Jimenez before that evening they had discussion about that. He did not know how many properties would fall in that category and did not know with his own properties.

Ellen Lacompte, Lawrence, said she owned property in the Oread Neighborhood and was an Oread Neighborhood representative at large. She said when renovating a property, a building permit was required along with a building inspection. She said she had been working for months on a blight survey on the Oread Neighborhood. She said she went and looked at the property and the intention of that was to compare that to the County Appraisal assessments of where they saw the property in terms of being good, fair, poor or bad. If looking at the outside of those houses and people had trees growing the gutters or the gutter broke off in the middle and the water was pouring into the foundation, it was not uncommon. She said 35 – 50% of the houses were in fairly poor condition with siding, gutters, and foundation issues. They could not see what was going on inside the houses and this was just looking at the outside of the houses. She said she was conducting a survey for the care and concern for the Oread Neighborhood Association and a rental registration program would allow them to have an idea of what was going on in the inside of the houses. She understood if a landlord allowed the house to deteriorate to a certain extent, they could go every year to the county and say they have over appraised the house and could get the taxes reduced. There was an advantage to allowing

your property to deteriorate a little bit, but to a point, those structures should not be allowed to deteriorate passed a certain point and was important they had some kind of a program that would give them access to look inside.

Tom Harper, Lawrence, said this was a really complicated issue. He honored the fact that the City Commission was here to sort this out. He was really happy to have the opportunity to share his opinion on this issue. The big issue here was safety and had to be number one. All the other side benefits of this ordinance were great but safety was number one. He said he thought safety was worth more than \$150,000 and should throw more money at this issue. He said clearly, the argument about not having enough staff or money and doing nothing was negligent. He said that was not acceptable and had to do something. Five years ago the City Commission took the heat and decided to do single family zoning rental registration. It was not easy, there was a lot of drama and a lot of people were angry. What the City Commission said at that time was that it should expand and it was time to expand. He said they had bad timing, but they had to start and believed Jimenez and Corliss could start it. They started walking up the mountain step by step and had to start working at it. He said Jimenez had the skill and organization and the City Commission should give him the support to take the next step. He said if they did not do this now, two years they would be back, it would cost more money, the houses would be in worse shape, and someone will fall off a roof again. Those things would continue to happen and if they waited for it to be a better time, they would not see that time. He urged the City Commission to go against what Corliss said in his memo which was to not do it. The City Commission had the power to direct the City to start this program.

Robert Baker, Housing and Credit Counseling, Inc., said he understood the landlord's argument here. He was sure landlords were thinking that they were an exclusive group with the 50 years and older houses and did not include newer developments. He said while that was true, he would like to say this could be a win-win situation for everyone if looking at this issue in a different way. A \$60.00 fee seemed like a lot but was cheap advertising for the property. If

they were linked to a website that said certain properties passed code safety inspections and met all the health and safety standards of the property maintenance code, it was great advertising for the landlord, especially for a parent that might be sending a child to school, wanted to rent close to campus, and that parent would probably pay an extra \$5.00 to know they were renting a property that was up to code. If and when this program was instituted, they could perhaps find a committee to come up with standards to get the program started and timelines.

Gwen Klingenberg, Lawrence Association of Neighborhoods, said on Monday the Kansan had an article asking people running for the City Commission several questions. One of their questions was how the City could make student dwellings safer from fires and crime. Most of the people running mentioned the rental regulation. LAN was in support of this idea for safety issues and still did. They felt the protection of the older neighborhoods and the housing presently being used for rental property needed to be kept safe for not only those who lived there but for historic and neighborhood protections. They have found that many times the houses were rented out and barely livable, all the while neglect was set in and then a request for demolition by neglect came before the City Commission. If that was approved, something else was built which did not fit the character of the neighborhood and usually bigger than the lot allowed. The staff report said why this program was so important. The periodic inspections of aging properties would greatly support the City's efforts in reducing demolition by neglect and maintaining safe and well maintained structures which preserved and sustained neighborhoods and property values. It also built on the consumer protection program that had helped countless individuals live in safer, higher maintained residences in the City. The program was not new or innovative but was successful in college towns everywhere. By providing the service, they would be protecting the citizens and students from KU who they were responsible for while they attended KU. Their experience in Lawrence was why so many stayed, came back or retired

here. Keeping the future safe was important. This was a human service and health and safety issue. She hoped the City Commission could continue to support it.

Scott McCullough, Director of Planning and Development Services, said he would like to make one correction to something staff answered to Commissioner Hack's question about the different renewal periods. He was reading from the ordinance, and except for the fee, it already existed in the ordinance which stated, "An initial registration fee of \$60.00 was required. The license shall be valid until the date established in the renewal schedule in Section 6-1301 and should not be revoked." He said the way it worked today, if someone came in any time prior to the renewal date, they would pay the full fee and pay the fee again on the renewal date. That was established when staff revised the ordinance toward the end of 2008 when they created the schedule. He said he wanted to clarify that because they led the City Commission to believe that properties did not enter the program until they hit the scheduled date, but that was the renewal schedule. The properties did not enter the program until they hit that scheduled date, but that was the renewal schedule. The properties would enter the program as soon as the landlords began renting their units.

Commissioner Hack asked if there was a fee to begin renting and a fee for the inspection.

McCullough said it was a fee to renew that annually.

Commissioner Hack asked if the landlord began renting in January and the inspection was in February, they would pay the fee in January and again in February.

McCullough said yes. That was the way the current ordinance was set up today. He said for the most part the way staff worked with people who were a month out and to wait a month to get the fee once. Technically, it was front loaded to get the fee upon the time they rented the units and then would fall into a renewal schedule.

Mayor Dever said he had questions for staff based upon some of the comments the City Commission received. He asked what would preclude the City from instituting rules that were

similar in nature but advocated inspection upon requests by a person outside those that were living in the domicile. He said for example, he heard several people cite that the only people who had opportunity to complain were the ones who lived in the unit. He asked why they could not expand that complaint to people who lived adjacent to or had a true complaint in the safety and public welfare. He asked if they could alter the rule to allow for a complaint for someone to be outside the owner.

Corliss said staff did that now when receiving exterior complaints. Sometimes they had a little bit of an issue with access of the exterior, but not generally. In order for staff to go inside a structure, staff had to have either the permission of the property owner, regulatory scheme like with an inspection ordinance where they could say they had the right to do that and could request an administrative search warrant, or if staff did not have the permission of the property owner and still believed there was a code violation inside, staff could get a search warrant. He said if staff did not have good information and all they had was speculation from someone else it would weigh against their ability to get a search warrant to go inside the property.

Mayor Dever said if they just had a rental registration program but not a mandatory inspection program, they could allow people to access by registering them as facilities that rented to tenants. He asked if they could inspect the facility if there was a complaint.

Corliss said yes. The City had with the property maintenance code right now, the ability to inspect that property right now. This ordinance was not changing that but was saying if someone was going to be in the business of renting a structure 50 years or older for dwelling purposes, the owner had to agree to an inspection scheme, the City would inspect it and give the property owner that license to continue to do that over a certain period of time.

Mayor Dever asked if the City could go in and inspect under the current scheme.

Corliss said they could with the property owner's permission or probable cause good enough to get a search warrant.

Mayor Dever asked if some sort of registration could be required without the annual inspection program. He said if life and safety was really what they were after, inspecting everything would not speed up the process if they could not get through the backlog they created. They needed to create the mechanism in which they could inspect the facilities that were granted or permitted by the application.

Corliss said tomorrow Jimenez and his staff could inspect all those homes that ask for inspections. The reason why this was seen as valuable to the community was because it was a mandate and requirement as opposed to self selection saying they wanted to have the property selected because they lived here or rented it.

Vice Mayor Chestnut said Corliss went back to saying registration “scheme” which essentially asserting rights the City did not have now. The question was could they have another scheme that asserted the inspection rights that avoided having the search warrant and everything else that did not require the entire inspection program.

Mayor Dever said by being registered and licensed, a neighbor or someone concerned could file a complaint and the city by rights or having certification would be able to look at that building.

Corliss said if it was a licensing requirement, the city would have the legal ability to go in with appropriate notice and make an inspection.

Mayor Dever said by virtue of having that license, the City waived those other administrative requirements.

Corliss asked what administrative requirements they would be waiving.

Mayor Dever said right now they could not go in a property without search warrants or the property owner’s authorization if someone on the street made a complaint that a structure was unsafe. The City would not have the right to go inspect the building without due process.

Corliss said yes.



Mayor Dever said if they were licensed, he asked if that license granted the City the opportunity to inspect that property without due process.

Corliss said yes. As he understood it, the City would have the ability to go in if someone was licensed.

Mayor Dever said if they were really after some of the things they talked about having, staff set at the level they described would not achieve the goal of inspecting all the properties.

Corliss said there would be a ramp up period.

Mayor Dever said he thought there would be a major backlog. He asked if they could achieve some of the same goals by creating licensing or registration, but not require the inspections immediately or set up the process and determine if they really wanted.

Corliss asked the value of the license, if the property was not inspected.

Vice Mayor Chestnut said the value was the license itself created to some extent a contract or some sort of registration between the property owner and the City that allowed the access regardless of the fact they have an inspection every year or not. He asked if they could create a program that was still complaint driven but allowed them rights they did not have right now by basically creating a registration program of some type and not set up to say they were going to inspect every property every year.

Corliss said he was not sure he saw the value of a license if there was no inspection.

Vice Mayor Chestnut said the value would be if the Oread Neighborhood came to the city and said there were 12 properties that had real problems. If they had a program that was not a huge inspection program hitting every property every year, but had some licensing requirement where the property owner was agreeing to some extent to allow the City some access if a complaint was registered to generate it that way to get to the problem more quickly than the current process the City had now. What they were saying right now they had to deal with due process where they needed permission of the property owner or search warrant to do it. They were kind of putting the inspection and licensing as one in the same. What the Mayor

was trying to do was separate those and see if they could have one without the other and grant the City more rights for inspection that would be complaint driven.

Corliss asked how that would be different than right now where they had the right to go in.

Vice Mayor Chestnut said because right now unless it came from the renter and the property owner had to consent to it, they could not inspect the inside. They were asking how they could get rights to entrance by having a licensing program or something that was not the whole inspection program where they could get into those immediately.

Corliss said the value of the license would be filling out the license and paying or not paying a fee, it gave the City the ability to inspect if they got a complaint.

Mayor Dever said it would be for complaints not derived from the tenant. People raised the concern that people who rented would be retaliated against by the landlord and the neighbors indicated that it was an eyesore and devaluing the properties. The neighbors saw the problems and lived with the problems and the people who lived there now may only live there for nine months or a year and did not have the invested interest. He was skeptical about the City's ability to put this in place right now, but saw the value of some of the things they were trying to achieve here. He was involved in being licensed in his business and they did not always come out and inspect him, but he gave them the right to come out and check his credentials at any point in time. If he did not have them, then there was enforcement. It was the same concept where they were granted some rights but gave up some rights.

Corliss said they needed to answer some legal questions about that and hopefully they would receive a good answer. He said he did not know the answer to that question but hoped the answer would be yes.

Commissioner Hack said if the license indicated that the City had that right, they did not put that in the single family ones because they had to get some administrative warrants to get into some of the single family homes where the tenants have said no.

Corliss said if they still said no, they would still have to have a warrant.

Commissioner Hack said the registration then would be required.

Corliss said there would still be some level of administrative cost to registering those properties. The real issue was how much more inspections the City would have because they would not be doing from a mandatory basis but complaint basis.

Mayor Dever said that could create more efficiencies and abilities for the time and staff they had. He was suggesting that in the absence of funding this might be an opportunity.

Commissioner Hack said they still had to put in place a registering or license fee that would cover the anticipated cost of increased inspections. She was convinced there would be an increase in inspections. The other thing they had to throw out was if the full blown inspection every three years as was done in the single family houses was their ultimate goal, were they sidestepping that by putting something in place that would not accomplish what the goals of that full blown program that everyone got inspected.

Vice Mayor Chestnut said there were a lot of questions. With the current program, 7,000 citations what percentage of that were going back to the same homes over and over again and with that program with 7 years of experience and 2,000 homes, was it the same homes they were going back to and not having a lot of activity. He said they did not know that and that was an important issue. He said it was not \$150,000 but \$400,000 or \$500,000. The memo talked about for staff that there was no budget for vehicle costs, maintenance and fuel. He would like to follow up on that, too. One thing he clarified with staff regarding that was if they had to go in and prosecute a situation, staff prepared the paperwork but the legal staff would have to be involved if it went to court. He appreciated all the comments and agreed that it was a life and safety issue, but they had to count the costs and did not think they had been counting the costs at a level that it was really going to be. He said they needed to know that. He thought the costs were going to be much larger than they were talking about. He did not want to get into an incremental situation where they got halfway in and found out it was going to be a much bigger

situation than they thought. He really liked where the Mayor was going to find out a way to control activity and have the people participating give away some rights to allow the City to inspect. He wanted to find a way to contractually go agree if they had people from a neighborhood make complaints about a structure, they could through the process without having to go through getting an administrative order or something like that. He agreed that might get to the problems. Going back to the program they had now, he did not have an answer to if they were dealing with the same properties all the time.

Commissioner Amyx said one thing they needed to be extremely careful with was what kind of effect it would have on the current registration program. They were setting a different standard for one group of properties over another one.

He asked Jimenez when he did an inspection, what he inspected on the house for the initial inspection.

Jimenez said he inspected the exterior, siding, windows, foundation, if it had a porch they would check if it was stable, accessory structures, detached garages, interior, HVAC system, electrical, overall condition of the exterior. He said it was pretty thorough. They also checked smoke detectors and if they were on each floor, if living spaces met fire code access. They checked to make sure all rooms had heat. They took a quick look at plumbing but that usually was not the issue until it became an issue.

Commissioner Amyx asked for a three bedroom house with a one car garage how long did it take for the inspection.

Jimenez said going back to the previous question about what percentage of time they were spending on each unit, the way it was written now regardless if you passed three years ago, they were coming back three years later. If they passed this year, that was great, but it was a maintenance ordinance. He said each inspection varied. Initial single family in good condition could be 15 – 20 minutes maximum. A property they could check that passed three years ago and they knew the landlord, it was going to be a simple walk through. A house up on

the hill that was broken up into three or four apartments, it may take an hour or more. It also was dependant on the condition, size and how many dwelling units they had.

Commissioner Amyx said overall the rental registration program in place right now had bettered the housing stock.

Jimenez said yes because it provided minimum standards. There were a few landlords that were predominantly in single family that were no longer there. He said he would like to think it was because they regulated their properties to some degree.

Mayor Dever said one of the unintended consequences of this regulation was that there was going to be a flurry of owners of property and owners that were regulated that would flee the regulated area and try to sell off the properties they owned that were either defined by age or geographic location seemed to be similar. He asked what impact that would have on the housing stock, the availability of the homes and the price.

Jimenez said he had seen this in multifamily. He saw a seven bedroom house that had been broken up over time and had to vacate two apartments because there was no fire egress at all. That property had been completely renovated. There were good landlords out there that would take the properties and make them code compliant.

Mayor Dever asked if there was a potential they could have 50 – 100 properties that could go on the market all at once and what that would do to the values of the homes already there and if the landlords would get out that quickly because they could not comply with the rules of that inspection.

Jimenez said he knew that there were always landlords out there willing to buy more. He did not have a real good feel for that. One thing was the properties they were talking about were absentee landlords who did not live in Lawrence. Usually by the time those properties were listed, previously it did not take long for those houses to sell.

Mayor Dever said they were hearing a lot of claims that there were life safety problems and these were probably properties that would not pass inspection.

Jimenez said if a person bought that property with no regulations, it would probably remain that way.

Commissioner Highberger said he was still fairly supportive of this. He said someone could walk by a house and see if there were repairs needed, but could not go inside and know there were working smoke detectors. He thought if they went the route the Mayor was suggesting, it took away a lot of the reasoning of limiting it to houses that were 50 years or more older. If there was a visible complaint, he thought it ought to be reportable no matter the age of the house. He was still supportive of the plans proposed by staff. He said they saw the vast difference with the complaint driven program with the number of complaints and the rate of blight and safety violations. It was minimal to what they had. He was not sure a complaint driven ordinance would get them closer to where they wanted to go. He understood the financial concerns and had faith that staff could implement this and minimize the upfront start up costs. They may not do the first round of inspections as fast as they would like, but thought they could start ramping up. They had been talking about this idea for years now and there was never going to be a good time and always a justification for postponing. He had lived in the Oread Neighborhood for a while and there used to be a KU professor who owned upwards to 30 houses in the Oread Neighborhood where a lot of college students lived for a cheap price. Out of the 30 houses, to his knowledge, only one was still there. He thought they had a chance from keeping that from happening again. Although it was not a great time for them to do it, he would like to see them move forward.

Commissioner Hack said she was concerned that the citizens did not believe the City Commission was not giving this very serious consideration and that they were keeping this conversation in light of the other budget conversations they already had and would be even more difficult this summer. She was in favor of the program because she believed it was a health and safety issue. She was concerned about and would like to ask staff to give the City Commission information about those if it were simply a registration complaint based, it would be

complaint based on the interior for individuals living there and/or the exterior for neighborhood people who dealt with it on a daily basis because they all knew those situations existed. She was curious as to how effective that was and other communities who had done that. When the City Commission previous to the one she was first on made the commitment to rental registration, she knew they had a lot of comparison conversations on it and knew there was an intense amount of drama that preceded that and followed that. She said one individual came in with 2,500 pennies to pay for his \$25.00 fee. She said there would be people who were not very cheerful to have their property inspected. She also wanted to know the anticipated costs. She had no reason to doubt the numbers nor did she have the backup data to accept them, either. She did not know how it worked, but thought he brought up legitimate concerns in terms of equipment and the cost to administer that. She was not ready to move forward tonight because of the need for more information but would like to do something sooner than later.

Commissioner Amyx said he would like to have the information Commissioner Hack requested. They had heard health and safety concerns of the properties and whether or not they would expand the program or not, they saw it in the single family homes. He appreciated Jimenez's comments and the work he had done. He wanted to go further and know the true cost of this. One thing he wanted to know and they would not know until the May time frame when the state budget came down was how much money they would have or not have. If they were going to proceed with a registration program and where Commissioner Highberger was heading a little bit were the inspections that would happen at a later date. They could build up the reserve and there were a number of things they could look at, but they had to know what the real costs were. He did not question the amount of money to start the program, but in light of the loss of revenue concerns they were going to have and some recommendations staff had given of the impact on this year's budget and next year's budget, they had to take that into consideration. He was not looking towards taking away from too many other programs right

now. He said staff could provide that information and get this item back on the agenda in a timely fashion.

Vice Mayor Chestnut said this has been a great dialogue. He said there was no budget for fuel cost, vehicle maintenance, and such which he thought inspectors needed something to drive. He did not think it was a comprehensive look of what things were going to cost. Also, there was the cost to the legal staff. Safety was the primary issue and thought there was some merit to looking at this not as it was designed but how they would get to the biggest problems in the most expeditious way. If there was any way to do that, they needed to give it strong consideration. He said it would be helpful to know about the current program and of the 2,000 units they talked about, what was the preponderance of citations on the same homes. If it was concentrated on a quarter of the stock or 10 – 15%, it was the information to know that it was reflective and have a different approach on this particular program might be effective and could laser in what they were trying to get at. He said he did not think any one had intentions of being owners to the landlord or whatever, but get the issues they had and had not been successful in addressing that. He said it was difficult right now to think about something new because they did not know what the second half of 2009 looked like and even if they wanted to, they could not raise taxes to cover it. They were talking about shortfalls and wanted to know what the position was before they moved forward.

Mayor Dever said there were a couple of things that popped out to him. He said he had done research on other communities and how they do these types of programs. Other communities have looked at ways that did not isolate the community to age but regulated all uses that were relative to housing, apartment complexes and the main reasons were they wanted to uniformly apply the rules. Just because a building was built 8 years ago did not mean it was not in the condition of a building that was 50 years old. He thought it was unfair for them to single out one age, but understood the rationale and would be supportive of that if it was fair. Money was a problem and it was pointed out that it was egregious of them to ignore the



problem but was just as egregious of them to start spending more money, the City's money, they did not know they would have until they knew what the situation was. He thought this was a laudable goal and thought they could achieve it. He suggested the idea of where they could regulate without inspecting and raising staff levels and overhead costs tremendously. He thought they might be able to achieve some goals they laid out if health and safety were truly what they were after and life safety issues were something they wanted to solve. He thought they could fix those problems with some sort of licensing. He thought they could do that in a fair way. He was concerned about the impact if what regulation they had if they singled out an area of the community or the age. He said that would change the dynamics of the community. He said as someone who inspected properties as a living, the things Jimenez was describing would take a lot longer than 15 – 20 minutes. He could not imagine finding all the problems without spending more time and money. He thought the program would require more hours. He said of the communities who had this program enforced annually by the fire inspection and building inspection jointly, so he thought they would be able to solve the problem or have the staff in hand to enforce this rule with existing staff. If they had that, this program would be cost neutral and right now did not see it happening or figure out ways to pay for this without knowing the cost. He was in favor of the concept, but did not know how to achieve it. He said they needed to look at the number of units impacted, do some multiplying and figure out how many hours they would spend and the cost. (23)

**Receive draft Economic Development policies and cost benefit model to be forwarded to the Board of County Commissioners for their comments.**

David Corliss, City Manager, introduced the item. He said the action was to refer these items onto the County Commission for their response and comment. He thought it was important to note that these were not jointly adopted policies but City policies. They wanted to

have input from the County Commission. He thought it was important they try and get these items finalized as soon as possible.

Roger Zalneraitis, Economic Development Coordinator/Planner, said probably the only thing the City Commission had not seen that was forwarded was they gave the County an update on the cost/benefit model and had been working on a second version from recommendations that came to them over time. There was a discussion about the changes in the second version, the impact it had on the model, and there would be discussion related to those moving forward.

Commissioner Amyx asked if the action was to refer this to the County Commission for their input.

Corliss said yes and they could take comment. He thought it would be helpful to talk about process. When the City Commission took a look at this document again, they wanted to make sure they had the policies in place if they were considering any incentive issues and finalize the work. They were not trying to rush it, but it would be good to try and move this forward if appropriate. He said that was staff's recommendation and the City Commission may wait if they wanted to. He did not know if the County Commission would be able to feel comfortable with it until quite a bit of work on their part. One option was to allow the County Commission to have some comment and could adopt it with the understanding of making substantial changes.

Mayor Dever called for public comment.

Daniel Poull, Chair, Sustainability Advisory Board, said he was there to reiterate the memo he sent. He said he wanted to specifically reiterate a sentence in the memo which stated, "The language currently included in the policy that a business should be 'environmentally sound' does not provide definable benchmarks." He said that was the crux and they gave a lot of suggestions in the memo. The kind of bait they put in the water determined the fish they pulled out. He thought they wanted to be weighted towards those businesses that were going to

bring environmentally sound operations and even specifically green and environmental businesses. If they were going to build wind generators or solar panels in Lawrence, it was a yes kind of thing.

Mayor Dever asked how they would achieve that.

Poull said it was nice when things were very well spelled out when applying for things in the City and when a business knew that if they were having a positive environmental impact or creating something to help the environment, they would know they would be considered more seriously because of that. They were going to give weight to a business that was environmentally sound did not really mean anything and had to spell out what that meant. He said the clearer they could be in the application policy and would love to attract some businesses that were in the green energy.

Commissioner Highberger said he wanted to make sure the Sustainability Advisory Board's memo would go over along with this report.

**Moved by Highberger, seconded by Amyx,** to authorize staff to forward documents on Economic Development Policies and issues to the Board of County Commissioners. Motion carried unanimously. (24)

**Consider request for a study session regarding Bowersock Dam and Utility items.**

David Corliss, City Manager, introduced the item. He said they would like to have a study session next Tuesday and would need an hour. They would start at 5:00 and then have a break. They would be prepared to talk about Bowersock in addition to the information they had right now. He also wanted to talk about Utility Master Planning and the appropriate vehicle to proceed on that. They saw them as related because of the substantial capital needs that may call for a long term maintenance requirement on Bowersock and the ability for Utility needs.

Vice Mayor Chestnut said they had a maintenance agreement on the dam but had the ability to forego the maintenance if they chose to. He said what really needed to be part of the study session was they were at a fork in the road where they would make a choice to either not

maintain that dam or commit to maintain the dam for a longer period of time. He thought it was important to know the implications of both which was if they gave up maintenance of a dam and assume there was not another entity with the financial wherewithal, what were the implications of all the different things to the water supply, intake, building a dam farther up the river which was something that had been talked about. They needed to talk about the reality of that. He thought that needed to be part of the agenda. (25)

**PUBLIC COMMENT: None**

**FUTURE AGENDA ITEMS:**

02/24/09      ·     Receive staff report regarding text amendment related to homeless facilities.

**ACTION:** Receive report and direct staff as appropriate.

·     Receive status update on the condition and activities of 617 W. 4<sup>th</sup> Street.

·     Discussion of panhandling issues per City Commission request on December 9, 2008.

03/31/09      ·     Receive recommendations of Mayor's Climate Protection Task Force.

March          ·     Receive audit recommendation follow-up report from the City Auditor

·     Discuss continuation or expiration of the quorum ordinance.

TBD            ·     Authorize the City Manager to execute an engineering services agreement with Black & Veatch for Design Phase Engineering services in conjunction with project WW0601, improvements to the Anaerobic Digester Process at the Wastewater Treatment Plant.

·     Conduct public hearing to discuss the condition of the dilapidated structure at 1207 E. 13<sup>th</sup> Street and to consider declaring the structure unsafe and dangerous and ordering its repair or removal within a specified period of time.

·     Receive 2008 TASER usage report and authorize expanded deployment of TASERs by the Police Department.

**ACTION:**     Receive report and authorize the expanded deployment of TASERs by the Police Department, if appropriate.

- Consider the following items associated with the Oread Hotel:
  - a) Road closure schedule
  - b) Final development plan revisions
  - c) TIF redevelopment plan revisions to public improvements
- Utilities Master Plan
- ***This item was heard by the CC on 02/10/09.*** Consider approving Text Amendment TA-12-27-07, revisions to multiple sections of the City Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. TA-12-27-07 with revisions to Sections 20-1101, 20-1109 & 20-1701 (PC item 18; approved 7-1-1 on 7/23/08 meeting). TA-12-27-07 with revisions to Sections 20-701 and 20-702 to maintain consistency throughout the Code. Consider adopting [Ordinance No. 8304](#) on first reading regarding TA-12-27-07 for revisions to multiple sections of the City Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. (PC item 9; approved 7-0 on 9/24/08)

**ACTION:** Approve Text Amendment TA-12-27-07, revisions to Sections 20-701, 20-702, 20-1101, 20-1109 and 20-1701 of the City Development Code to revise Protection Standards for Environmentally Sensitive Areas and provide more precise definitions and adopt on first reading, Ordinance No. 8304, if appropriate.

- Receive staff report regarding transferable development rights
- Approve Text Amendment TA-06-12-08, to Section 20-810 of the Subdivision Regulations to clarify the natural resources and environmentally sensitive areas that are to be protected or preserved. Initiated by County Commission June 23, 2008. Adopt Ordinance No. 8317 on first reading for TA-06-12-08, to Section 20-810 of the Subdivision Regulations. (PC Item 3; approved 7-0 on 8/25/08)
- Adopt on first reading, [Ordinance No. 8300](#), incorporating by reference, a Text Amendment (TA-04-03-08), to Chapter 20 of the Lawrence City Code (Land Development Code) to define and permit various homeless facilities. (Text Amendment approved by City Commission on 10/14/08).
- Maple Leaf Square rezonings, dedication of easements and rights-of-way, and waiver from the requirement of the Subdivision Regulations that sidewalks be constructed on both sides of the street.

**COMMISSION ITEMS: None**

**Moved by Chestnut, seconded by Highberger,** to adjourn at 11:00 p.m. Motion carried unanimously.

**APPROVED:**

\_\_\_\_\_  
Michael H. Dever, Mayor

**ATTEST:**

\_\_\_\_\_  
Frank S. Reeb, City Clerk