



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL H. DEVER

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

March 10, 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 Tuesday, March 17, 2009 as the day for the Twenty Second Annual Saint Patrick's Day Parade.

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 24, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve the Traffic Safety Commission meeting minutes of February 2, 2009; and the Community Development Advisory Committee meeting minutes of February 12, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve claims to 396 vendors in the amount of \$1,661,940.68. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve the Drinking Establishment License for El Mezcal Mexican Restaurant II, 804 Iowa. Motion carried unanimously.

(1)



The City Commission reviewed bids for 2009 Crack Seal Program for the Public Works Department. The bids were:

BIDDER	BID AMOUNT
Engineer's Estimate	\$299,200
Missouri Pavement Maintenance Inc.	\$242,000
Ballou Construction Co., Inc.	\$270,600
Bettis Asphalt & Construction, Inc.	\$305,800
LRM Industries, Inc.	\$308,000
Mission Construction Co., Inc.	\$349,580
Vance Brothers, Inc.	\$349,800
APAC-Kansas, Inc., Shears Division	\$411,400

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to award the bid to Missouri Pavement Maintenance, Inc., in the amount of \$242,000. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to set bid date of March 24, 2009, for City Bid No. B09019, Project No. PW0905, 2009 Curb and Gutter Replacement System. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize staff to advertise a Request for Proposals for Design and Construction Phase Engineering Services for Option 4 of the replacement of the Waste Water Plant Administrative Building Heating, Ventilation, and Air Conditioning (HVAC) system. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt Resolution No. 6821, authorizing the Mayor to sign Agreement 22-09 with the Secretary of Transportation for reimbursement of costs for the 2010 KLINK project, 23rd Street (K-10), Haskell Avenue to East City Limits. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt Resolution No. 6824 authorizing the issuance of general obligation bonds in the amount of \$450,000 for the milling and overlay of 23rd Street (K-10), Haskell Avenue to the East City Limits. The amount has been funded in the Capital Improvement Budget. Motion carried unanimously. **(6)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt Resolution No. 6822, authorizing the Mayor to sign the application for the 2009 Emergency Shelter Grant from the City to the State of Kansas. Motion carried unanimously. **(7)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to adopt Resolution No. 6823, setting a public hearing date of April 28, 2009, to discuss the condition of the dilapidated structure at 1207 E. 13th Street and to consider declaring the structure unsafe and ordering its repair or removal within a specified period of time. Motion carried unanimously. **(8)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize the Mayor to execute resolutions of support and eligibility for the Transportation Enhancement projects, as authorized by the City Commission on March 3, 2009, and a KDOT requirement due in KDOT offices on March 18, 2009. Motion carried unanimously. **(9)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve unanimous recommendation from the Traffic Safety Commission (TSC) for a trial installation of pavement markings at the SHARED-USE PATH/DRIVEWAY crossings along the south side of 6th Street between Folks Road and K-10, The Bicycle Advisory Commission will report back after six months. Motion carried unanimously. **(10)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to receive request from Lawrence-Douglas County Chapter of the Kansas Equality Coalition to revise Chapter X of the Human Rights Ordinance of the City Code to include gender identity as a protected category. Motion carried unanimously. **(11)**

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to receive letter from AT&T regarding the introduction of AT&T U-Verse TV Internet Protocol-based next generation video product to customers in Lawrence on or after April 1, 2009. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to receive Downtown Lawrence, Inc., 2008 Fourth Quarter Report. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize the Mayor to sign a Subordination Agreement for Gale Fleming, 204 N. Minnesota. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to approve as “signs of community interest” a request from St. John the Evangelical Catholic Church to place temporary signs on church property at various time through 2009 promoting various church activities. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize the publication of the proposed amendment to the 2009 Budget and establish March 24, 2009 as the public hearing date. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Chestnut, seconded by Hack**, to authorize the City Manager to sign a lease agreement with USD 497 for the use of baseball/softball diamonds at the Sport 2 Sport Complex at the cost of \$4,800. Motion carried unanimously. (17)

Hubbard Collingsworth, Lawrence, requested a consent agenda item, regarding the bid for nine police cars for the Police Department, be pulled for separate discussion. He said he would like to know the number of bidders and if the local Ford dealer was involved and if so, he asked if the bid was much higher.

David Corliss, City Manager, said this bid was for the Police Department to replace nine patrol vehicles. This amount was budgeted and the number was slightly down for the operating budget because of the high use of those vehicles. The vehicles were being replaced because of mileage and maintenance concerns and staff went through the process in making sure those vehicles qualified for use and need for replacement. The City had not participated in the metro bid contract and advertised locally. Out of three bidders, Shawnee Mission Ford's bid was \$196,896 for nine vehicles which those vehicles had to be outfitted accordingly for law enforcement uses. The other two bids were from Olathe Ford and Laird Noller was approximately \$700 more than Shawnee Mission Ford's bid and staff was recommending proceeding with the Shawnee Mission Ford bid.

Staff looked at whether or not there were additional costs because the vehicles were being purchased from a dealer in Johnson County. Shawnee Mission Ford would drive those vehicles to Lawrence which meant no transport costs and no sales tax because the City was exempt from sales tax as a municipality. Staff did not see any reason to disqualify, even given the closeness of this bid, an out of town vendor versus a local vendor. The City did not have in its purchasing policy a local preference, but that issue had been discussed. The City had a memo on local preference, but there was a state statute that if doing a local preference it impacted other states because of interstate commerce issues. In many cases, the local vendor was going to be a preference because of warranty issues or other type of issues, but that was not the case in this situation because they took the manufacturer's warranty and worked with it. Staff did not see a City financial advantage, but there might be a community financial advantage. From staff's standpoint, they would like to see a policy that would be enforced in those types of situations.

Commissioner Hack asked about the policy and if there was a percentage difference. She said it seemed like such a small percentage to take that much business away from a local

vendor. She said she was uncomfortable awarding the bid to an out of town dealer when the percentage was that small, but she did not know if the City would get into a situation, because there was no policy to back up a local vendor and would be in trouble for accepting a local bid that was not the low bid.

Corliss said there was not a percentage that was widespread in communities but typically cities would go with the low bid unless the local vendor was within approximately 2%.

Commissioner Amyx said in the past, the City bid with the metro contract and accepted the low bidder. He said unless the City wanted to award the bid to the high bidder, the City could reject all those bids and provide a different option package to see if that would make a difference. He said it did not seem to make a lot of sense in not awarding the bid to the local dealer for \$735. He said if taking the best low qualified bid, he was sure there was not much difference in any one of those vehicles.

Corliss said when staff saw that this bid might be an issue staff felt fairly strongly that a policy was needed. The City Commission did not need to approve the bid at this time, the bid could be deferred, and staff could draft a memo concerning local option preference. There were merits and demerits and clearly, the merits were that it kept local money in town and also a comment that people who lived in this community, worked in other communities and Lawrence residents could work for Shawnee Mission Ford. Ultimately, staff wanted a clear policy direction.

Commissioner Amyx asked if there was a time frame for those bids.

Corliss said he assumed 30 days, but he would check on that time frame.

Commissioner Amyx said he would not mind looking at the policy if the bids held up for 30 days and could address the issue at their next City Commission meeting. He said with every business in town struggling, it was worth looking at the policy change now. It was pretty much

black and white as to the vendors in this case, but when only \$735 difference, the Commission would hate to see the business go away.

Commissioner Hack said she would like to see the City Commission wait on a decision because she could not see why a local business should not be awarded the bid.

Mayor Dever called for public comment.

After receiving no public comment, Vice Mayor Chestnut said he did not disagree with taking a look at the bidding process, but the Commission needed to look at the policy to make a policy before taking something other than the low bid. He said a lot of bids had been awarded to out of town vendors versus local vendors, possibly, and the City could open itself up to a lot of scrutiny. There were probably other costs associated with driving vehicles over to Lawrence, like depreciation values. He said he wanted to make sure the process was done correctly and there were compelling issues. The policy was worth studying, especially because of the economy.

Commissioner Highberger said he did not like this result of the bids either and a local purchasing policy was something he inquired about when he was elected. He was convinced at the time that the repercussions would outweigh the benefits. He said he wanted to look at the bidding process again, but was uncomfortable retroactively applying it to this situation even though he disliked the result. He agreed with management that having a policy would be the way to go on this bidding process.

Mayor Dever asked how long it would take to re-examine this issue and draft a memo.

Corliss said about two weeks. Staff would discuss the issue internally and look at the City's activities and provide a staff report to the City Commission on March 24th.

Mayor Dever asked how long the Police Department could do without the new equipment.

Corliss said those were replacement vehicles and was not an emergency situation. The City would be alright proceeding this month with the acquisition.

Mayor Dever said it was fair to the bidders and citizen to not retroactively apply and it was only fair to use this bidding issue as a reason to examine the City's policy, formulate a policy, and ask for a re-bid under that new formula.

The City Commission reviewed bids for nine police cars for the Police Department. The bids were:

BIDDER	BID AMOUNT
Shawnee Mission Ford	\$196,896
Olathe Ford	\$197,339
Laird Noller Automotive	\$197,634

It was moved by Hack, seconded by Amyx, to defer the bid for nine police cars for the Police Department, until staff drafted a bidding policy regarding local vendors. Motion carried unanimously. **(18)**

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said the City received its sales tax distribution, a result of retail sales from mid December to mid January which was slightly down over the prior year's distribution; a Commission reminder to update statements of substantial interests; the first round of recommendations from Transit implementation specialist to look at coordinating City and University transit systems; the right-of-way management ordinance was proceeding; staff was examining the City's energy conservation efforts and facility condition; staff prepared a downtown parking capacity report; the City's web site gets enhanced calendar of events; volunteers solicited for downtown beautification efforts; and, pilots flocked to the KU-Missouri basketball game.

Commissioner Amyx said he and Corliss discussed organizations that the City helped fund and utilizing those organizations to help with City projects. He said the City could take the

money spent on those companies when awarding bids, to help offset budget short-falls for some of those organizations. He said he would like staff to put together a list of City projects.

Corliss said it was a good suggestion and staff would put together some thoughts on how to wisely implement that idea. (18)

REGULAR AGENDA ITEMS:

Conduct public hearing and consider approving Site Plan SP-02-10-08, and the sidewalk dining and hospitality license, for Eighth Street Taproom, located at 801 New Hampshire Street.

Joe Rexwinkle, Planning and Development Services, presented the staff report. He said most sidewalk hospitality dining area requests came to the City Commission as a consent agenda item, but this was on the regular agenda with public hearing because the applicant was not able to obtain written statements from adjoining property owners expressing a lack of opposition to the sidewalk hospitality area and the applicant chose to proceed with it being scheduled on regular agenda for timeliness purposes.

He said hospitality establishments were defined as businesses that serve food, beverages, or both for on premise consumption and use a portion of the City sidewalk for consumption of those foods or beverages by the patrons. The three main things required for those applications similar to sidewalk dining were site plan, use of right-of-way agreement, a license or an ordinance if appropriate. One distinction from other sidewalk dining requests was the Code Enforcement Division of Planning and Development Services would conduct quarterly inspections to determine compliance with City codes. The proposed hospitality area would begin just east of the front door of the business and then wrap around the corner to the New Hampshire Street frontage and would end just before the stairs that reach to the basement.

He said the site plan showed an area for 11 chairs and would have a table top built into the rail. Staff recommended the approval of the site plan and the City Clerk could answer any questions about the use of right-of-way agreement and the ordinance.

Laticia Cole, Paul Werner Architects, on behalf of the applicant, said they were very appreciative of the time staff had put into reviewing this project. This was the first sidewalk hospitality area so it was a learning process for everyone. She said they attempted to send letters out, but did not receive any response back.

Mayor Dever called for public comment.

After receiving no public comment, **it was moved by Chestnut, seconded by Highberger**, to close the public hearing. Motion carried unanimously.

Commissioner Highberger said this seemed to meet the requirements of the ordinance and did not see a reason to stand in the way of it.

Commissioner Hack said she agreed.

Mayor Dever said this looked good and was excited to see if the new idea would pan out for the people who wanted to be outside in the grandfathered in locations.

Vice Mayor Chestnut said in the design with the table top, it allowed six feet all the way around on the sidewalk which was a really good thing because there was a lot of foot traffic on that corner. It was not wedged in and thought they had done a great job in designing it appropriately.

Moved by Hack, seconded by Amyx, to approve Site Plan SP-02-10-08, subject to conditions, and the sidewalk dining and hospitality license, subject to conditions, located at 801 New Hampshire Street. Motion carried unanimously. (19)

Conduct public hearing to consider the vacation of 10' of right-of-way of 12th Street and the vacation of an unused 10' utility easement along the northern boundary of Lot 1, Block 1, Delaware Commons Addition II, as requested by Tenants to Homeowners, Inc.

Chuck Soules, Public Works Director, presented the staff report. He said under the revised development plan, the sanitary sewer would be constructed in the widened easement along south of the property and the building envelopes should be further north which would only be possible with the proposed vacations due to setback requirements.

All utilities and property owners within 200 feet were notified and had no objections.

Mayor Dever called for public comment.

KT Walsh, Lawrence, said she was representing the East Lawrence Neighborhood Association. She wanted to commend Rebecca Buford, Director of Tenants to Homeowners, and the Lawrence Community Land Trust. Buford had 8 meetings in the last five days with neighbors, the neighborhood association, small groups, large groups, and little children. She said the East Lawrence Neighborhood Association completely supported this project.

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

Moved by Amyx, seconded by Hack, to approve the Order of Vacation. Motion carried unanimously. (20)

Consider the issuance of a Request for Qualifications (RFQ) to allow the City to select an engineering firm for sanitary sewer and water infrastructure at the Lawrence Municipal Airport.

Diane Stoddard, Assistant City Manager, introduced the item. She said the Lawrence Municipal Airport was a significant asset for the City, however without appropriate utility services the airport would not be able to develop to its full development potential in the future. Currently, the City served the airport with a very small waterline that was only used for domestic drinking water purposes and wells were on the airport for the purpose of fire protection. Additionally, there was no City sewer service to the airport and the businesses that were on the airport were served by septic systems. The current state was that they had at least one of those systems in a failing condition. Also with septic systems, it also required setting aside a significant portion of the land that could otherwise be developed if there were appropriate City sewer services to the airport.

The City had been approached in a number of occasions over the last few years related to potential development at the airport. Because the City was not serving the airport with the

appropriate level of services to accommodate that development, the City had been unable to accommodate it at this time. They had a number of businesses that they had current inquiries for developing at the airport and it accounted for approximately 100 jobs and several different firms. One that was particularly notable in the paper recently was the DAR Corporation that was looking at employing approximately 65 people at the airport at an average salary of \$80,000 per year. City staff believed that they needed to be looking at ways to poise the airport for those development opportunities and take advantage of those.

The next step would be issuance of the request for qualifications for engineering services for a qualified engineering firm to look at whether the appropriate options for providing sewer service and improved water service to the airport property itself. Staff believed through this request for qualifications process, the next step was having the engineering firm on hand and would provide the City Commission with a report and various options in proceeding.

Commissioner Amyx said during the site selection for the new sewer plant, they discussed an eco machine and that type of sewer treatment on a site such as the airport. He said currently at the airport was a line big enough for drinking water purposes, but not for fire suppression.

Stoddard said correct. Currently, there were wells located on the airport for fire suppression purposes.

Commissioner Amyx asked if fire suppression could be handled by its own tank off the existing lines from the Rural Water District.

David Corliss, City Manager, said that idea could be part of the analysis, but obviously with an airport, tall structures needed to be looked at. In addition to the eco machines and green machines that was something staff would further analyze and update to see what was available. It was important to give the City Commission options that would provide additional service on the airport proper. The City Commission had not made annexation land use decisions for the property that was between the City and airport and wanted to make it clear that

if the City wanted to provide enhanced sewer or water service, even if it was onsite and required lines coming from the City to that site, the City could do it in a way to where they were not making that land use commitment.

Vice Mayor Chestnut said he knew there was a comment about one septic system that had some challenges right now. He asked over time if they would develop more difficulty with the septic system. He was concerned that it might become an eventuality regardless because the septic systems started to become a problem.

Stoddard said staff believed that would be an issue in the future if the issue was not addressed.

Vice Mayor Chestnut said in whatever study the City undertook, he understood they did not know the best and most efficient route would be to extend water and sewer. It could go through a number of different ways.

Stoddard said staff had general ideas that Utility staff shared, but there might be some other opportunities and certainly the consultant would be looking at those opportunities.

Mayor Dever called for public comment.

Bob Newton, Aviation Advisory Board, said he had been a member of the City's Aviation Advisory Board off and on since 1985. He said this RFQ for the airport's water and sewer service represented the potential to have the single greatest development impact on the Lawrence Municipal Airport since its dedication in October 1929. As the City's airport prepared to celebrate its 80th anniversary this year, approval of this RFQ would begin a process to improve the basic infrastructure that the airport needed since its inception. This recommendation from their board to the City to consider getting water and sewer to the airport was not new. Over the years the airport survived with minimal utility service. They have lost out on business development opportunities because of this lack of critical infrastructure. On some occasions they had to deal with backed up toilets in the terminal building due to the failing septic systems. It was not a great first impression to make to their visitors in that particular gateway.

He said since 1999 the City and airport had fielded many inquiries from companies who wanted to build offices, manufacturing plants, hangers at Lawrence Municipal Airport, but were denied due to the inadequate facilities. In 1999 they lost an existing airport tenant to Salina Regional Airport because they could not provide the fundamental City services necessary for their expansion. Despite the desire of company officials to remain in Lawrence, Salina's amenities and airport services were too much for the airport to overcome and had lost a good company that has since grown larger and become part of the United Kingdom Corporation that served international markets.

He said today they were faced with the same scenario with DAR Corporation. DAR had a long standing history in Lawrence with solid employment, employees committed to living and working in Lawrence and bringing global aeronautical business to the community. Their professional and personal ties with the University of Kansas aerospace engineering program brought the same style of synergy the Aviation Advisory Board sought for development and growth at the airport among potential aviation related business tenants. All DAR asked of the City was the opportunity to build their own facility at the Lawrence Municipal Airport and continue to conduct world class business in the community while using basic City services. It was the same principle in providing services at the airport the Aviation Advisory Board had advocated since losing ASNT 11 years ago. Since 2001, with small matching amounts from the City, the Federal Aviation Administration had invested more than \$8 million to rehabilitate and enhance Lawrence's airport. Just last Wednesday the airport welcomed its third international flight in the last 12 months as a business jet arrived from Europe and would depart directly back to Europe after concluding its stay in Lawrence. It could not be accomplished with a mediocre airport. In addition, they had a lengthy waiting list of aircraft owners who wished to base their aircraft in the airport's rental hangers, which was another compliment to the City's commitment to the outstanding community airport. The airport's economic impact to the community was in excess of \$10 million a year. He said imagine what the financial impact would be with aviation

related commercial development at the airport. This investment in sewer and water infrastructure would be returned many times back to this community over its service life.

Their board urged the City Commission to approve this RFQ tonight and direct the City Manager and his staff to move prudently, but deliberately to improve the basic infrastructure at the Lawrence Municipal Airport so they could tell the aviation community that they were open for business.

Willem Anemaat, President of DAR Corporation, said his company was interested in moving to the Lawrence Airport. The company started in 1991 by Dr. Jan Waskin and himself to provide engineering services in the area for aircraft design. Since about five years ago, they also started providing engineering services in the area of wind energy industry. They had a small shop next to their office on Wakarusa for small prototype construction. Right now, they did primarily windmills in that shop but had a need to expand so they could build full size airplanes. The types of airplanes they would build were proto types or proof of concept airplanes and expected to build two to five airplanes a year, which was a relatively low number. Their primary activity was engineering services, so most of the employees were engineers. He said his company expected a large contract to design and manufacture several types of general aviation airplanes. They could not do that in their current facility and would need to have access to an airport. The Lawrence Airport was their first choice primarily because they were already in Lawrence and preferred to stay in Lawrence. They also had a close working relationship with the University of Kansas and wanted to maintain that relationship.

Since they expected to add quite a few new employees to their payroll and would like to have all of the employees at the same location at the airport, they understood this was impossible today because of the lack of sewer. Currently, his company had 12 employees and expected to grow that to 25 people next year and about 65 in five years. Most of the people would be engineers with a college education. They would still continue windmill research and development and would expect that to be 25 – 30% of their business, as it was now. They were

not solely dependent on the aviation industry. They had been in business for 18 years and were not a start up company and had worked on over 200 different airplane projects and the prototype manufacturing was a natural expansion of their current business. They were currently in the planning and negotiation phase with their client and expected to have it completed in June 2009. The next phase was to hire more engineers to start design work. At the same time, they would need to work out the details on the relocation of the airport. He said this meant the sewer issue was now extremely important.

Michael Almon, Lawrence, said he brought copies of one example for ecological machines to do the sewer and water line work. In the context of someone interested in protecting local businesses and in favor of local businesses and improving the business climate in general, but also interested in preserving the ecological makeup and environmental conditions in the community as well as the cost benefit ratio for the City of Lawrence and how they provided their services. In principle, he was in agreement with the local business community, DAR Corporation, the Aviation Board, KU Aeronautics Engineering, and all those people along with the idea and goal of providing adequate wastewater treatment at the airport. However, he was not in favor of the RFQ because he felt like it was premature and not completely drawn up considering all the possible options. One option would be on site wastewater treatment by building contained wetlands. The technology had been something that had been around for three or four decades and pretty much what any conventional engineering firm knew about and knew how to do these days. He said Black & Veatch did ecological engineering in Kansas City. It was a technology that used wetlands plants to purify water. He said there were external exterior wetlands that were ambient temperature, took up quite a bit of acreage, a lot of volume of water, and had been pointed out for the airport in previous studies. The building contained wetlands, sometimes referred to as hyper wetlands, took that wetland technology, concentrated it in a greenhouse environment, naturally heated with solar heat and the process was accelerated and could take place in a 10 times smaller area than outside

wetland. For instance, to process based on the Black & Veatch study in 2001, 30,000 gallons of sewage a day took 1/16 of an acre. He said the airport was concerned with the amount of space that the septic system took up, package plant, or exterior wetlands and this would resolve that issue.

In the late 1990's he was with the Friends of Douglas County, and when they first proposed constructed wetlands as a means to eliminate a lot of those pump stations, lift stations, and transporting 2/3 of Lawrence sewage from the northwest on the west side of Lawrence all away around the south end of Lawrence to the Wastewater Treatment Plant on the Kansas River and proposed using those constructed wetlands in four or five locations, Baldwin Woods in the northwest area, several locations on the Wakarusa River and even though the ideas was well received, they were informed by KDHE that for one thing they did not want to put it on the Kansas River upstream from the fresh water intake and did not want to put them on the Wakarusa River because it was a low flow stream and the discharge permits would not allow it to be placed at that location. That all changed with regulation changes that allowed Lawrence to proceed with a 7 million gallon a day wastewater treatment plan on Wakarusa River. Prior to that, at the request of Commissioner Rundle and possibly Commissioner Amyx back in 2000, Black & Veatch conducted a study that staff referenced in their staff report on the airport wastewater treatment system on site. Staff evaluated three options; a package system as a conventional treatment, force main and pump station to the Kansas River Plant, and the building contained constructed wetlands. He said he wished Debbie Van Saun, former Assistant City Manager and an Assistant Utility Director, was still heading up this issue because she was here at that time and understood utilities and knew what was in the report because the current staff report mentioned that the sewer extension was estimated to cost \$1.9 million, which was true, but it was unclear of the investigation of the package treatment and the other on-site and were rejected either because they would attract birds or the discharge would not be permitted by KDHE into Mudcreek. He said that changed about the discharge, but also they pointed out that

the constructed wetland system would not be cost competitive environmentally and was not optionally or environmentally the preferred option and the onsite treatment was not cost effective. He said that was in error because in the 2001 study the numbers showed that the pump station force main would cost \$1.9 million and the contained wetland would cost \$1.6 million, which was 16% cheaper than the force main option. The other advantage of using the constructed wetland system was that it was a modular system that could be phased in with small steps. He said if they went with the force main pump station option, they would need to build the entire system at full costs and Phase 2 would be cheaper because it would mean throwing away the old pumps, upsizing to a larger capacity pump to take more flow and was wasteful in that regard.

He said Phase 2 of the contained wetland system was increasing with another modular unit. He said the size would be 1/16 of an acre. He said he was on the Public Advisory Committee for the Wakarusa Wastewater Reclamation Facility and at that time they brought up the idea of the contained wetlands as well. The discussion that took place when a presentation was made was interesting in several regards. Previously, KDHE said that the discharge would not work on the Wakarusa River but now it would and that even though KDHE and most of the participants in the Public Advisory Committee agreed that doing those things at 7 million gallons a day would not be feasible for inside building contained wetlands, but KDHE pointed out that 80% of the 8,000 KDHE permits a year were for small lagoons or small communities of less than 250 people and this would be an ideal application for those small situation and wetland could work well in Lawrence for agricultural uses. He said at that very same meeting, Commissioner Amyx concluded they should continue within the study for the Wakarusa Wastewater Reclamation Facility, continue to do the centralized approach, but make City policy to have this option for more remote areas that were hard to sewer and that be incorporated into the Master Wastewater Plan. He said this was a viable cost effective technology and applicable under certain circumstances and the airport had been pointed out in several

instances as being the ideal location. They contracted a study by Black & Veatch to do that report and their conclusions pointed to the viability. The study indicated that the evaluation of the economic factors was a small growth option alternative and illustrated that the least expensive alternative both for construction and operations and maintenance costs were the contained wetland alternative. He said that was a study that was commissioned and yet here they were again today, the wastewater plant had not been updated and back to the point of an emergency situation where septic systems were failing and had not done the background plan where they had to do this immediately and go with a more expensive option because it was expedient. They needed to have more aviation industry near the airport and if they wanted any industry in that area, it should not be offsite, agricultural land, warehousing or low wage industry. They needed the industry they were talking about at the airport and would enable it more cheaply for the City of Lawrence. He said he would like the RFQ to include this based on the 2001 Black and Veatch Study and look at that as a viable option.

Commissioner Amyx said the anticipated services to be requested on the RFQ included a review of previous studies of extending sewer and water services and providing service delivery concept for water and sewer to the airport including short term alternatives for sewer until demand was sufficient to utilize a sewer system. There was an opportunity to make sure those previous studies had been done and looked at to deliver the sewer services for today and the future. Those possibilities existed because the information they would request was part of the RFQ.

Almon said he was not quite sure why the staff report including KDHE would require an anti-degradation study, show the lowest cost based on a 20 year analysis. Another thing the Black & Veatch study pointed out was that the present worth cost of the pump station force main would be \$436,177 whereas the contained wetland would be \$386,329.

Commissioner Amyx said that all that information would be provided in the RFQ and the City Commission would take a look at those things.

Beth Johnson, Lawrence Chamber of Commerce, said the airport was a benefit to this community and getting utilities to that airport would make it an even stronger asset to market and to make Lawrence an even better place for those industries. The City had a great university that had tremendous technologies with the aviation industry as well and the university was a good tie-in to reinforce that relationship not only with university, but with companies looking at the airport area. She said the Chamber supported the City sending out the RFQ to companies to improve that area.

Commissioner Amyx said staff and the Commission would be looking at past studies and there was plenty of information available to qualified applicants. He said the City needed to look at alternatives to facilitate operations and look at future business at the airport, but at the same time, delivering services at the best cost possible.

Commissioner Highberger asked if staff was confident the current language would put perspective applicants on notice that an analysis of the contained wetland option was expected.

Corliss said he believed so because the language indicated that a review of previous studies was needed and a good applicant would ask about the previous studies and City staff would provide the applicant with that information. If something could be done to meet the health and utility needs of a growing airport, it was a plus.

Moved by Hack, seconded by Amyx, to authorize the issuance of a Request for Qualifications (RFQ) to allow the City to select an engineering firm for sanitary sewer and water infrastructure at the Lawrence Municipal Airport. Motion carried unanimously.

(21)

Receive staff memo regarding quorum ordinance requirements.

Toni Wheeler, Director of Legal Services, presented the staff report. She said it was the time of year to review the quorum ordinance for the City Commission. She provided a memo for the agenda that described recent changes in the Kansas Open Meetings Act that made it possible now for two members of the City Commission to meet outside a public meeting without

having the quorum set at four. Currently, a quorum was set at four and would expire on March 31, 2009. She said the City Commission's options were to leave the quorum at four and continue to review that number annually, leave the quorum at four and not have the annual review, or establish the quorum at three.

After receiving no public comment, Mayor Dever said his preference would be to renew the current quorum ordinance and discuss why that number was not changed in the past.

Commissioner Hack said she would prefer keeping the quorum at four, but removing the annual review. She said she did not like the idea of three as a quorum because she did not think there would be enough diverse opinions in some cases.

David Corliss, City Manager, said staff wanted the City Commission's choice to be conscious and could allow the existing ordinance to expire. State law had caught up with this practice which was to allow two of the City Commissioners to discuss business without it being a public meeting. The open meetings law had now changed to allow that.

Commissioner Amyx said he had no problem continuing the quorum at four. He said he agreed with Commissioner Hack that with three people, there would not be enough diverse opinion. He said it was important to have an annual review and have the ordinance placed as a consent agenda item because it gave the public an opportunity to comment.

Commissioner Highberger asked if the annual review was required.

Corliss said yes as part of Charter Ordinance 25 the City Commission had to annually renew the quorum of four or it went back to the quorum of three. The reason behind that was when they adopted the Charter Ordinance they wanted it to be more difficult to retain and would be easy to stop.

Commissioner Highberger said he agreed with Commissioner Amyx in that keeping it at four was a good idea. It would be a bad situation for three City Commissioners to conduct City business. He said he did not see the need for an annual review and if they adopted this as a

regular ordinance, it was something a future commission could change with three votes. He said he would vote for option 4 to repeal the current charter ordinance.

Commissioner Amyx said he did not have a problem with the recommendation from Commissioner Highberger.

Commissioner Highberger asked Wheeler to explain the difference between Option 2 and Option 4.

Wheeler said if the City Commission wished to keep the quorum at four, but not have the annual review, then the City Commission should adopt Ordinance No. 8379 which was Option No. 2.

Mayor Dever said he would like to keep the quorum at 4.

Moved by Amyx, seconded by Hack, to adopt on first reading ordinance 8379 amending Chapter 1, Article 2, Section 1-204 of the Code of the City of Lawrence, Kansas, 2009 Edition, and amendments thereto, establishing the quorum at four Commissioners for the conduct of City Commission business. Motion carried unanimously. (22)

PUBLIC COMMENT:

KT Walsh, Lawrence, said she asked if the quorum applied to advisory boards as well.

David Corliss, City Manager, said the open meetings law applied to all the City's advisory boards, but no other City board changed their quorum requirement.

Michael Almon, Lawrence, said on the quorum issue, he did not speak earlier because he was not clear where the discussion was going. What changed in state statute was the definition of a meeting, not the quorum. The City Commission at five members what constituted a meeting was three members. The quorum would be three members, except that level was changed and referred to how many member it took to conduct business. What constituted a meeting by state definition were three. He asked if those were now the same.

Mayor Dever said the Commission could not conduct business without four members.

FUTURE AGENDA ITEMS:

- 03/24/09 · Consider adoption of economic development policies and cost benefit model.
- Budget Amendment public hearing.
- 03/31/09 · Receive recommendations of Mayor's Climate Protection Task Force.
- Consideration of the renaming of Missouri Street, from 9th to 11th Streets, in honor of Don Fambrough.
- March · Receive audit recommendation follow-up report from the City Auditor
- 04/07/09 · City Commissioner Elections
- 04/14/09 · Seating of new City Commissioners
- Election of Mayor and Vice-Mayor
- 04/28/09 · Conduct public hearing to discuss the condition of the dilapidated structure at 1207 E. 13th Street and to consider declaring the structure unsafe and dangerous and ordering its repair or removal within a specified period of time.
- TBD · [Request](#) from Lawrence-Douglas County Chapter of the Kansas Equality Coalition to revise Chapter X of the Human Rights Ordinance of the City Code to include gender identity as a protected category.
- 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.
- 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)
- 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:

Moved by Chestnut, seconded by Amyx, to adjourn at 8:15 p.m. Motion carried unanimously.

APPROVED:

Michael H. Dever, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF MARCH 10, 2009

1. Bid – 2009 Crack Seal Program, Missouri Pavement Maintenance, Inc., \$242,000.
2. Bid Date – Mar 24, 2009, 2009 Curb & Gutter Replacement Program.
3. Request for Proposals – Design/Construction Phase Engineering Srvcs, Option 4, HVAC system for Waste Water Plant Admin Bldg Heating
4. Resolution No. 6821 – Agreement 22-09, Secretary of Transportation, reimbursement for 2010 KLINK Proj., 23rd St, Haskell Ave to E City Limits.
5. Resolution No. 6824 – Gen oblig bonds, \$450,000, 23rd St Haskell Ave E to City limits.
6. Resolution No. 6822 – Application, 2009 Emergency Shelter Grant
7. Resolution No. 6823 – Public Hearing Date, Apr 28, 2009, dilapidated structure, 1207 E. 13th St.
8. Resolutions of support & eligibility, Transportation Enhancement projects.
9. Shared-Use Path/Driveway crossings pavement markings, S side 6th St btw Folks Rd & K-10.
10. Ch 10 Human Rights Ordinance revision.
11. Letter from AT&T
12. Downtown Lawrence, Inc., 2008 Fourth Quarter Report.
14. Subordination Agreement – Gale Fleming, 204 N. Minnesota.
15. Signs of Community Interest – St. John the Evangelical Church, temp signs on church property.
16. Proposed amendment publication – 2009 Budget, Mar 24, 2009 public hearing date.
17. Lease Agreement – USD 497, use baseball/softball diamonds at Sport 2 Sport, \$4,800.
18. Bid – 9 police cars, Shawnee Mission Ford \$196,896.
19. City Manager's Report.
20. Sidewalk dining – 8th Street Taproom, 801 New Hampshire.
21. Vacation of 10' of ROW at 12th St, vacation of unused 10' utility easement.
22. Request for Qualifications – engineering firm, sanitary sewer & water, Lawrence Municipal Airport.
23. Quorum Ordinance Requirements.