



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

April 28, 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 Chestnut presiding and members Amyx, Dever, Cromwell, and Johnson present.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approve, Mayor Chestnut proclaimed the week of May 3 – 9, 2009, as National Music Week in Lawrence; Saturday, May 9, 2009, as Sertoma Bar-B-Q Cook-Off Day; the month of May 2009 as Mental Health Month; the month of May 2009 as Tennis Month; and recognized the Lawrence Cultural Arts Commission 2009 Grant Award Recipients.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve the City Commission meeting minutes of April 14, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve the Sustainability Advisory Board meeting minutes of February 11, 2009; the Contractor Licensing Board meeting minutes of February 25, 2009; and the Planning Commission meeting minutes of March 23 and 25, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve payroll from April 12 – 25, 2009 in the amount of \$1,771,658.39 and claims to 1,068 vendors in the amount of \$2,397,896.73. Motion carried unanimously.



As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve the Drinking Establishment License for 23rd Street Roadhouse, 1003 East 23rd; and approve the Street Vendor License for Just Chillin, 2413 Alabama. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to waive bidding requirements and approve sole source purchase of one set (power unit, spreader, cutter, short ram, long ram, and two hoses) of Genesis hydraulic rescue tools from RAW Enterprises for the Fire/Medical Department, for \$29,650. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to waive bidding requirements and approve sole source purchase of water meters for the Utilities Department from Midwest Meter for \$166,440 for the implementations of the 2009 Meter Replacement Program. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to place on first reading Ordinance No. 8390, allowing the possession and consumption of alcoholic beverages at Burcham Park on May 23, 2009, related to the Patten-Hill family wedding rehearsal dinner. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to place on first reading Ordinance No. 8392, authorizing the sale, possession and consumption of alcoholic beverages at Broken Arrow Park on May 8 – 9, 2009, for the Lawrence Sertoma BBQ Cook-off and fundraiser. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to place on first reading Ordinance No. 8389, authorizing the City's use of eminent domain authority and condemning the acquired property interests for the Burroughs Creek Trail. Motion carried unanimously. (5)

Ordinance No. 8388, amending (TA-04-03-08) and enacting sections of Chapter 20 of the Lawrence City Code (Land Development Code) pertaining to certain Community Facilities

(Temporary Shelters and Social Service Agencies), was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt the ordinance. (Aye: Chestnut, Amyx, Cromwell, Johnson, Dever. Nay: None.) Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve traffic calming on Ousdahl Road between 25th Street and 26th Street. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to authorize the Mayor to sign a Subordination Agreement for Donna Williams and Jean Dixon, 1601 Kenwood. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to receive staff memo and approve the formation of a Douglas County-Lawrence Complete County Committee to assist in publicity for the 2010 Census. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve agreement with Lawrence Freenet to install wireless devices on City light poles in the downtown area. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve distribution of the Healthcare plan RFP. Motion carried unanimously. (11)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said the state was still interested in taking liquor tax money that was an important revenue source for the City, which was \$1.7 million to the City on an annual basis. The proposal was to attribute all liquor taxes to the State general fund and the City had been fighting that proposal. He said if the revenue stopped on July 1st, the City would be looking at this year's budget in addition to next year's budget and what the City needed to do to continue providing services for the community.

Other information in the City Manager's Report was that the City was working with the school district on tennis court light issues; comparison information was provided for assessed valuations, mill levies, and local sales tax from the ten largest cities in Kansas; School Resource Officer Program's recognized as a 2008 National Model Agency by the National Association of School Resource Officers; online diversity training for City employees was completed; the City was renegotiating a fire protection agreement with Grant Township; a sign was posted at bioscience business incubator site in advance of construction; City vehicle signage was getting an update; Planning drafted the 2008 Planning and Development Services Annual Report; the City hosted an Earth Day Celebration at South Park; the City's website offered better user experiences by search engine modifications; Parks and Recreation's Aquatics Division added a robust calendar of events to their website; Federal funds were being sought for Yankee Tank Dam upgrades.

Vice Mayor Amyx said he read that the lights for the tennis court on 21st Street did not meet code.

Corliss said in planning to install new lights, staff did not think the existing lights could be recycled because of code and performance issues. He said the lights were not unsafe at that location, but probably did not meet current code because those lights had been at that location for a number of years. (12)

REGULAR AGENDA ITEMS:

Consider deferring the second and final reading of Ordinance No. 8387, for the Rezoning (Z-2-2-09) of 1725 New Hampshire Street from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip), until such time as the contract purchaser commits to close on the purchase of the property, or September 15, 2009, whichever is sooner.

Scott McCullough, Planning/Development Services Director, presented the staff report. He said on April 14th the City Commission adopted on first reading the ordinance which would approve the rezoning. Subsequent to that, staff received a letter that laid out some reasons why the applicant wished to defer the second reading of the ordinance until close of property or

September 15, 2009, whichever was sooner. It was a little atypical because typically deferral requests that happen before the City Commission took action or considered it was at the discretion of staff, City Manager, and the Mayor in terms of setting the agenda. Because this rezoning was between first and second reading, staff felt it was appropriate to place this on the regular agenda for City Commission consideration and also to provide public notice to those following this rezoning request that it was an action the City Commission was taking.

Commissioner Johnson asked if there was a rule or state statute that stated the length of time between first and second reading.

McCullough said there was no state statute staff was aware of; it was at the discretion of the governing body. Staff reviewed the request and thought it was appropriate. When September 15th came around, staff would bring this time back for discussion and decision.

Mayor Chestnut said as far as one of the issues and reasons, without having the closing if the Commission were to adopt this rezoning on second reading, then the existing structure would be a nonconforming use and if the deal did not go through, the result would be a rezoning to an existing structure to a nonconforming use, which he did not think would be a good position for the property owner or City. He thought some of the issue was timing of the closing.

Vice Mayor Amyx said if the Commission was going to defer this item for a 5 month period, he would like an update in 90 days so this item did not slip through the cracks.

Mayor Chestnut called for public comment.

Robert Farha, property owner of record, said in their conversations with Dillon's, they preferred to have an empty building because Dillon's were not landlords. All their leases terminate July 30th and July 31st and Dillon's would rather take possession of an empty building and would not want to have a nonconforming building for the next three months.

Moved by Amyx, seconded by Johnson, to defer the second and final reading until September 15, 2009, with an update provided by the applicant to Planning staff by July 15, 2009 and placed on a City Commission agenda. Motion carried unanimously. **(13)**

Receive 2008 Health Department Annual Report.

Dan Partridge, Director of the Lawrence-Douglas County Health Department, presented the report. He said every year he had made a presentation to the City Commission, he had told them where he wanted to go with the department. Part of where he wanted to go was accreditation of public health agencies was coming and was slotted to occur in 2011 and when they wanted to be ready. Towards that end they had taken a lot of the steps in the last year, received several grants from the National Association of City/County Health Officials, the Sunflower Foundation, and some others, to help prepare for accreditation. The two documents they were working with most closely were the operational definition of a functional local health department, which outlined the essential services of each health department should provide to the public, and the public health and accreditation standards.

He said the theme of the annual report was the history of public health in Lawrence and Douglas County. He said in 1885, the State of Kansas adopted a state statute to begin a state public health body. A few months later the City of Lawrence hired its first health officer, which was the structure that public health began in Kansas, which was a state board of health with each county having a health officer. He said that was the structure for public health in Lawrence until 1929, when the City health unit was formed. The first location of the health office was Lawrence City Hall in 1925. During World War II, the state came to Lawrence and Douglas County asking for those two organizations to pool their resources and form a City/County Health Department. He said that had been the structure since 1942 and they have had three homes since then.

He said in the mid-1940s there was an issue with rats in the community and had several public meetings about how to control rats. Lawrence was also one of the first community health departments to have a WIC department.

He listed in the report accomplishments that were noteworthy in 2008. Food service inspections were a new service they started in 2008 and were now their third largest transfer from the state for funds. It had been something that allowed them to get a revenue mix a little more diversified and bring more value to the community because service delivered by a local body was better service and more directly connected to the community.

They also revised the Douglas County Sanitary Code for the first time since 2001. There were several significant changes in the code that put them into compliance with the work they did in the uniform growth district.

He said the next program was WIC which was the supplemental nutrition program that was federally funded through USDA. The case load for that program continued to increase and was now in the mid 1,500's. He said the eye opener was about 8 – 9 months ago last summer they were working on a program report and the statistic came out to him that 42% of the infants in Douglas County were on WIC which was a powerful number. It also said that poverty was something that was more prevalent in the community than they might want to believe.

He said they have also tried to connect more with physicians and have had a letter called the Infection Connection which was essentially their way to communicate to physicians the diseases they were seeing at the time and what was percolating up at the top as far as incidence rates in the community. He said flu shots were a changing industry and it used to be something the department had a handle of with pharmacies being able to provide vaccines. That business was now a shared business and felt like they did not need to own that business as long as the public was receiving flu shots. It had been a change and what they had done to adapt to that change was to bring it more in house and deliver it more cost effectively.

He said child care licensing was another program and he was trying to get the Health Department out in the community more. Last fall, an education campaign was conducted where they read books to child care centers to give those kids information regarding hand washing, covering your cough, and what to do to keep from spreading disease in a kid friendly language. Child care capacity also continued to increase like WIC. With their two staff that work that program, they became more and more busy each year as centers and home providers opened up. They have 6,000 to 7,000 child care slots in the community.

He said MCH (Maternal and Child Care Health) was a program that saw a lot of change as well. They had six nurses in the program and the two senior nurses that retired last fall. MCH was a program that worked as case managers for at risk families such as teen moms and first time families to mitigate risk factors, to receive good health outcomes for the children. He said they lost a third of that staff and made the choice last year that they needed to find ways to become more cost savvy. They took that opportunity to go to the Kansas Children Service League and partner with that service and they brought in three staff and hopefully that staff would grow. Their goal was to replace that case load because they had lost 40 families out of a case load of 140.

He said on the administration side, demonstration grants were done and they were one of 30 departments selected in the nation selected to work with the accreditation standards to essentially put together a best practices demonstration of how health departments might adopt quality improvement as a way to get to accreditation.

He said the last was dovetailing with quality improvement and worked hard with staff to come up with performance measures that were a little more relevant. They tried to come up with measures that spoke to the difference their department was making.

He said with their budget, he believed they were prepared for 2010 and was proud of staff and the way they accepted the challenges and worked together to do more with less. He said doing more with less, last budget season he heard someone at the County say they

needed to be leaner and knew intuitively that they were pretty lean. He pulled some numbers and took some data and came up with a staff ratio. Lawrence/Douglas County was very lean at 3.7 FTE's per 10,000 population compared with Salina with well over 12.

He said there was a typo in the financial statement in the county revenue number which should have said 997 instead of 927. In the trends from 2007 to 2008, County revenue went up 5% and most of the increase was related to health insurance. They had a change of coverage and had a lot more employees pick family insurance instead of single and mid year they had a change in health insurance premiums. Because the County paid-as-they-go, those costs were reflected in the 2008 numbers whereas the City of Lawrence gave a lump sum. Federal revenue went up 1% and was projected not to be a trend that changed soon. City revenue went up 10% for a couple of reasons. There was the 4% cut back in 2007 and the City made that up in 2008. Health insurance costs were roughly 30% and true growth was in the 1%. Fee revenue went down 20% and did not project it would go down again like that in 2010, but it was going down and was a sign of the stress of families they served. Their dollars were going in other places. State revenue showed a 13% increase, but they were projecting that to go down. Several of the grants would go down 15 – 30%. Salaries were their primary expense. Overall for the year, whereas they started with a budget that had \$110,000 of a transfer from their reserve fund, with the decision last July to get ahead of the curve, they did not need to transfer from reserves. He said when taking their reserve and operating fund, combined, they had a \$40,000 surplus.

He said they were trying to focus more on the community and telling their story of public health in the form of stories. He said their Health Department website placed 3rd in a national evaluation of public websites and were proud they were third in the nation for a website they put together on a shoestring budget. On the front page was a three minute video that told a good story about public health.

Mayor Chestnut called for public comment.

After receiving no public comment, the City Commission received the 2008 Health Department Annual. (14)

Receive 2008 Tax Abatement Report.

Roger Zalneraitis, Economic Development Coordinator/Planner, presented the report. He said the Public Incentive Review Committee met this afternoon to review the 2008 Tax Abatement Report and approve the minutes from the 2007 meeting. Both were approved and forwarded to the City Commission and the report was forwarded without any edits or comments.

Commissioner Amyx asked if everyone was comfortable with the public process of abatements.

Zalneraitis said there were no changes made to the report and everyone was comfortable with the data. There were no big changes from last year and it was the same from what was seen last year. He noted a few firms would be falling off because their abatements expired in 2008.

Mayor Chestnut said there were a few employment numbers that were off, but that was not the same trend from the year prior. The wage information was fairly consistent as far as percentages above Kansas wage and was consistent with the year prior. The observation was they were getting less and less abatements outstanding and staff were working on a report to look at comparisons to some of the City's peer communities. He said based on what was adopted for the Economic Development Policy, he said they might have a reformation of the Public Incentive Review Committee, were discussing that with the Economic Development Board and would probably expand the duties of PIRC.

Mayor Chestnut called for public comment.

After receiving no public comment, Commissioner Dever said all participants in the tax abatements did a good job in getting their paperwork in and providing staff with all numbers needed on time and/or early. He said it made it easy to prepare and review the report and

appreciated their work. He was proud that most of those companies came through with their projections, even with the poor economic conditions.

Commissioner Cromwell said it was a great trend to see employment and the wage numbers were high, but somewhat disturbing to see the trends going down a bit with the economy. He said hopefully the economy could be pulled back around.

Mayor Chestnut said there were good performance measures and thought that would be addressed with the new wages.

Moved by Dever, seconded by Johnson, to receive the 2008 Tax Abatement Report.
Motion carried unanimously. (15)

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.

Brian Jimenez, Code Enforcement Manager, presented the staff report. He said the property was located in a single family zoning district and was a single family detached dwelling unit. He the property was a relatively small dwelling unit and there was most likely a second floor dwelling space. There was also a garage with a roof painted the same color of the structure itself and in researching that garage a building permit was issued 35 years ago.

He said the next set of pictures was basically close to being accurate of what was there today. He said a lot of his cases were not normal and unique in themselves. He showed the existing wall of the house. He assumed that when the accessory of the garage was built, it was built independently of the house. There was exterior siding on the interior wall that was dilapidated.

He said this house caught fire January 27, 2008. Staff received a complaint in April 2008 regarding the condition of the property. He believed the fire was toward the rear of the structure. City staff made contact with Chris Miller, property owner, on April 25, 2008 to inquire about his plans of action regarding that structure. At that time, staff inquired about insurance

proceeds because there was a City Code that required one to deposit funds with the City Clerk to make sure that if the property was not removed on your own, the City would take care of that property. That information was never given to City staff. June 16, 2008, the City issued an official notice of violation of the property and between April 25 and June 16, they had no contact with the property owner. On June 30, the owner, Miller, submitted a demolition permit to Development Services to take down a two story framed house, which was how it was described on the demolition permit. Per demolition permit requirements, there was a 30 days waiting period. Staff issued the permit on July 1, 2008. On August 13, staff inquired about insurance proceeds again and was not given any information, which was pretty abnormal to staff. On October 17 he personally called Miller to inquire about the demolition process and Miller advised that it would be approximately 30 more days before it came down. Staff continued to work with this issue through the winter time and saw very slow progress. He said staff liked to work with property owners to get to the end result. He said with winter weather and slow progress, staff continued to monitor the structure on a weekly basis. Finally, on March 10, staff sent a resolution to the City Commission to adopt a date for the hearing to take place. At the time of the submittal of that resolution, a lot of the structure was still standing.

He said between March 30 and April 13, the property continued to be dismantled. Eventually on March 30, staff viewed the house to be completely taken down besides the subflooring and the garage. Somewhere around that time, Miller informed staff that his intention was to keep the attached garage for storage. Staff was eager to address all problems that came about and issued the violation notice on April 13 to take care of the blighted structure, that was now new information that it would be remaining and other exterior yard conditions that the property had existing from the demolition process. After that notice of violation was issued, staff threw around the question of now that they had the house gone, could the property owner have a once attached garage, which was now an accessory structure and a rear accessory structure. Staff presented this question during one of their weekly meetings with Planning Staff and

discussed the development code. There was a section in the development code that talked about new construction and what could be done. He said the code stated that “accessory structure shall be constructed in conjunction with the principle or applicable building.” The way the principle building was described in residential zoned districts was a dwelling unit. Accessory structures should be a subordinate part of a principle use, clearly incidental to a principle use, and should be secondary importance and subordinate in size and scale to the principal building on site. It was staff’s position that since the property owner eliminated the principal use, a legal nonconforming use of two accessory structures was created.

Vice Mayor Amyx asked if the City put the property owner in that position whereby creating that legal non-conforming use.

Jimenez said typically an entire structure was taken down when receiving a demolition permit. Staff never experienced where the demolition permit was issued, but part of the structure remained. Staff asked the owner about the intent of leaving that structure, but staff was never told. He said he talked to Miller and specifically asked the property owner if a house would be rebuilt on that site, but the property owner could not say “yes” or “no” and there might be financial concerns. He did not know if the City put Miller in that position, but the damaged structure put Miller in the position and Miller chose not to completely take the structure down based on the demolition permit.

Commissioner Dever said if the property owner had demolished the attached garage and house because of the blighted condition and then left the accessory structure on the rear of the property, he asked if Miller would still be in this position.

Scott McCullough, Director of Development Services, said when a structure was damaged, there were options to comply with the environmental code and the zoning code and all other City codes. The two most obvious options were to repair the structure and bring it back into full compliance with the code or remove the structure and in this particular case removing the structure and leaving the accessory structures, created a non-conforming. In this case it

was not a legal non-conforming but an illegal non-conforming because it was the choice of the owner to make it a non-conforming. A legal non-conforming was when a situation existed and there was a code changed, and was put in a non-conforming status. This particular situation existed in their opinion in a non-legal way because it was the choice of the owner to take this course of action and leave a non-conforming accessory structure when no principal structure existed on the property. Staff's goal was to get the attractive nuisance removed from the site and make the site compliant.

Mayor Chestnut said in the demolition permit, he asked if it was stated clearly that all structures on the property were to come down or was there some interpretive situation where there might be a misunderstanding.

Jimenez said it was possible there could have been a misunderstanding. He said he did not issue demolition permits, but there was the area describing what was to be demolished which stated a two story framed house, but one would assume the entire structure was coming down including the garage because it was attached to the house. That was staff's idea of what would happen until later in the process where staff was informed that would not happen. Staff kept this issue on the agenda because when the demolition was approved, the structure was still severely dilapidated and deteriorated to a point where staff needed to move forward in this process. Since then, there have been a lot of exterior walls and interior items removed. The site looked better today than it had throughout this whole process.

Commissioner Dever asked if there was a basement below the sub-flooring.

Jimenez said he thought there was a two to three foot crawl space, but no full basement. He said the foundation was un-secure and neighborhood kids could jump over the fence and jump on the foundation. He said he called the owner last Thursday, to explain that sometimes every situation brought up new dilemmas.

Mayor Chestnut asked staff to explain the April 13th citation and what staff was thinking.

Jimenez said he believed staff was thinking that there had been a lot of time and effort put into this issue over the last 7 – 8 months. Now that the property owner was not going to take the entire structure down, staff looked at the condition of the structure. There were neighborhood complaints and people were still checking on the status with City Staff. He said staff was trying to handle the issue correctly. He said in the notice, it was not just about painting the attached garage, but staff was also dealing with debris in the yard and had been a pretty ugly site for a long time.

McCullough said the Codes Enforcement Officer was focusing more on the environment code than the development code aspect of the property. Staff immediately contacted the Legal Department and the Planning side of Planning and Development Services to start questioning this unique circumstance and form a position. It was after the notice when staff reviewed the entirety of the code and came up with this position.

Mayor Chestnut called for public comment.

Julie Mitchell, President of Brook Creek Neighborhood Association, said they requested that the City Commission adopt the resolution requiring Miller to demolish and remove the house and the attached garage by May 29th. She said it had been well over a year since the house caught fire and the neighborhood had been living with this blight in various states of dilapidation. It did appear the house was slowly coming down, but there was not even a dumpster on the property, it just appeared Miller was taking the house apart piece by piece in trash bags and onto a trailer which could take years. She said obviously there were other properties that could be considered blighted in the area, but this was not only an eyesore, but a danger. Before Miller took the top of the house down, the fire came through the roof and all the rain. She said any kid could have gotten into the house and the roof could have collapsed. Now that most of the house had been taken down, a kid could easily get to the sub-floor and with the rain, the sub-floor was rotting. She said the neighborhood thought it was time for the house to come completely down.

Cash Hyatt, Lawrence, said he lived next door to this house. He said anyone driving down the street had to look at this dilapidated structure. The flooring had a crawl space and it was probably a haven for cats, mice or rats right now. The floor was bowing and was a danger. He said to him it looked better when the structure was up than it did now. He said he would like the City Commission to invoke a deadline to take the structure down.

Chris Miller, Lawrence, said he submitted a written letter to the City Commission along with some attachments that summarized where he was with this issue.

Mayor Chestnut said he read the material and appreciated Miller laying the information out of the Commission.

Vice Mayor Amyx in a letter it stated that Miller had talked to staff indicating that Miller would leave the existing attached garage.

Miller said he could not say that it was always the intent, but it was undamaged by the fire and appeared to be structurally sound. He said he had not received any information from anyone that would be able to address that issue in terms of whether there was an engineering safety issue or not. He said he did discuss that issue with staff several weeks ago and then he received the notice that specifically stated, in reference to that garage, that the garage, previously attached to the house, must be properly sided and painted which led him to believe it was okay to leave the garage. He said he received a call from Jimenez last Thursday stating that leaving the garage would not work. The official notice was dated April 13th and at that point he suspended working on the garage because he did not know if he had to tear down the garage or not.

He said he could have removed the flooring, but the reason he left the flooring was because he did not have the materials on-site to fill the hole. He said he thought it was better to leave a surface over the top, then a hole, until he received the material to finish the job.

He said part of the reason it appeared from the report that was submitted by City staff that there was no activity was that they took down the interior of the house, everything except

the frame, the siding and windows because both doors were locked and no one could get into the house. He said at times, it appeared nothing was happening, but they were gutting the interior.

Commissioner Dever said Miller said in a letter, "Whether or not the garage structure is an illegal, non conforming use, is neither properly an issue before this Commission, nor a proper basis for this Commission to order demolition under K.S.A. 12-1750." He asked what Miller was basing that statute on.

Miller said he indicated earlier in the letter that statute dealt with unsafe and dangerous structure and that was the specific language that was used. Actually what staff told him was that it was a legal non-conforming use as far as the attached garage and that was not the reason for this hearing, but because it was supposedly unsafe and dangerous.

Commissioner Dever said it was stated by Miller that the remaining portions of the existing structure was covered and asked about adequate safety of the cover.

Miller said he had not problem removing that flooring.

Commissioner Dever said it seemed one of the major concerns for the neighbors were the cover for the crawl space. He said Miller was not finished bringing the secondary structure up to code because Miller was told the structure could not exist on its own. He said was there some timeframe associated with removing the sub-flooring and filling the site to bring it to grade so it was not a health or safety hazard.

Miller said yes, that was his intent. He said outside walls were taken down fast because they thought that was the best thing to do in terms of safety. He said he had some health issues and the debris from taking down those walls stayed at that location for awhile.

Commissioner Dever said the Commission needed to rule on the fact there was still part of the structure that needed to be removed. He said if the entire structure was gone, Miller might have a point, but the Commission still had to deal with the remaining portions of the unsafe structure and had to be remedied prior to moving to this stage where they were

discussing this matter outside, perhaps what Miller believed was not an appropriate venue. He said he still thought there was an unsafe structure at that location and in the eyes of the adjacent landowners and City and that issue needed to be addressed.

Vice Mayor Amyx said the Commission needed to address the sub-flooring and getting that area backfilled and brought up to code.

He said the Commission was making a determination on an unsafe structure. There was still the question from the neighbors about whether or not there were safety issues with the detached garage. He said the letter indicated that Miller previously advised City Staff that he intended to retain the former attached garage and use that structure for storage. He said there was communication and understood where the confusion came from.

He said as part of the resolution, the Commission should order the sub-floor removed and the foundation filled, until a determination could be made on the existing attached structure.

Mayor Chestnut said he agreed with the comments about dealing with the sub-flooring, but he wanted to speak to the garage issue. He said he understood there were some differences in communication. He said the original intent was to leave the structure at that time and understood the April 13th notice in that someone was trying to get something done. He said if the Commission was going to move forward, he asked about another structure to replace the structure where the sub-flooring was located. He said he was sure they were sailing in new waters and asked McCullough to explain.

McCullough said unsafe and dangerous structures and other zoning matters were being discussed. He said there were two garages on the property, one structure was attached to a damaged structure and staff typically saw that when the choice was made to remove that damaged structure to comply with the environmental code, that the entire structure came down and the garage did not remain as a new principal use for storage because it had zoning implications. He said removing the entire house and all attachments was part of a demolition permit process. The standalone garage was a different matter and if the property owner wanted

to pursue that structure, it was not under the unsafe and dangerous building of the code, but under a different section of enforcement if the City's position was that structure could not remain as an accessory structure. Staff was still in the position that the formerly attached garage was part of the structure that was damaged and part of the structure that needed to come down at this time. He said the City needed to determine a course of action on the second accessory garage if one was needed.

Mayor Chestnut said the outcome everyone wanted was to have a single-family home rebuilt on that piece of property. He said it was his understanding from Jimenez and Miller that there had not been any discussion, any intent, or plans of that happening. He tended to believe the Commission needed to address that other structure quickly because if there was not an intent in any reasonable timeframe for another single-family home to be constructed, then it was an illegal non-conforming use and the structures needed to come down because it could not be just a storage shed for another two or three years.

McCullough said staff would be happy to work with a plan of compliance with rebuilding. He said as he understood it was probably a question of Miller's intent for that property. He said staff had not received any firm intent about rebuilding at that location.

Mayor Chestnut said he suggested moving forward with this resolution on the sub-flooring, but bring back to the City Commission, in a reasonable timeframe such as 60 days, a plan for construction of a single-family home in order to see the intent of the property owner, otherwise, he suggested moving forward on the entire deal because again, a garage without a house was not a single-family home.

Commissioner Johnson said he would like some type of resolution. He said 60 days to figure out whether the property owner was going to build a new house might be too quick. He said the Commission needed to figure out if this was an unsafe structure. He said he would like to see some type of structural inspection to show that the building was safe. He said it was entirely possible to have a fire and the garage was okay and if the intent of the property owner

was to rebuild and wanted to reuse that garage, he did not know if the City needed to jump the gun and make Miller tear that garage down. He said if 60 days was enough time to develop a plan to rebuild a new house that would be fine, but he wanted to see a structural inspection on the garage. He said he could see the non-conforming issue, but the Commission could grant some time to see if there would be a plan in place to take care of that issue.

Mayor Chestnut said the existing sub-floor needed to go and be backfilled. He said it was a good idea to have a structural inspection on the existing garage.

Commissioner Cromwell said part of the problem was the timeline. The timeline had aggravated the issue and obviously created a neighborhood nuisance which deteriorated property values and was in an unsafe condition. He said he did not think the Commission could delay action on the unsafe sub-flooring issue and there needed to be a very strict timeline because the timeline thus far had not been timely. If the existing garage was to remain, the City needed a plan to incorporate that garage into a single-family home or be done with that garage as well.

Mayor Chestnut asked could the Commission motion to adopt the resolution and narrow it to the sub-flooring.

McCullough said that idea was a good course and this was part of the change in circumstance that Jimenez had been challenged with this project's intent and how this project has progressed. He said it would be appropriate to take care of the immediate concerns of the sub-flooring and wall and fill in that area, instruct the owner and staff to work within 60 days to determine what would happen with the two garage structures and how to make the area zoning compliant.

Commissioner Johnson said if the owner decided to tear down the garages, he would not want to require a structural inspection. If coming back in 60 days and the plan was to keep the structure, he hoped the owner performed a structural analysis.

Vice Mayor Amyx asked if Jimenez had not been in the detached garage.

Jimenez said he had not been in that garage and it was completely enclosed. He said as far as the structural analysis without the plan of action on the site that might not do staff much good unless there was a definite plan. He said without going into that garage it was impossible to say it was free standing and put up against the most eastern part of the house.

Commissioner Dever said he did not know if he completely agreed with the concept of having to inspect the secondary building, but he would motion to move forward with Resolution 6834, indicating a timeline for approval of remedy of the existing unsafe structure which was the single-family dwelling and the inspection of the formerly attached garage and if the Commission wanted the other garage inspected.

Mayor Chestnut said he would suggest that a plan come back to the City Commission in 60 days on what was going to be on that piece of property.

Jimenez said the rear structure could be accessed through the alley.

Vice Mayor Amyx said he would suggest, once the site was backfilled, cleaning up the remaining debris.

Commissioner Johnson asked if the site would be filled in and covered earlier than 60 days.

Mayor Chestnut said the resolution indicated the deadline for backfill was May 29. He said coming back to the City Commission in 60 days with a plan, an inspection of the structural integrity of the garage and a plan for what would be built on that site.

Moved by Dever, seconded by Amyx, to adopt Resolution No. 6834 for demolition of subfloor and backfilling of the foundation, to be completed by May 29, 2009; and a requirement that the applicant come back with plans regarding rebuilding of a home and use of garage, and an inspection of the structural integrity of the garage, within 60 days in order for the city to determine how to proceed with accessory structures. Motion passed unanimously. **(16)**

Consider the following items related to the American Recovery and Reinvestment Act:

- a) **Consider approving sole source purchase of at least 44 handheld and 33 mobile digital radios utilizing the Edward Byrne Memorial Justice Assistance Grant for the Police Department, for \$278,376.12.**
- b) **Receive status update on the 2009 COPS Hiring Recovery Program Grant Submission.**
- c) **Receive staff memo regarding the Assistance to Firefighters Grant for the Fire/Medical Department.**
- d) **Receive status report on possible City of Lawrence energy related stimulus grant.**

David Corliss, City Manager, presented the staff report. He said it was important to note that some of those funds, the City was entitled to by virtue of its size and all the City needed to do was comply with the different agencies that were granting the funds and fill out the forms. Certain dollar amounts were allocated to Lawrence. If the City had projects that qualified, forms needed to be filled out correctly and deadlines needed to be met, then the City was eligible to use those funds for those purposes. Other grants were competitive because there was a certain dollar amount that was set aside and the City could qualify based upon the community size and what the City did, but the City had to compete with other communities for those funds.

The City's website had information about the stimulus funds that the City had been successful in acquiring and information regarding submitted grants by the City. Staff was providing that information on the website for transparency purposes so the public could see the process.

The first item was the Edward Byrne Memorial Justice Assistance Grant for the Police Department. This was a situation where the City was entitled to a certain level of funds based upon the City's size, if using the funds appropriately. He said staff was recommending that this item was the highest spending priority.

Ron Olin, Police Chief, said their department was asking to spend the \$278,000 on the Byrne Grant on radios. He said by 2013, the Police Department had to change out every radio

their department owned going from an analog to a digital system. He said this grant would allow for a third of their radios and would have time to acquire the other two-thirds of those radios.

Corliss said staff understood that the new radios could communicate with the existing radios. He said this was a federal spectrum change that was impacting not only the Police Department, but the Fire Department and Public Works Department and would be a looming cost for the community in the future.

Corliss said that the next item was the COPS grant, which was a competitive program. He said staff already provisionally applied for this grant in order to meet the deadline. If the Commission did not want to proceed with this grant, then staff would indicate that they did not want to proceed with the grant.

Olin said their department had been notified by the COPS office that the City's grant was received and would act on the grant application sometime before the end of September and would put their department in the position for another academy early in 2010.

Corliss said staff provided information in response to the Mayor's questions. One piece of information showed that staff had added Police Officers to the Police Department and maximized the use of grants. He said this was a funding commitment in the future and one way to look at it was a 75/25 program (75% Federal Government – 25% Local Government). The 25% local did not need to be paid until that fourth year although the City would be committed toward keeping individuals the City hired under this grant on the payroll that fourth year.

Commissioner Dever said it was only a one year required subsequent to the three year commitment.

Mayor Chestnut said that he appreciated Olin's response. He said if looking at the number of sworn officers per thousand, the City was even with the number in 1990 and as the population continued to grow, the City would need more sworn officers. He said by that time, two or three years out, the City would need those sworn officers and a few more.

Corliss said that the next item, Assistance to Firefighters Grant, was also a competitive grant. In this case, this grant focused on the capital needs, the infrastructure equipment needs of the Fire/Medical Department and this was the Chief's highest priorities. One of the points to make was the first item was for a ladder truck and as everyone knew, the City successfully passed a sales tax last year for .3 percent sale tax, largely devoted toward road infrastructure, but the City did make a decision that \$500,000 would be devoted toward equipment apparatus in the Fire/Medical Department, over the next ten years. There were some of the funds available for the match as well. The ladder was the highest priority, then technology opportunities for training. He said staff thought there was value, not only from training, but an efficiency aspect of not having to have all the firefighters travel to one site and those firefighters could stay in their stations and be deployed appropriately throughout the community.

Also, another item was Fire Station No. 1, which was located at 8th and Kentucky which was an old building. He said that building needed attention and was the last of the City's Fire Stations that needed substantial rehabilitation.

Mark Bradford, Fire Medical Chief, said as mentioned, those were competitive grants, not new to the fire service and were issued by the Federal Emergency Management Agency assistance to firefighters grant that started five years ago. The significant difference was monies that had been allocated to the grant and was now up to about \$800,000,000 countrywide. In addition to the change in dollar amount, they had also allocated for station facilities, new construction or rehabilitation/remodeling which was a new area. The areas their department had requested under apparatus, they submitted a request in the 2007 available funds for a new ladder of roughly 1.2 million. He said just the value superseded what they would want to give out, so they came back with this request for partial funding. He said staff knew the ladder would cost 1.2 million and were asking for \$350,000 as partial funding toward their purchase. He said with the money allocated from the sales tax that would still leave \$300,000 difference to make up that purchase.

He said the technology that was mentioned was somewhat of a new area, but it could be done under the training category whether or not it was web or video conferencing and would move everyone into one location. He said this was an effort to keep people in their districts, be more efficient, and still deliver the same type of training. In addition, other City departments would be able to tie into the backbone that was used for this type of technology. The money requested was for hardware and the architecture was already in place with their current network. He said what staff was looking at were the display monitors, computers, and cameras with their current architecture.

He said the last was the station facility which was new this year. He said what staff had been told was that any facility that was “dig ready” would probably have priority. He said they did not actually need to move earth, per say, but they were technically ready and if they received the grant they could go right into design and construction. He said staff considered themselves in the submittal as “dig ready” and they put the monies that had been in their capital request for a number of years for that rehabilitation of that facility.

Corliss said the energy block grant program was not competitive and the City qualified for a certain dollar amount, \$858,000. Staff was not asking for the City Commission to approve the grant submission because they had until the end of June. Staff was working on a list of projects and also, the issue of sustainability coordinator that came as a recommendation from the Climate Protection Taskforce was listed as well. There was a number of capital items where staff knew there needed to be improvements regarding energy efficiency. In some cases staff had more information than others. For example, staff knew about LED lights and the replacement of HVAC at the library. He said staff was at different stages of information flow, but wanted to give the City Commission a status report.

Cynthia Boecker, Assistant City Manager, said that this was a block grant instead of a competitive grant, and was entitlement based on population. However, the City did need to submit an application within 120 days of grant of those funds, an energy conservation plan.

Staff was trying to determine the recently provided Climate Protection Task Force recommendation could be incorporated into that energy action plan.

The goal of the Energy Efficiency Conservation Block Grant Program was to reduce fossil fuel emissions, total energy use of the eligible entities and to improve energy efficiency in the building, transportation, and other appropriate sectors. She said staff took that into consideration in building the candidate lists of projects. There were \$2,000,000 in projects that staff was able to identify and various stages of development and review for the \$850,000 in grants.

She said she participated in a number of conference calls with other communities and communities around the state were trying to share as much information as possible in determining what their energy plans looked like as well as the type of projects those communities were looking at. A number of communities in this state were looking at retro-fits to HVAC's systems; community facilities looking at green roofs, energy audits, and many of the same types of things that staff identified.

Corliss said staff felt like they were on track in developing that list, but the City Commission would ultimately approve those submissions. He asked that the Commission give staff corrections, directions, and other area to explore, along with areas the Commission saw as a priority.

Commissioner Cromwell said that looking through the list there were some good things and some things that were not good. He said he worried that they were doing the life cycle cost analysis to determine what was what. There was a lot of data, for instance, the LED and traffic lights where replacing florescent light bulbs in buildings would have four times the cost return. He said there was one shot and the City had a tight budget coming up and even a tighter budget next year. There were things where they could actually make some environmental progress that would save the City money and at the same time, making the City greener. Again, he said they needed to be careful because the City had only one shot and the City could not be

throwing their dollars where it would not do the greatest good. He said the City had a \$2,000,000 electric bill and could potentially shave off \$250,000 to \$500,000 a year with energy efficiency and thought the City would know better if the City had a sustainability position currently filled. There were some positions that cost money and other positions that end up saving the City money in the long run and he wished the City had the sustainability position to help go forward with those grants in doing cost analysis and determining the best bang for their buck. He said the City could make a big difference in making the City look greener, from a public relations point of view, right now, which would help attract jobs to this community. He said he would ask that the City Commission take a real careful look at the life-cycle cost analysis in anything the City would be doing and make sure those items were prioritized because the City only had a certain amount of money to work with.

Mayor Chestnut said if Cromwell had any recommendations since the City did not have a sustainability position, but asked if there were other people in the community who might want to weigh in on this issue as far as looking at the analysis.

Commissioner Cromwell said he did not know if anyone, but he had a certain amount of expertise and was willing to take a look and offer help if appropriate.

Corliss said that he agreed and was looking for some type of mechanism to get the biggest bang for the buck. He said he had a lot of people on staff that could intuitively understand some of those things, but this was a lot large project because it was multiple departments and in a lot of cases new technology. He said staff would welcome the help from Commissioner Cromwell and other resources as well so they could take a look at the life-cycle costs of those items.

Commissioner Cromwell said just for the record, he wanted people to know that this was not the type of work that his company did, but it was on the fringe of that type of work and he had technical expertise.

Mayor Chestnut said he appreciated Commissioner Cromwell weighing in on this subject. He said he would recommend trying to strive for some outcomes, how to evaluate, and prioritize.

Commissioner Dever said if staff put together and created a well rounded list, the City would receive the money. He said his recommendations correlated with Commissioner Cromwell's and they needed to take a shot at the most costs savings and supply the green alternative that a lot of that money was intended for which was energy conservation. He said putting all the money into HVAC systems might be great from a maintenance cost standpoint, but really did not have much pizzazz in marketing Lawrence as a green community. If they could manage or balance the funds, he thought the LED lighting was a good idea and he would like to finish the process. The sustainability coordinator would make this job a lot easier and there might be other stimulus dollar funds available in the future if the City had a list of other things. He said the County has already stepped up and stated that they wanted to fund a sustainability coordinator or some title in conjunction with the City. He said the City could diminish participation somewhat with the County's help and come up with opportunities to save a ton of money based on all those lists.

He said if the City was going to do a HVAC replacement, the City needed to do it in a building that was consuming the most amount of energy and needed someone to look at that data.

Vice Mayor Amyx said they needed to look at whether the cost savings per year from the coordinator position would adequately cover the on going cost of that new position.

Commissioner Cromwell said yes.

Vice Mayor Amyx said the Commission was going to go through the budget process this summer and give the City Manager a list of new position to consider and then ask the City Manager to figure out how to pay for those positions.

Commissioner Dever said he could not guarantee the City would see a return, but could guarantee in the long-run, the money saved by that position would far exceed what the City would pay someone to implement those ideas.

Vice Mayor Amyx said that he appreciated that and said he needed to rely on three of the Commissioners to make sure there were those savings, at least over the long-term and sufficient enough to cover some or the majority of those costs.

Mayor Chestnut said that he wanted to make sure the Commission was talking about the same issues. He said he understood the recommendation came before the Commission for the use of the block grant. He said consideration of that position of the sustainability coordinator needed to be considered. He said he thought they should consider that position in their budget discussions with all the other competing interest and if the Commission decided as a majority to move forward, not fund it through one time funds that the City would need to find a way to fund in the future. In other words, if the City received that \$800,000 and carve out a piece toward that coordinator that meant that was one time money and had to figure out a way to fund it the next year through the general fund or some place else. He said the Commission had work to do as far as evaluating those projects and coming up with some type of life-cycle cost analysis on what was the biggest bang for the buck and more discussion on how to address that position.

Vice Mayor Amyx said he agreed and the direction the City Manager had given to the various departments on what those departments would look like with less money and it was hard to bring in new positions unless there was a long term funding mechanism in place to cover those costs. He said the Commission needed to be careful because they were asking departments to give worst case scenarios. He said the Commission had a lot of obligations to current City staff and projects that were going on. In this case, if this position could be funded by cost savings, it was something he was interested in, but leery of too.

Commissioner Dever said he respected what Vice Mayor Amyx was talking about, but was talking about buying equipment with one time dollars that the City had to continuously pay

for the electric bill long-term. He said it was taking investment and spending it on capital, and needed to support that capital with maintenance and electricity, natural gas, and water to run it and those were all on-going costs associated with the purchase of this new equipment. He said he was looking at the sustainability position as using one time dollars to kick-start the City into gear and allow that six months to a year to let the City identify the efficiencies that could occur and immediately, hopefully implement those processes to save dollars and have a better view to the outside world as far as the City's green condition of the community. He said he saw this as a great opportunity for those one time dollars with the intent that the position was self-sustaining. He said the County was going to step up and the City might as well have a say in the matter and those dollars could afford a long-term commitment. He said it would take a while to put a person in place and reaping the benefits, financially, from this position. He said the City would reap the benefits immediately from a business development standpoint and from a community mission standpoint which were things that needed to be discussed. He said if the City could use a little bit of that money to help the City move forward and be more efficient that was what this rant was all about.

Commissioner Johnson asked if anyone had an idea what those dollars were for that position.

Commissioner Dever said they speculated about \$60,000 a year.

Commissioner Johnson asked if the County offered to share that cost.

Commissioner Dever said yes.

Commissioner Johnson said he felt the position needed to be in the context of the budget.

Mayor Chestnut said that the Commission's intent was to receive status report and give direction to staff about priorities. The discussion about the position needed to happen sooner than later. The report would come back with recommendations and then the City Commission could hash out the position. He said the Commission had to be leery about understanding

where the County was as far as position. The County would go through their process and the City would find out whether or not the County felt they could afford that funding. There were a lot of variables and the Commission needed to see how those variables came together and then have that discussion.

Corliss said he thought staff had done a good job approaching energy. He said staff had not approached energy conservation in an analytical way, but an intuitive way with good people with good background and good training making good decisions, but not necessarily approaching this issue from an analytical standpoint on the cost benefit analysis and looking at long term saving. He said that was not good and staff needed to move toward that as the best way to prioritize those things. He said staff made some progress in giving additional information, but as staff got into energy conservation, the past year and a half, one of the first things was to get the bills correct and make sure the departments were looking at those bills appropriately. He said staff started to do an infrastructure audit of City facilities where staff was taking a look at the whole facility and whether or not certain infrastructure things needed to be done along with energy efficient items. He said the City was making progress, but was not where the City needed to be regarding appropriately analyzing those things. He said this had been a helpful discussion and the City would use Commissioner Cromwell's offer to help participate and look for a good forum so when getting in the middle of June, the Commission would have good ideas on budget direction and would feel comfortable with what was submitted and follow through genuinely on the purposes of that federal money.

Mayor Chestnut called for public comment.

Daniel Poull, Chair of the Sustainability Advisory Board, asked if they were planning on keeping the library the way it was and should not put a new HVAC system into a building that would be torn down. He said there was discussion for the last few years about a new library, but the old library was the building that needed a new HVAC unit most.

He asked if an energy audit had been performed on all City buildings.

Corliss said there had been reviews of certain facilities, but it had not been comprehensive or recent. He said he would not claim it was the “state of the art” energy audit of City facilities, but it was not that the City’s Building Maintenance personnel were not well versed in technology. He said staff was wise in a lot of areas, but had not approached it in a comprehensive fashion. It was not correct, but it was what staff did so far, to date, and were trying to change it by looking at all City facilities and also following through on recommendations from the taskforce and do it more systematically.

Poull said that SAB suggested taking advantage of the State Energy Audit. He asked if there was a possibility of taking advantage of that state audit with the stimulus money.

Corliss said he did not know how that fit into the stimulus funding. Staff had looked at that through the Corporation Commission. The challenge with that was that most of those contracts, the firm that they then subcontracted with received a certain percentage of the energy savings and what the City wanted to do was be wise enough to make those decisions and keep those savings.

Poull said that pointed again toward a sustainability coordinator in order to keep those savings. He said he agreed with the sentiment that this was a position that could pay for itself. Out of that \$858,000, the City could hold back two years worth of salary. He said within two years he would think the economy would be turned around again. He said the person who took that position could know that upfront and could get a quality person to fill that position.

Vice Mayor Amyx asked whether the change from analog to digital radios was something that would be delayed like the change to digital television.

Corliss said he understood the Federal Government had sold the spectrum. He said as that deadline looms there was probably going to be some communities pounding their federal legislators saying their community needed money to respond to this deadline, but he did not want to bank on that either. He said there were some communities that were literally putting money aside now in anticipation.

He said the Police Department had other needs as well such as evidence storage facility and a lot of other infrastructure and equipment needs, but this was their highest priority.

Vice Mayor Amyx said the Commission had been talking about this issue for the last couple of years and it made good sense.

Moved by Johnson, seconded by Cromwell, to waive bidding requirements and approve purchase of at least 44 handheld and 33 mobile digital radios for the Police Department, utilizing the Edward Byrne Memorial Justice Assistance Grant, for \$278,376.12; and to authorize the Fire/Medical Department to pursue the Assistance to Firefighters Grants. Motion passed unanimously. (17)

Receive recommendations from the Fuels Task Force (FTF) regarding incorporating alternative fuels into the City's transit fleet and authorize staff to proceed with the purchase of transit vehicles pursuant to those recommendations.

Casey Toomay, Interim Transit Administrator, presented the staff report. She said the City transit fixed route was in serious need of replacement. There were twelve vehicles that had all met or exceeded their useful life and the repairs on those vehicles were continuing to increase. The City had some federal appropriation dollars and City reserve transit funds available to replace some of those vehicles, but last year, due to the sales tax election, transit postponed purchasing some of those vehicles.

As part of the sales tax campaign, the City committed to exploring alternative fuels and incorporating alternative fuels into the transit fleet. There was also a coordination study underway with Kansas University and their preliminary indications from the specialist working on that project, was that a mixed sized fleet was appropriate. Transit no longer needed twelve of the medium duty vehicles. Finally, the stimulus package provided the City with additional resources for capital related to the City's transit system. She said because of all those factors, a staff task force was formed at the end of March and tasked that group with determining how to incorporate alternative fuels into the City's transit fleet on both the short-term and long term basis. She said the task force looked at what resources were available for purchase of those

vehicles. The stimulus package provided 1.9 million dollars worth of funds which did not require a local match. Between the federal appropriations the City already acquired over a number of years, they tallied up 2.8 million dollars worth of federal resources that could be put toward capital which required a 17% local match that would come from the \$568,000 of local transit funds in the City's equipment reserve fund, totaling 5.3 million dollars available for capital.

The task force did an analysis of the three technologies that were readily available for heavy duty vehicles which were compressed natural gas, electric bio-diesel hybrid vehicles, and diesel engines that were bio-diesel vehicles because those vehicles could run on diesel fuel blended with up to 20% bio-fuel.

The analysis that group conducted looked at not only the upfront costs, but the maintenance costs of each of those technologies as well as the environmental impact of the fuel economy and the infrastructure and other resources needed to support the varied technologies.

She said staff was recommending replacing twelve vehicles with eleven vehicles at this time and recommended retaining some funds to wait to hear whether the City needed one more heavy duty vehicle or if a medium duty or light duty would suffice for the City's needs. He said of those eleven vehicles, staff was recommending a mix of six heavy duty vehicles (4 bio-diesel vehicles and 2 of the bio-diesel hybrid vehicles), and the remaining five vehicles would be a lighter duty vehicle because gas engines were an option in that size of a vehicle that opened up some other technologies. In the time given, their task force did not feel like they had adequate time to look at those technologies and would continue to work and come back in June with a recommendation for how to incorporate that into the medium duty fleet. That recommendation would then be able to apply to the para-transit fleet which also used medium duty, cut-away, body on chassis style vehicle.

Finally, their long-term recommendations included continuing to work as some type of group on a somewhat more regular basis so that as technology continued to improve, there was

a group monitoring those changes and figure out how, when ready to replace those vehicles next time, to be in a better position to incorporate other alternative fuels.

Other long term recommendations included continuing to try to find partners whether it was through the rest of the City's fleet, the County fleet, School District, or Kansas University, to get more people interested in using alternative fuels which opened up the possibility for compressed natural gas because right now the infrastructure was so costly that just for the six transit vehicles, it was cost prohibitive and if they could get more partners interested, that suddenly became a more attractive option.

Commissioner Cromwell asked whether there was an approximate number for fuel efficiency.

Toomay said she did not know if they had those numbers and the reason was because in researching, they were never really sure of what they were comparing. There was a New York study that was looked at, but they did not know if they were comparing the fuel economy of ten year old vehicles to hybrids.

Chris Depcik, Assistant Professor at KU, Mechanical Engineer, said he went to fueleconomy.gov and those were not the heavy duty vehicles, but it gave a relative comparison between different vehicles in terms of the different fuel types. If looking at the difference of CNG versus gasoline for 2004, Ford F150, CNG compressed natural gas actually had worse fuel economy. If looking at a 2004 Jetta which had the same size engine, diesel had a significantly more advanced fuel economy. If looking at pure fuel thermal efficiency, compressed natural gas engines would actually have a little bit better fuel economy because it had a higher octane number and could be compressed a little bit more. The fuel economy for diesel was typically significantly better because the compression ratio was much higher. In compressing the mixture, there would be thermal efficiency and better fuel economy. He said they did not have the exact number on those different vehicles, but the higher compression ratio the better, in this case diesel, the better from a fuel economy standpoint.

Commissioner Cromwell asked how much was the City spending on fuel and was fuel included in the contract.

Commissioner Dever said historically fuel was included in the cost of the contract, but this year the City was buying the fuel.

Toomay said this year fuel was on the City's dime. She said staff budgeted for diesel fuel somewhere in the \$700,000 range, but to keep in mind that amount was based on fuel prices when developing the budget last year. The City's fixed route vehicles were averaging five miles to the gallon. She said staff was hopeful they would see an improvement in fuel economy, just simply by replacing those vehicles with newer vehicles.

Commissioner Dever said when they were trying to evaluate CNG versus diesel, versus hybrid vehicles he looked for hours trying to find good comprehensive data regarding fuel efficiency vehicles and lot of the data was old from old technology engines, was not the same driving patterns, and not the altitude. There were a lot of things that went into the use of fuel. He said as the professor indicated, a person had to look at the thermal properties and the ability of the fuel to produce the energy. He said there was no question about how much more efficient that diesel was compared to CNG. There was no way it would come close to being as fuel efficient as bio-diesel. All the things that he read, it was clear the bio-diesel was going to have much higher fuel efficiency than CNG and gasoline, but diesel hybrids would be even better per gallon.

Commissioner Cromwell asked about the bio-diesel electric hybrid and if there were any estimates or a vendor the City was looking at.

Derek Meier, K.U. Parking and Transit, said it varied depending on the system and driving patterns, but it was anywhere from 10% to 40%.

Toomay said that part of the reason two hybrid vehicles were recommended and the rest bio-diesel vehicles was to allow the ability to monitor that so they could see under their operating conditions what the value of the hybrid was.

Commissioner Dever said staff needed to study that data so staff could make intelligent decisions into the future.

Mayor Chestnut said he agreed with the recommendation, but one of the things that would be difficult was studying their own set of patterns and also one of the challenges on hybrids was that depending on fuel costs, it was hard to calculate the return on that increased investment. When fuel costs jump all over the place, it was hard to make that assessment because obviously when diesel was \$4.00 a gallon, it paid back itself a lot faster than when it was \$2.25.

He said from a maintenance standpoint, he asked if there were a lot of difference in maintaining a hybrid fleet versus a bio-diesel fleet.

Steve Stewart, Fleet Manager, said that there were maintenance differences with the hybrids and most was electrical training. He said with regard to the payback as far a fuel economy, another thing to consider with the hybrid was the use of the regenerative braking. Studies on the heavy duty truck side had shown a 50% savings in the reduction of wear on foundation brakes and that was a significant cost, replacing brakes on the trucks and heavy buses.

Commissioner Dever asked if the Commission was wondering if it was worth it, financially to make an investment in a hybrid vehicle based on the difference in equipment.

Commissioner Cromwell said he was curious about the differences. He said it was worth it to make that investment on a lot of different levels. He said the City wanted to paint the community a little greener and there were opportunities.

Mayor Chestnut said that he looked at this in a number of different ways and came back to the same conclusion which was if going totally hybrid, the City would not have the capital to replace the entire fleet and from an overall fuel efficiency standpoint, they might be behind simply because the City would continue operating old vehicles longer and also maintenance costs would be higher. He said a blended approach gave the City an opportunity to operate and

figure out what worked and what did not work. He said over time, the hybrid costs were going to narrow. He said he thought it was the direction the City should go ultimately because he thought the technology would prove itself out. He said there was a temptation to jump to totally hybrid, but the City could not bite that apple now because it was too much money to replace all of those vehicles.

Commissioner Johnson said that it looked like there was potential to convert beyond the 20% and if that went further with the vehicles, they might see more efficiency while the City had a blend of hybrid bio-diesel.

Commissioner Dever said this City had world class researchers regarding bio-fuels and hopefully the City could create a partnership where the City, University, and the systems that were purchased could provide proving grounds for future technology that would be shown all over the country, if not the world. In the expression of the City's numbers, hopefully the City would be valuable to others trying to make those choices and the data collected from the hybrid diesel combo would be invaluable in determining the City's value in the future for this type of fleet. He said whether it was the City's fleet or the transit system.

He said he wanted to thank everyone on the committee because they produced more information in a shorter period of time that he had seen and wanted to thank Toomay for her work on the transit.

Vice Mayor Amyx said he appreciated the compilation of comments made by several member of the committee in looking at fuel economy, infrastructure and other related material. He said he was very proud for the recommendations and work from that committee because it was helpful to have good information.

Daniel Poull said that he wanted to reiterate that one of the reasons they recommended bio-diesel was because it was a relatively seamless transition since the technology was in place. He said the task force was also sensitive to costs. He said he suggested some type of

group stay together for the future would be appropriate because Lawrence was at the forefront of fuel technology.

Commissioner Cromwell said it was important to demonstrate to the state and region that Lawrence was at the forefront. He said Lawrence was in the business of marketing their City. He said the City needed to require a graduate thesis on the comparative data. He said the bus drivers and buses could be switched and it was a fantastic opportunity for data. If the City received more stimulus money, he hoped the Commission would consider additional hybrid vehicles, potentially on the smaller vehicles.

Mayor Chestnut called for public comment.

Hubbard Collinsworth, Lawrence, thanked the task force for their work, and that the task force produced results. He asked what percentage of the fleet would be replaced.

Commissioner Dever said half of the vehicles of the large buses and the rest would be based on demand and what the Commission thought was needed based on the studies from the consultants findings.

Toomay said the committee was likely to come back with a recommendation quickly so that there was a new vehicle to replace eleven of the twelve vehicles.

Commissioner Dever said the City did not want to purchase all of those buses at the same time because they would have the same problem where the vehicles were at the end of their useful life at the same time. He said it was good to phase those vehicles into the fleet.

Collinsworth asked whether there were two or three sizes of buses and whether para-transit buses would be discussed later.

Toomay said there were at least three different sized buses and whatever recommendation from the group for the five smaller vehicles for the fixed route fleet, they would be able to apply to the para-transit fleet because those were likely to be the same sized vehicle. The para-transit vehicle was the body on chassis cut-away vehicle. She said Olsson and Associates had been working with the group on the coordination study and indicated there were

several routes where that type of a vehicle would work on a fixed route, provided it had more signage and those types of amenities that were needed on a fixed route vehicles.

Collinsworth said this issue would come back to the Commission after further study for a vote or was the Commission proceeding to vote for the purchase at this time.

Commissioner Dever said the initial recommendation for the study was for the final tally on all the vehicles.

Corliss said on a future agenda actual contracts would be seen with certain vendors pursuant to those recommendations. He said it was not the Commission's final action, but the Commission's direction.

Mayor Chestnut said this was the initiation to say what direction the City Commission was going and this item would come back to the Commission with actual dollar amounts. He said this was the way to come out with the request for quote and how many of what type.

Moved by Cromwell, seconded by Dever, to receive recommendations and proceed with purchases pursuant to those recommendations. **(18)**

Consider approving a petition to the Board of County Commissioners of Douglas County for the annexation of the former Farmland Industries property on Highway K-10, east of Lawrence.

David Corliss, City Manager, presented the staff report. He said the former Farmland Nitrogen Facility was owned by the bankruptcy trust with the primary beneficiary being the Kansas Department of Health and Environment with the trust owned by a limited liability company. Staff had been in discussion with previous City Commission direction to proceed with the acquisition of that property and staff was still under that direction. He said he would anticipate requesting an opportunity in an Executive Session to talk about the dollar amount which was the only thing that had not been publicly disclosed about what the City wanted to provide in a way of an offer on the property. Technically, the City was not offering to put down cash on acquiring the property, but talking about how much money the City was willing to leave in the various trust funds that had been established as part of the bankruptcy proceedings. He

said there were certain dollar amounts that were set aside for the administration of the property and the remediation of the property, totaling in the neighborhood of \$10,000,000. He said what staff had talked about and made certain offers to the trust was how much money did the City need to keep in order to acquire title to the property, and how much money did the trust get to keep. He said that was part of their continuing discussions as recently as last week about that issue. He said staff would likely brief the City Commission further in May.

As staff had talked about the property it was staff recommendation to proceed with annexation proceedings on the property. He said staff talked to the trust and they were not interested in acquiescing to annexation, but were not opposed to the annexation. If the City was successful in acquiring the property or entering into a partnership on the property, the property needed to be within the City in order for the City to debt finance any public improvements or install public improvements on the property pursuant to the City's development policy which stated the City would only extend water and sewer to property that was within the City. Also, it would make sense for the City to follow through on any land use regulations.

He said if the City was unsuccessful and the property stayed in its status or there was a desire to redevelop that property without City ownership or participation, staff thought it should be within in the City's boundaries because the City and County adopted a Land Use Master Plan for that property and the City would be able to exercise that level of jurisdiction on the property as well. He said he communicated that information to the trust, and again there was not an objection to annexation.

He said when cities acquire annexation without the written consent of the property owner a certain process had to be followed that was called unilateral annexation which meant it was not with the permission of the property owner. Staff would need to prepare a service plan that outlined the various responsibilities for extending Municipal services to the property. The City had to provide certain notice to any number of different entities and had to go before the County Commission. He said all property within the County was represented by the County

Commission and it was appropriate for the County Commission to speak for that annexation and its appropriateness under state statutes. It would also need to go to the Planning Commission and those were the next steps in the annexation if the City Commission desired staff to proceed. He said the service plan had been prepared and advised the County Administrator that this was a possible agenda item if it was initiated and staff thought it was appropriate to proceed.

Mayor Chestnut called for public comment.

Hubbard Collinsworth, Lawrence, said by acquiring this land that meant the north side of K-10 would become part of the City of Lawrence, all the way to the industrial park.

Corliss said that was correct, but thought there were a couple of islands in that area. There was an old cemetery that was never annexed. He said they were only talking immediately north of 23rd Street and there was obviously property north of the railroad track that would not be annexed.

Mayor Chestnut said it was safe to say that on the property that came up to K-10 from the City of Lawrence to Noria Road effectively to the north was City property.

Collinsworth asked if it would affect the funding of K10 and the bus route down.

Corliss said there was currently a route out to East Hills Business Park. He said the City's hope was that they would have good reason to go through the redeveloped Farmland property for transit purposes as well, but that was some time off. He said they did not see residential uses likely on the former Farmland property, but industrial purposes whether it was actual industry or office buildings.

Collinsworth said his basic question was regarding the acceleration and deceleration lanes on K-10 and whether the City could ask KDOT if the City would qualify for some funds.

Mayor Chestnut said regardless of who owned the property, unless there were substantial signs of development, the City probably did not have a conversation to have with KDOT. If there was development or the beginnings of a plan, then the City would absolutely want to talk to the State regarding possible count increases. He said he was not sure the

ownership of the land was the driving factor. It was going to be the increase in activity that the City hoped to achieve by moving forward with the annexation. At that point, they needed to have that conversation and public transit would be part of that conversation.

Daniel Poull, Lawrence, said that the things that excite him about the acquisition of this property was the connection to the East Hills Business Park and 19th Street going through and getting some of that traffic off of K-10, access to rail, possible future improvement of North 1500 Road down to Leavenworth County had it own ramp on and off to I-70 which would be a great truck route on the back side.

Also, the people that were maintaining Farmland now were in no hurry to clean up that site and suggested lobbying their congressman and senators to get the EPA to put this site on a faster track and would possibly help the City out with Federal dollars to help clean up the site. He said this site was a real jewel to acquire for business development.

Mayor Chestnut said that staff worked very hard to bring all of the parties together for a mutually beneficial development and cleanup. Regardless of whether that area was in the County, it was adjacent to several neighborhoods that were in the City limits and it was in the City's best interest to see that that site was cleaned up expeditiously.

Vice Mayor Amyx said it was the City's goal to have that area as an employment center some day.

Moved by Amyx, seconded by Johnson, to approve a petition to the Board of County Commissioners of Douglas County for the annexation of the former Farmland Industries property on Highway K-10, east of Lawrence. **(19)**

PUBLIC COMMENT:

Collinsworth said that he was able to receive the requested 990 forms from Salvation Army and LCS.

FUTURE AGENDA ITEMS:

05/05/09

CONSENT

- Approve Rezoning Z-1-1-09, to rezone approximately 4.48 acres located at 725 North 2nd Street from IG (General Industrial) to IL (Limited Industrial). Submitted by Steve Glass for North Town Development, LLC; Rick E. & Lori J. Combs; Bishop Properties, LLC; Richard L. Jantz; Big Bear Investments, LLC; and Bruce S. Liese & Cathy A. Tripp, property owners of record. Adopt on first reading, Ordinance No. 8393, for the rezoning (Z-1-1-09) of 725 North 2nd Street from IG (General Industrial) to IL (Limited Industrial). (PC Item 1; approved 8-0 on 4/20/09)

REGULAR:

- Receive information regarding a homeless camping proposal.
- Consider approving Special Use Permit SUP-2-1-09, to allow Research Services in Downtown Commercial district at 647 Massachusetts Street, [Lot 19 on Massachusetts Street, 2nd Floor Only]. Submitted by Barber Emerson, LC, for GCB Holdings, LC, property owner of record. Adopt on first reading, Ordinance No. 8395, for a Special Use Permit (SUP-2-1-09) to allow Research Services in Downtown Commercial district at 647 Massachusetts Street, 2nd floor. (PC Item 3; approved 5-3 on 4/20/09)

ACTION: Approve Special Use Permit SUP-2-1-09 to allow Research Services in Downtown Commercial district at 647 Massachusetts Street and adopt on first reading, Ordinance No. 8395, if appropriate.

- Consider approving Rezoning Z-2-3-09, to rezone approximately 2.83 acres located at the southeast corner of E 19th Street & Learnard Avenue from RS7 (Single-Dwelling Residential) to RM12D (Multi-Dwelling Residential). The property is identified as 423, 431 & 533 E 19th Street; 1926, 1930-32, 1934-36 & 1938-40 Learnard Avenue; and the parcel east of 1934-40 Learnard Avenue. Submitted by Jill Gretchen Windholz for Jill G. & Timothy L. Windholz; Carolyn L. & James R. Hemphill Trustees; Clara & Philip Hemphill; Wendy A. Stauffer, Jennifer Hemphill, Jill G. Windholz & Carolyn Hemphill, property owners of record. Adopt on first reading, Ordinance No. 8396, for the rezoning (Z-2-3-09) of the southeast corner of E 19th Street & Learnard Avenue from RS7 (Single-Dwelling Residential) to RM12D (Multi-Dwelling Residential). (PC Item 5; approved 6-2 on 4/20/09)

ACTION: Approve Rezoning Z-2-3-09, to rezone approximately 2.83 acres located at the southeast corner of E 19th Street & Learnard Avenue from RS7 to RM12D and adopt on first reading, Ordinance No. 8396, if appropriate.

- Utilities Master Plan

5/12/09

- Conduct a public hearing regarding the temporary sale, possession and consumption of alcohol on certain city property downtown in conjunction with the Tour of Lawrence bicycle event on Saturday, July 4, 2009.

TBD

- Adopt Resolution No. 6833, adopting the Douglas County, Kansas Multi-Jurisdictional Hazard Mitigation Plan.
- Discussion of City Commission meeting protocols.
- Approve Special Use Permit SUP-2-2-09, for a Day Care Center at 1023 Highland Drive. Submitted by ABC Imagination Center, for Richard R. Pine, property owner of record. Adopt on first reading, Ordinance No. 8394, for a Special Use Permit (SUP-2-2-09) for a Day Care Center at 1023 Highland Drive. (PC Item 4; approved 8-0 on 4/20/09)
- Consider approving Text Amendment TA-04-03-08, to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities. Adopt on first reading, Ordinance No. 8300, incorporating by reference, a Text Amendment (TA-04-03-08), to Chapter 20 of Lawrence City Code (Land Development Code) to define and permit various homeless facilities. (PC Item 7; approved 7-1 on 4/22/09)
- Adopt on first reading, Ordinance No. 8397, amending Section 4-103.1 of the City Code related to unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage.

COMMISSION ITEMS:

Moved by Dever, seconded by Amyx, to adjourn at 10:12 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF APRIL 28, 2009

1. Genesis hydraulic rescue tools for Fire/Medical Dept, RAW Enterprises, \$29,650.
2. 2009 Meter Replacement Program – Midwest Meter, \$166,440.
3. Ordinance No. 8390 – 1st Read, Poss & consumption alcoholic beverages, Burcham Park, May 23, 2009, Patten-Hill family wedding rehearsal dinner.
4. Ordinance No. 8392 – 1st Read, sale, poss, & consumption of alcoholic beverages, Broken Arrow Park, May 8 – 9, 2009, Lawrence Sertoma BBQ Cook-off.
5. Ordinance No. 8389 – Condemn property for Burroughs Creek Trail.
6. Ordinance No. 8388 – 2nd & Final Read, amending & enacting sections of Ch 20 of Lawrence City Code, Community Facilities.
7. Traffic Calming, Ousdahl Rd, betw 25th & 26th St.
8. Subordination Agreement – Donna Williams & Jean Dixon, 1601 Kenwood.
9. Douglas County – Lawrence Complete County Committee for 2010 Census.
10. Agreement – Lawrence Freenet, install wireless devices on downtown City light poles.
11. Distribution of Healthcare plan RFP.
12. City Manager's Report.
13. Ordinance No. 8387 – 2nd & Final Read, rezone 1725 New Hampshire from RM24 to CS.
14. 2008 Health Department Annual Report.
15. Receive 2008 Tax Abatement Report.
16. Public Hearing – Dilapidated structure at 1207 E. 13th.
17. American Recovery & Reinvestment Act items.
18. Recommendations from Fuel Task Force, alternative fuels for City's transit fleet.
19. Petition to Board of County Commissioners of Douglas County, annexation of former Farmland Industries property.