



# City of Lawrence

DAVID L. CORLISS  
CITY MANAGER

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

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

## CITY COMMISSION

**MAYOR**  
ROBERT CHESTNUT

**COMMISSIONERS**  
MIKE AMYX  
ARON CROMWELL  
LANCE JOHNSON  
MICHAEL DEVER

June 16, 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 approval, Mayor Chestnut proclaimed Thursday, June 18, 2009, as "Dump the Pump Day."

### **CONSENT AGENDA**

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve the City Commission meeting minutes of June 2, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to receive the Board of Zoning Appeals meeting minutes of May 7, 2009; the Community Commission on Homelessness meeting minutes from March 10, 2009, April 14, 2009, and May 12, 2009; the Community Development Advisory Committee meeting minutes of March 12, 2009, March 26, 2009, April 9, 2009, and April 23, 2009; the Board of Electrical Appeals meeting minutes of May 6, 2009; the Lawrence Cultural Arts Commission meeting minutes of May 13, 2009; and the Public Transit Advisory Committee meeting minutes of February 10, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve claims to 417 vendors in the amount of \$2,366,386.77. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve the Drinking Establishment License for Carlos O'Kelly's Mexican Restaurant, 707 West



23<sup>rd</sup>; Holiday Inn, 200 McDonald Drive; and The Pool Room, 925 Iowa. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to concur with the recommendation of the Mayor and appoint Tim Van Leer to the Convention and Visitors Bureau Advisory Board to a term which will expire July 1, 2013. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve ownership/maintenance agreement, waive bidding requirements, and approve the purchase of a refurbished baler from J.V. Manufacturing for the use of the Wal-Mart Eco Center in the amount of \$4,110 plus shipping costs. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve Change Orders No. 3 through 6 to King's Construction in the amount of \$32,849.41 for the George Williams Way projects: Project NO. 14-CP4-407(BD) 6<sup>th</sup> Street to Overland Drive, and Project No. 15-CP5-407(BD) Overland Drive to North City Limits, Street, Storm Sewer, Waterline Improvements and accept Public Access Easements. Motion carried unanimously.(2)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt on first reading Ordinance No. 8421, amending Section 17-201 and enacting Section 17-203.1 of the City Code concerning the cost of and conditions for the involuntary towing of vehicles within the City of Lawrence. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt on first reading Ordinance No. 8424, amending Article 3 of Chapter 18 of the City Code related to the removal of noxious weeds, grass and other vegetation. Motion carried unanimously. (4)

Ordinance No. 8417, allowing the possession and consumption of alcoholic beverages at South Park on June 18,2009 related to the Callahan Creek Company Picnic, was read a

second time. As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (5)

Ordinance No. 8418, allowing the possession and consumption of alcoholic beverages on the north half of Watson Park on July 4, 2009 related to the Lawrence Originals/Give Back Food Festival and Fireworks, was read a second time. As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8391/County Resolution No. 09-16, amending Horizon 2020 Chapter 14 Specific Plans, to add a reference to and incorporate the West of K-10 plan, was read a second time. As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt the ordinance. As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve a Special Event request, SE-5-14-09, for a live music event located in the lot south of 701 Massachusetts Street. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve a temporary use of right-of-way permit for The Sandbar 20 Year Birthday Party for the closure of 8<sup>th</sup> Street, from Massachusetts Street to New Hampshire Street, from 5:00 p.m. Saturday, August 1, to 1:00 a.m. Sunday, August 2, 2009. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to authorize the temporary possession and consumption of alcoholic beverages related to The Sandbar 20 Year Birthday Party and adopt on first reading, Ordinance No. 8422, authorizing the possession and consumption of alcoholic beverages in a 10 X 22 foot controlled area on 8<sup>th</sup>

Street immediately in front of The Sandbar, 17 E. 8<sup>th</sup> Street, from 5:00 p.m. August 1, 2009 until 1:00 a.m., August 2, 2009. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to authorize the City Manager to execute purchase agreements with various property owners for the Burroughs Creek trail Project, for a total of \$222,923.60. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to authorize the mayor to sign a Subordination Agreement for Tenants to Homeowners, Inc., Steven and Janice Sell, 1705 Bullene Avenue; and for Susan Bolton, 2015 Stratford Road. Motion carried unanimously. (12)

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

During the City Manager's Report, David Corliss said staff had been aggressive in pursuing stimulus money and were on top of the available opportunities to apply for those grant funds. For example, staff heard about one Kansas community that was just now finding out about the Energy Block Grants that community was entitled to apply for and staff has already publicly processed that information and applied for that grant.

He said staff had researched the possibility of applying for funding under the Neighborhood Stabilization Program. Staff looked into partnering with the County for earlier funding under this program, but the City was not eligible to proceed with funding because of some demographics that impacted the community. Essentially, the City did not have high enough vacancy and foreclosure rates for their score, but staff was pursuing any other opportunities staff could find.

Other items in the City Manager's Report were that a point-in-time statewide homeless count was being analyzed by staff; and, Information Systems created a map that showed existing and proposed recreational centers.

Finally, he said for almost an entire decade, Frank Reeb had served this community as Administrative Services Director/City Clerk and was now leaving his position with the City. A lot

of improvements and organization in this community were the result of Reeb's efforts and the people he was fortunate enough to work with in the City organization and department. He said he wanted to publicly thank Reeb and the City Commission joined him in thanking Reeb for his efforts on behalf of the community.

Frank Reeb, Administrative Services Director/City Clerk, said last week the City Manager's Office was kind to have a going away luncheon for him and at that time, he shared with members of the management team and those from his department that were in attendance, quite a few of the memories over the last eight years. He said when he walked out the door, the one memory he would carry with him, the most, was how hard working all City employees were. He said he could sincerely say that as Director of Administrative Services, he was lucky to interact with just about every department. He said every City employee that he had the opportunity to work with was extremely hard working and he was fortunate to work with quite a few employers in his career and he could not think of an employer that had as dedicated employees as the City of Lawrence.

Mayor Chestnut said he agreed with Reeb's comments and knew the City had a hard working staff and Reeb would be sorely missed. He said the departments that Reeb had been managing were small on resources, but delivered a lot of great work for the City which was a tribute to all the people that worked for Reeb and all the people around him. (13)

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

##### **Receive public comment on 2010 budget issues.**

David Corliss, City Manager, presented the staff report. He said the City Commission did not have any action items related to the budget at this time. According to the budget calendar he owed the City Commission a recommended budget and was on target before the 4<sup>th</sup> of July. He said staff forecasted a number of issues and highlighted in the agenda where the City had lost state funding and remained very concerned about what had happened to assessed valuation. He said staff knew that approximately, the City's assessed valuation would be down

2.5 percent and a stable mill levy meant the City would bring in less property tax revenues and were looking at other revenue sources, which was why there was a lot of discussion on the City Commission's agenda about fees.

Staff was also setting out some general budget goals which they did not want to spend down the City's fund balance given economic uncertainty. He said the City wanted to keep its revenues roughly balanced and was on target to keep it balanced in the general fund. He said he understood from the City Commission their desire to keep the mill levy stable. He said on a future agenda in July, public discussion would take place regarding parking fees and fees that would impact Parks and Recreation because it was an important element of the budget if those were items the Commission did not want to pursue, he needed to make changes to his recommended budget. He said one important element was to maintain a high level of service even though, in many cases, dealing with reduced resources.

He said by state law, toward the end of July, the City had to publish the recommended budget for a public hearing. He said that essentially capped the mill levy and the mill levy could not be increased once publishing the notification. At the public hearing, the City Commission could amend the budget in anyway it chose, but the mill levy and property tax revenue could not be increased from what had been published for that public hearing. He said staff thought it was valuable in addition to having the required statutory public hearing, the first part of August, to have another opportunity for public comment regarding budget issues.

Staff had posted the recommendations that came out of the City's ad-hoc Social Services Outside Agency Committee in which Commissioner Cromwell participated. He said it was fair to say that the outside agency fund in 2010 would be at 2009 levels. He said the City Commission would be making decisions after he made his recommended budget.

Vice Mayor Amyx said this was the first opportunity for the public to voice their recommendations regarding the budget, which was an important step

Mayor Chestnut called for public comment.

Erika Zimmerman, Development Director, Boys and Girls Club, said she wanted to thank the City for their past and present support of the Boys and Girls Club. She said with the City's support, they were able to serve 1200 kids a day in the Lawrence Community with eight different sites across this community and that support allowed the Boys and Girls Club to provide a safe and positive place for kids while parents were able to work and not worry about what their kids were doing before and after school.

Also, over the next year, the Boys and Girls Club had received a grant to fully fund an after school program site at Hillcrest Elementary and was also working in collaboration with the school district to have a site at Quail Run Elementary which would be fully fee based which was all the fees the parents paid would fully sustain that program. She said over the next few years, they would serve approximately 1500 children, everyday, in the Lawrence community. Again, she said she wanted to thank the City Commission for their support on behalf of the Board of Directors, Executive Director, staff, and the families of the Boys and Girls Club.

Dianne Ensminger, CEO, Ballard Community Services, said she wanted to thank the City Commission for retaining their funding for their programs at the 2009 levels, in particular, the Emergency Services Council Funding, in the amount of \$7,500. That particular program was already fiscally taxed and they were seeing a growing need.

She said they had seen an increase of 48% in requests for services of their programs at Ballard Community Services. She said 38% of those household had never accessed services with their agency before. The Emergency Services Program, which the City had provided funding, particularly, went to support a collaborative effort between Women's Transitional Care Service, ECKAN, Penn House, Douglas County Senior Services, and Ballard Center and the City was reaching many more individuals than just through Ballard Community Center itself.

ESC had serviced 80 households between January and May of this year, currently there were 333 applicants on their waiting list and 220 of those applicants were households with dependent children, 145 were working families, 56 were single parent families, 49 were recently

unemployed, 26 were adults with disabilities and 5 were adults over the age of 65. This particular program was the only in the community that kept people from falling off into homelessness.

She said to give the Commission an idea, every month, in particular this month, the first day of this month was on a Monday and within 10 minutes of phone calls, they had ran through their entire ESC funding allotment for the month and anyone after that would be placed on a waiting list. She said one particular family of 7, requested assistance in February, but no funding was available at that time. That particular family lost their home, jobs, and all seven family members moved into a home with their elderly mother. Another example was a lady that was waiting for someone to help her in providing for assistance and the lady was crying because it was the first time, in her life, that she was endangered of becoming homeless and did not know what she would do with her children. She said for those types of people that ask for help, she wanted to again thank the Commission for retaining the funding for the level they had in 2009 because it was sincerely appreciated.

Loring Henderson, Director, Lawrence Community Shelter, said he wanted to thank the Commission for their support the City was giving the shelter in this proposed budget for 2010. He said everyone knew there were a lot of changes going on with the closing of the night shelter at the Salvation Army, and seeking temporary shelter in trying to keep a steady line going forward to find a permanent shelter and meanwhile running the programs and serving the people. He said they previously served 31 people and now served 70 plus a night. He said he appreciated the offers of support the City was giving the shelter.

Mayor Chestnut said he appreciated the work of Cynthia Boecker, Assistant City Manager, and Casey Toomay, Budget Manager. He also wanted to thank Commissioner Cromwell for working with the outside agencies and staff had done a good job of balancing the needs of the community in the social services area, funding the City's core services, and able to avoid some of the impacts seen in other municipalities relative to layoffs or other things that



were more drastic. He said it would be tough this year and next year, but this was a community that was sound financially, a good bond rating, and a good lending status in the credit markets which was important and we're fortunate to not have a precipitous decline in revenues that some of the other communities had suffered through. He said he wanted to express his appreciation, not only to the staff that worked on crunching the numbers, but all the directors and leadership of the City that stepped up to the plate to say they understood what was happening in the economy and understood the City had limited resources and then put together a budget the City Commission could work with instead of having to go through cuts and made the process much easier. He said he knew it came from sacrifices for resources, training, and other things. He said he was glad at where the City was with the budget and happy they were able to make revenues and expenses balance out.

Commissioner Cromwell said he wanted to point out that the City was facing a year where the City was anticipating less money from property taxes, sales taxes, and from State payments. Yet, the proposed budget did not cut a dime as far as social service spending, City services, and did not raise the mill levy. He said that was remarkable work and testament to the work of staff and over the last several years to pinch pennies and keep the number of staff down. He said it was a remarkable achievement to be able to do that in this day and age and the City needed to step back and appreciate that in this economy, there was some good and the City was in good shape.

Commissioner Dever said this had been a multi-year process and staff and the community had done a great job to step up and understand things the City had to do. Ultimately, this community was not done yet and would probably have one bad year coming up, but hopefully the City had put itself into a position that would allow the City to come out looking better than most communities. He said he welcomed public comment and people took a hard look and assess what the City Commission was considering. If there was any additional reductions that could be done, that would be great, because they did not know what the taxation

was going to be like next year and hoped the community could save money now because the City would need those pennies in 12 months.

Commissioner Johnson said he agreed with his fellow Commissioners and as Commissioner Dever mentioned, encouraged the public to give the City Commission feedback.

Vice Mayor Amyx said with all the budgets he had been through, he could not remember a time this community had shrinking revenues. He said when the City Manager presents the City Commission his recommended budget that was when the Commission would receive public comment. He said the Commission went through a proposed mid-year recommendation when they saw shortfalls that might happen with the State, and the Commission received comment about the importance of the services that were provided. He said the potential for loss of revenue would be around for the next year and the Commission would make sure revenues versus expenditures were balanced and the mill levy would be set so the community would see that City government was taking this issue very serious in that citizens and business could live within their budget.

Mayor Chestnut said staff was still monitoring the situation with the Northeast Kansas Library System because their recommendation was a slightly lower funding situation and asked if the City was waiting for feedback.

Corliss said yes and the recommended budget the City Commission would see was going to probably recommend the City take some of the money in the Capital Improvement Reserve Fund that was designated for library expansion purposes and make sure they did not reduce the effort for the Lawrence Public Library which staff understood would endanger their Northeast Kansas Library System Grant.

Mayor Chestnut said this was a process that was just beginning, but he encouraged, for anyone interested, to look at tonight's agenda, under "Study Sessions" for additional information on the budget. The bulk of the City Manager's recommendations were encapsulated in those items.

Corliss said staff would still be looking at the City's enterprise funds, water, sewer, and sanitation and staff would be recommending rate increases which were user fees and not taxes. There would be commitments the City needed to follow through on. He said the week before the 4<sup>th</sup> of July, the recommended budget would be posted and any citizen was welcomed to sign up for the email list to find out when that budget was posted and on July 13<sup>th</sup>, a study session would take place on that recommended budget and on July 31<sup>st</sup>, tell staff and the City Clerk, what to publish for the public hearing as far as that maximum number. (14)

**Receive status update on the Lawrence Community Shelter.**

Mayor Chestnut said he had this issue placed on the agenda because of the amount of activity occurring with the actions taken by the Salvation Army and the different issues of looking at temporary shelters and some of those requests. He said it was time for a status update. He said his objectives were to look at the history for the two new Commissioners as far as the Special Use Permit (SUP) process, talk about plan the shelter had for the future, and defining the process between now and the time the SUP was scheduled to expire in April of next year about when that should be brought back to the Commission, talk through the issue and provide direction.

David Corliss, City Manager, said he asked Scott Miller, Legal Department, and Chief Bradford, Fire/Medical Department, to take a look at the occupancy expansion opportunities in the current Lawrence Community Shelter location at 944 Kentucky. He said Fire/Medical had done their initial review of that location, but it was not on the Commission's agenda at this time and would not be acting on that use, but could go over what was reviewed to this date.

Scott McCullough, Director, Planning and Development Services, said staff provided information of the history of the existing shelter, how it was processed, where it stood in terms of the Special Use Permit which was due to expire in April 2010. Staff continued to work with Henderson of the Lawrence Community Shelter on that front, but there had been a recent front staff was working on which was the temporary shelter of folks due to the closing of the Salvation

Army. He said from staff's prospective, Lawrence Community Shelter was seeking different locations and staff had assisted in terms of looking at building and fire code issues. He said he could not speak to the Shelter about which location would suite their needs the best. Each location had some amount of improvements necessary to bring the building up to code in terms of life safety issues. Each location also required processing of a Special Use Permit for that use and in that zoning district and Henderson was aware of all those issues. A third front was staff's efforts on finding a permanent location and providing code information about a third more permanent location for the shelter.

Mayor Chestnut said if it would be appropriate to have an update on what the views were on fire and safety of the Shelter.

McCullough said typically what staff was finding at some of those locations was the need for sprinkling, ADA accessibility, and the proper amount of plumbing fixtures to serve the expanded base. He said it was not new to the Shelter that they had to meet those code requirements and if those code requirements existed, the Shelter had an architect they had been working with. He said there were compliance issues with the existing Shelter a few years ago and the Shelter brought those issues up to compliance. Staff understood that the existing Shelter as it sat today was not code compliant in terms of expanding the use into other areas of the structure than where people sleep currently.

Vice Mayor Amyx said in the code, under emergency shelters, he asked if the occupancy was based on the square footage.

Mark Bradford, Fire Chief, said when going through a review process, their department did an informal and then a formal review. He said what staff had done on the past few locations had been an informal review that was applicable to the current fire code. The purpose of the fire code was multi-faceted. The key was to ensure safety of those occupants within those dwellings along with the fire code which was to protect fire fighters. He said if there was an emergency in those locations, then the location would have appropriate fixtures in place,

appropriate egress and so forth for the safety of the men and women that would handle that particular emergency. In this particular case, Division Chief Barr was assigned to do one of those cursory looks at the present site and determined a number of things that would be required for any type of occupancy above and beyond what the Shelter was already doing.

Rich Barr, Fire Marshal, said staff took a walk through in that facility during which time Henderson indicated they expanded in the current Drop-In Center which was a multi-use space as well as utilizing the basement level. The concerns Fire/Medical had with the basement, aside from the fact that he believed, and the code stated, they needed to provide fire sprinklers and the fact emergency egress windows needed to be provided or emergency egress openings and that might be somewhat problematic, but it could be done. He said the Shelter would need to provide openings over and above the existing exits for emergency ingress and egress. That was the other portion besides the need for the sprinkler system that would probably create some financial difficulty, but those were code requirements and life safety issues, none the less.

Mayor Chestnut said it sounded like a lot of folks in a very small square footage. He asked if there was a critical mass from Fire/Medical vantage point where regardless of the access and the sprinklers that the code would say that they reached some critical mass.

Barr said yes. The existing code said in a dormitory type situation, the model code stated fifty square foot per person, the previous City Commissioners that adopted the 2006 International Fire Code, adopted a 25 square foot per person regulation and that was done and practiced several years ago to permit adequate occupancy levels in fraternities and sororities that utilize dorm rooms and the thought was if putting bunk beds in their with 25 square foot per person, it basically took a 25 square foot footprint for 2 people and beside that 25 square feet for exit and isle. Currently, the critical figure was 25 square feet per person for those sleeping dormitories and that was how Fire/Medical was viewing this situation.

Mayor Chestnut said they could probably do the math and figure out the maximum capacity of that building.

Commissioner Dever said how much additional space was needed for the egress windows.

Barr said it was not necessarily that there was not enough there, but it was in the wrong location. He said they had to have a ceiling height of 44 inches off the floor. Currently, those windows were 72 inches plus. The difficulty was lowering that ceiling height and lowering an exterior window well to accommodate that opening. The code stated there had to be 5.7 net square feet of opening which as basically, if opening the window, there needed to be 5.7 square feet to either ingress for Fire/Medical staff or egress for an occupant. He said those two issues together would create some questions and design problems.

Commissioner Cromwell said that obviously they were not in quite the same scenario as a dormitory and the fact they had someone awake at that location in a fire watch situation. He asked how that played into any of those regulations.

Barr said that was a good point, but because the model code said 50 square feet per person and they had already reduced that number for a good reason to 25 square feet per person. He said he was not sure there was any additional wiggle room because the shelter was supervised. He said that supervision certainly helped, but he did not know what he could put the number at below 25 square feet because 25 was allowing twice as many people as the model code did already. He said Fire/Medical allowed that as long as the building was protected and had fire alarm systems and so forth. He said the supervision was necessary for other reasons than just straight occupancy to ensure there were no any behavior issues and those types of things. Again, he said he did not know what a number to lower to, to give some benefit for overnight supervision.

Chief Bradford said what he might add for supervised systems, traditionally when the fixed fire protection was out of service for a short period of time. If there was a disruption in service, mechanical breakdown, water supply, or whatever, then they would allow, if the system was in place like in sororities and so forth and they allowed that to fill that void and not have to

displace the individuals that were in those dwellings, but only in those cases where they did have a system, but out of service for a short period of time.

Commissioner Dever said regarding the windows, he said to pretend there was some engineering feat capable of reaching 22 inches and the egress size, he asked how many windows for every room.

Barr said the code indicated there needed to be 24 square feet of opening for every 50 linear feet on one wall and that was as long as the opposite wall was not more than 75 feet away. He said that issue was discussed because there might be an opportunity to place a door on one end of the building, if the building was not longer than 75 feet and it would meet 50 linear feet, 24 square foot of opening of an opposite wall 75 feet or less away. However, that was assuming that basement was created into a large space that had no intervening walls or doors. If there were intervening walls than each one of those rooms were treated separately and each one of those rooms were required to have an egress opening.

Mayor Chestnut called for public comment.

Loring Henderson, Director, Lawrence Open Shelter, said City staff performed an inspection of that building. The Shelter's architect, Dan Sabatini, was unable to attend, but would inspect the building tomorrow and work with the City to see if some of their ideas were feasible, such as knocking out walls or making the window wells deeper. There was a possibility of just building a stairway from the basement to the parking level on one side. The shelter wanted to proceed if those ideas were feasible.

The number of people the Shelter served was an addition of what they had been serving which was 31 people and Salvation Army was serving 42 people. He said it could be that the building could not take that amount of people. Every building they looked at, something needed to be done to make the building code compliant. This particular place was not better or worse, but had its own particular set of problems.

Janis Puterbaugh, a guest at the Shelter, said she had been employed her entire life, but recent events had caused her to be homeless. She said she wanted to thank the Commission for doing their best with the more than 100% increase of residents to spin gold from straw. The Commission had a tough job and she appreciated the Commission.

She asked how many of the Commissioners had been to the facility to see what they dealt with and she invited the Commission to dinner so the Commission could see how difficult it was with 70 plus people in a facility that was accustomed to dealing with less than half of that amount. She said it might help the Shelter in finding some solutions.

Henderson said he did not talk about how they intended to operate the Shelter. He said they were trying to keep the two programs going and keep those two groups of guest separate. During the day time, there were two sign-up sheets. The folks that had been staying at the Community Shelter would be staying on the same side, the Kentucky side, and the folks staying at the Salvation Army that were now staying at the Community Shelter and were not drinking and could pass a breathalyzer, those people would be in the day room which was on the first floor or in the lower level in the space that faced 10<sup>th</sup> Street. There were two sign-up sheets, two entrances, two separate dinners, two separate bathrooms, and two separate smoking areas. He said within the space that was available, they were trying as hard as they could. He said perhaps it was a fine line and not a huge building, but to keep the two separate because they certainly wanted to support people who were not drinking and came from detoxification and wanted to stay sober.

Vice Mayor Amyx asked if Henderson knew the square footage of the building.

Henderson said there was no set of plans the owner or Sabatini ever found, but the square footage was approximately 7700 square feet.

Mayor Chestnut said as far as the square footage based on what Chief Barr quoted about needing 25 square foot per person, he asked if Henderson had any idea about the space he would be allocating.



Henderson said they drew a floor plan and measured the square footage just for the day room and rooms downstairs and worked out to 43 additional people. He said the Shelter needed an architect to look at the building and give a number to Chief Barr.

Mayor Chestnut asked how much was the basement portion and was it a substantial amount of additional space.

Henderson said the dayroom had 17 people out of 43 total people.

Commissioner Johnson asked when the plan was to be out of the current location permanently.

Henderson said the original plan was to be out of that location in April of 2010. He said it probably would not happen at that time, but it would be as close as possible. He said perhaps 18 months from now. It all revolved, initially, in picking a site which they were close to doing and then raising the money. He said finding an affordable site and a building that did not have insurmountable problems for renovations had been a chore.

Jane Pennington, Director of Downtown Lawrence, said she had been to the Shelter and thought the Shelter did a remarkable job with the limited resources, but that being said, she did not think downtown was the right place for a shelter. She said she discussed this issue with their members and people downtown for a total of 30 people and all but 3 people expressed negative experiences with the clients of the Shelter. She said she paraphrased those anecdotes which read:

1. "I drive by the Shelter everyday and there were always people in the streets and partying out back. My store had a rear entrance that many of my customers have said, they will not use because of the people who hang out in the parking lot and around the trash bins. These areas were often used for sleeping or as a public urinal."
2. "We do have on-going problems with so many down here constantly asking people for money, it detours people from shopping. We often find human feces near our back door and have no choice but to clean it up ourselves. Our shoppers don't want to step over that to get into our store."
3. "I know there is a need for a Shelter in Lawrence, but downtown is not an appropriate place. Having the shelter is antithetical to a vibrant and thriving downtown."
4. "Last year behind the store, they were sleeping behind the dumpsters. My son was downtown and he was stopped by them on the sidewalk and asked if he had any weed to sell."

5. "I personally cannot remember when I last visited the Antique Mall because I hate to walk by it. There were almost always panhandlers in the breezeway next to it and after years and years of being asked for money, being heckled, I just don't walk out there anymore. If lots of people feel the way I do then in my opinion this was a pretty unfortunate thing for the Antique Mall and other businesses over by that breezeway, they were possibly missing out on a fair amount of business.

She said she fully understood the need for a shelter and did an admirable job with the limited resources, but they also needed to balance the needs of people who need those services with the rights of the business owner's downtown and their ability to make a living and have a thriving business.

Bob Schumm, Lawrence, said his business had been downtown since 1970 and seen a lot of things happen over the years. Certainly, the homeless issue was growing rather than contracting and he did not think that was ever going to change based on society and what was going on with the different issues. He said the community needed to take care and address, in a very positive way, the Shelter need and it was not fair for them to do otherwise. Each group of people in this community had their own space, school kids have schools they felt safe and productive, sports groups had arenas and field houses, seniors had senior centers and on and on. Every population that had any type of activity seemed to have a safe place where they could do what they were suppose to do and live comfortably and it was all integrated into this community.

The Shelter was quite different, it was wedged into an urban population neighborhood downtown and they did not have an adequate space. The Shelter did not have the surroundings that comfortably address their specific issues and when that happened, conflict was created. He said they simply must as a community to get that space. There was a lot of volunteer energy that was available in this community, but they were not getting that volunteerism packaged up and put into a particular area where those people could feel safe and the community could address the issues. He said he encouraged Henderson and his staff to come up with a shelter that addressed the needs of their community. He hoped the City

Commission would whole heartedly support the effort along with whatever resources needed to be in place in order for success. Downtown and any neighborhood was not a place for the Shelter, it simply needed to be a safe place where those people felt comfortable. He said there was no other solution at this time, but to temporarily allow the Shelter and the increase in the number of beds. After all, there was the population downtown and if the Commission did not allow the temporary Shelter for those people, those people would be on the street and it would be a more unpleasant and unsafe situation. He said he was in favor of granting the temporary use permit to extend the Shelter's operation with the caveat that this was not the place for the Shelter to be long-term.

Katherine Dinsdale, Chair, Community Commission on Homelessness, said everyone who had spoken had spoke truth about this problem in the community. He said the Homeless Commission had worked for six years and a task force worked several years before their Commission to come up with a plan and even in looking at the plan, there were so many problems they could not solve. The federal issues with mentally ill, there was no place for people to go and there was not enough affordable housing in this community. Going forward, their Homeless Commission and City Commission agreed on a plan that called for one emergency shelter in this community and they asked for people to come forward who were willing. The Lawrence Community Shelter stepped forward and assembled a very good board and a good fundraising committee that the City Commission would hear more about and were on the edge of moving forward with a new shelter. One of things that helped enforce ordinances downtown and deal with panhandling and nuisance issues that had been mentioned, was having options. It was easier to enforce laws when there were options. At this point, they did not have anything to say to people and they went around and around and everyone was upset by what was seen downtown. The best step forward with the problems Pennington mentioned was to get that new shelter built and getting past that issue of an interim shelter as quickly as they could by finding a place where the Shelter could operate temporarily and then

moving forward with all the muscle that all of their business community and City staff had to help the homeless get into a new location. She was glad they had a night to brainstorm and was glad to hear the community's ideas.

Don Huggins, President of the Board of Directors, Lawrence Community Shelter, said the board realized a new location for a shelter was needed to adequately deal with the issue of homelessness in Lawrence.

He said their mission statement was "A Path to a Better Future" and believed that could be done by stabilizing individuals and providing programs to get the homeless back into an active role in society. Their board was made up of good and a diverse element of this community. Their staff had gotten larger because of the influx of people from Salvation Army and they were dealing with that as best as they could in terms of staffing up fairly rapidly.

He said one of the most important things they had to remind themselves was about 75% of the people in Lawrence in the homeless community were either from Lawrence or Douglas County, which was an interesting phenomenon since many folks believed that being homeless in Lawrence was the place to be. Lawrence Community Shelter did not serve anyone that was intoxicated. There was a separate night area for those that were sober and those that were intoxicated. The day and night shelter also now served families as well as individuals. They worked with about 50 plus guests during the day. They worked with homeless and newly housed individuals and were open to men, women, families and including people with mental illness and substance abuse issues. On the day side and on the property there was no intoxication allowed, except for the evening shelter.

He said there were a lot of programs and services. There were very good case managers on staff and case managers visiting from Bert Nash. Their programs were basically benefits, jobs, housing and intervention. There was an on site AA meeting because they dealt with a lot of people with substance abuse problems.

They have collaborated with Section 8 transitional and permanent housing and made referrals to the homeless for housing. They worked with Cottonwood, Bert Nash, Independence Inc., Lawrence Memorial Stabilization Unit for mental illness. They did referrals and were proud of the fact they were entering a collaborative effort with Baker University School of Nursing, which would provide some on site services. The night shelter, which was basically 8 p.m. to 8 a.m., in the past, slept 31, which would change. They now provided a full evening meal, showers and limited storage, which was always a critical issue for the homeless. They did intake forms on day and night shelter people. They had conditions of stay and had rules that were strictly enforced. There were consequences if the rules could not be obeyed. They recently received a grant that allowed an additional 14 security cameras to the property, which had helped a lot in alleviating some of the issues that had plagued the Shelter in the past.

He said it was in April 2007 they were issued a three year SUP and about that moment the board began to undertake the issue of trying to relocate and get into a better facility. The people who worked at the facility and dealt with the location and building had long understood the inadequacies of the location and building.

In December 2007, they were recognized as “the” emergency shelter and took that to heart. One of the first things they did was begin to break out and get the maximum amount of effort out of the board they broke the board up into a number of committees, four to be exact, and on those committees they had board members and ad hoc experts if they would help in the charge of that particular committee. The program committee was headed by Katy Nitcher, local attorney, and the committee recognized, if relocating, the need to develop the project program’s needs, and take that information and estimate what kind of physical environment needed to have those programs work in a new shelter. There was both an image issue and an understanding issue regarding homelessness, what it involved, who it involved and they were working hard to educate people.

He said there was a building committee, Brett Kring, local downtown merchant, was the chair of that committee and they were working with the buyer's agent to locate and evaluate sites and buildings. They also worked with the architect in terms of looking at potential building needs and the committee explored the site potentials and issued the City's and other experts regarding the potential issues and values of a site or building. He said they could not do any of this without money so they decided they were in need of a capital campaign committee and that committee worked with consultants and had been developing a campaign approach. They had to come up with some initial figures in terms of their financial needs and site needs. That was a positive thing to take on and get some movement fairly quickly.

It was not long after that they recognized that in order to increase the potential sites available for consideration; they would have to investigate the potential for getting an amendment to the zoning code so they could look at other sites. Under the old code, there were not many sites available and given the complexities of trying to relocate in the then current zones, there were not many opportunities. They initiated dialogue with the City and after 54 months, they got the code amended. The new code had been in place since April 28<sup>th</sup> and had allowed them to look at a larger list of potential sites. They believed that one of the other reasons they wanted the amendment was they felt industrial sites offered a better site environment for a shelter. There was a natural buffer built into them.

He said there were a number of professionals working with them now because there were a lot of issues that faced the board where they did not have the expertise to handle. Doug Brown Real Estate was their buyer's agent and Dan Sabatini was helping with the architectural needs. Price Banks, Attorney, had helped before and Jack Greenwood was the capital campaign consultant. There was also a public relations firm that helped develop some of their materials.

He said identifying building relocation sites was by far the biggest issue faced aside from the potential economic issues that would be coming up. Their current funding split was about

80% from private individuals, organizations, and foundations. The remainder came from various public sources and did not anticipate that ratio changing in the future. They were focusing on in-kind resources and services because they felt that could take some of the revenue burden off of running a new shelter.

One thing they accomplished early in 2009 was they were able to put together a 15 member steering committee that sat with the committee. There were two board members and have identified an honorary chair and co-chairs identified.

There was a capital campaign timeline and had been modified several times over because of the problems finding a site and getting into a buying situation. Although they made two offers in the past, they were unsuccessful offers. They were progressing, had a plan in terms of what it would look like as they moved towards the relocation effort. Everything hinged on finding a site. They had made application for Congressional funds and foundation funds would be used and applied for and Kansas tax credits. He was proud of their board and had 100% participation and pledging and was a substantial amount. The board was leading the way in terms of getting them prepared financially. He said they had made application to the Kansas Tax Credits and there was a 40% tax credit on gifts and asked for a Congressional request through HUD appropriations which was done jointly through Representative Moore and Senator Brownback's office.

In kind sources and resources were often overlooked and sometimes they did not need cash if they could get other kinds of services to reduce the cost from private and public entities. He said they were seeking building and funding donations which was part of the Capital Campaign. They wanted to offset some of the operation and maintenance costs by increased volunteerism. The steering committee's job was to flush this out and they had a great steering committee with a lot of people and experience. They were excited about moving forward.

He said they needed to identify the site and negotiate a contract. They seemed to be close and once that was completed they were going to kick off the capital campaign and

concurrently begin the Special Use Permit process and other relevant public processes. They needed to conduct neighborhood discussions and had to happen as those things begin to gel.

Peter Zacharias, downtown business owner and operator, said he had seen a lot of changes downtown and was proud to see the response and preparation people made toward a shelter in Lawrence that would accommodate the needs of the community. He was in downtown every day and they could use some help now. He said it would be nice in the interim period to add foot patrols for a consistent and long term basis. He said in the transitional period they would need to accommodate those transitional periods, but they could use some help in that avenue.

Vice Mayor Amyx said when they expected to announce the site selected.

Huggins said he thought it would be soon.

Commissioner Dever said Huggins did a good job in giving the City Commission a good look into how much work and efforts had gone on behind the scenes and the type of people that were involved and caring that was going on. He said he was encouraged by the process and how far the issue had moved forward.

Commissioner Cromwell said there were multiple issues that were important and downtown was critical and were taking steps to increase foot patrols downtown and increased the number of officers on the force and was one of the issues that came up during their goal setting session. Obviously homelessness was an extremely important issue that they needed a solution that worked and was glad to see everyone marching in the right direction. He said he knew it was a lot of hard work and had a long way to go. The entire community would have to step up and help. He would be happy to see the capital campaign kick off.

Commissioner Johnson said he knew this issue came up a while back with the panhandling ordinance and thought it was discussed whether it was tough enough or whether they could enforce it or not. He said the Commission needed to look at the issue of panhandling and he knew it was two different issues, but as long as that shelter was downtown and the



temporary use, the Commission needed to solve that issue. When he received the comments he received and heard from downtown businesses, it was one of the hearts and souls of Lawrence and great economic drivers of the City. To let the panhandling and homelessness hijack that, he could not allow that.

He said he was sympathetic to the situation, but it took time to work on this type of issue. They were two years into finding a new location for the shelter and it was a great presentation, but some of this issue could have been taken care of a while back. He said he was reticent toward extending a SUP and would like to move forward in getting a permanent shelter by April 2010. He said he could appreciate the comments that if they did not do something it would exacerbate or worsen the problem downtown. He was not okay extending this SUP out 18 more months and delaying the problem. Three years was an adequate time frame to get this taken care of and he was ready to move on.

Mayor Chestnut said Commissioners could make the request to place the panhandling issue back on a future agenda. A lot of work had been done and legal staff prepared a lot of information and they could discuss looking at other demanding issues, but it would be good to revisit this item. He said revisiting this issue would not require a significant amount of staff time preparation because it was the same information. At that time, there was a draft ordinance and a large discussion on legal issues.

Corliss said staff could place that item back on the agenda and prepare a status report for the Commission and provide any additional information for Commission direction.

Commissioner Johnson said if that was not the vehicle to fix things, the Commission needed to look at other avenues.

Commissioner Dever said if they had their ducks in a row allowing locations for a shelter and there were one or two places in the City where it would be allowed. The City Commission spent 54 weeks changing regulations in anticipation of this need and were not necessarily prepared for the rules and zoning regulations as much as the shelter might not have been

prepared. It was a collective effort of why they had not gotten any further than they have. He said a lot of effort was put forth to find suitable places. There had to be a lot of changing to rules to find a location and the timeline shrunk because of some of the City's internal procedures.

Mayor Chestnut said on the text amendments they were looking at two different situations at the time. They had Family Promise that came into the community at the same time and the community shelter was looking at expanding its zoning opportunities, but that effort was mixed up and staff put a lot of time in, but staff had provided clarity on both the issues. It took longer than they hoped, but it was another limiting factor and placed the text amendments for Family Promise ahead because of where they were and there was a lot more ongoing activity they were trying to get their arms around.

Vice Mayor Amyx asked with the additional people that were being brought into the Lawrence Community Shelter, was there a violation of the SUP right now.

McCullough said he believed there was a condition on the SUP of an occupancy limit of 31 or 33. There was an issue of compliance with the SUP framework that was approved and the compliance with the fire and building code.

Vice Mayor Amyx asked if this item needed to be placed on the agenda to accommodate the extra people.

McCullough said the shelter would need an application to amend the SUP and hold that hearing through the Planning Commission.

Vice Mayor Amyx said that condition of the SUP needed to be addressed first.

Secondly, Huggins said the site could be potentially identified in a month. He said he understood the need to protect the health, safety and welfare of individuals in this community. He said he also understood too many people were being placed in a building that was not adequate. He said Huggins did a great job in addressing concerns and the board's willingness to look at other locations. He said it would be appropriate, if the board could not secure that

new site within a month or a short period of time, because of a date coming up and the need for an extension of the SUP. He said it would be appropriate for the City Commission to authorize a request for proposals to assist the shelter in finding a location. The limits and occupancy of that building needed to be discussed and they needed to be realistic in the funding available to help accommodate people. The budget would be limited next year, but within the next month if the shelter could not find a site, he would help initiate a RFP to find out what was available in the community. He said he appreciated their work, but the shelter was in violation of the current SUP in the number of people occupying the shelter. He said the City Commission needed to ask for public input, in finding a new location, for the shelter.

Mayor Chestnut said two years ago, they all had the consensus that it was the wrong location at the current site, especially with what was being created as a greater critical mass. The emergency shelter was to deliver programs and some of the limitations were because of physical space and the shelter was not meeting those needs.

He said he shared the Vice Mayor's sentiments, but did not know about process. He said he was disappointed that the Shelter understood the limitations of the SUP and just now understood the Shelter was over their occupancy limitation. It was a violation of the law and the City now had a liability in which they were aware of. The ingress and egress issues and other things that were coming up would be the City Commission's responsibility if there was an issue of fire and safety at that location. He said it was upsetting that there was no consultation with the City. He said he wanted to pursue as hastily as possible, to look at what was required for a reasonable investment, the number of people the shelter could accommodate. He said the City Commission was now informed of a situation he considered to be a serious safety issue in the community. That process issue was concerning because the law applied to everyone. He met with the board last night and was very much in support of providing whatever resources it took with the City staff, and everything else to vet out all the possibilities and to go through the questions that needed to be answered from Planning and City Commission standpoint relative

to moving this issue forward quickly. He thought it would be appropriate for the Commission to make sure this issue was back on the agenda for an update in the October/November time frame of this year. At that point, it was about 4 months to see what progress had been made and hopefully by then, a site was selected and a capital campaign well underway. He said at that point, talk through the opinion of the Commission relative to whether or not they wanted to renew the SUP to extend it. The more progress made on a permanent facility, the better argument it made to say there was only a 90 to 120 day extension to make that transition happen. If this were other people in the community, they would be issuing fines. The City Commission was endangering citizens and wanted to be briefed on those details and talk through next steps. It was an issue of whether the City Commission was willing to be well outside what had been approved for the special use permit for occupancy. He said the Commission needed more opinions from the safety people about what risks the City Commission was taking today.

Vice Mayor Amyx said it was the City Commission's responsibility.

Commissioner Dever asked if it had been stated publicly how many people were staying at the shelter.

Vice Mayor Amyx said when he asked the question, the answer was more than 31 or 33.

Commissioner Dever said it was unsafe and the City Commission was liable in some way. He said he questioned whether it was safer for people to be sleeping outdoors and in alleys in the interim period or safer in an area that might or might not be up to fire code. He said he wondered if the City Commission were risking people's lives by not having a place. It was not like the homeless were going to disappear over night and the Commission needed to acknowledge that and proceed with the best solution.

Mayor Chestnut said this was a tricky issue and there were a lot of service elements and people trying desperately with limited resources to meet the needs of people. He also understood the issue of where those people go. On the balance, he had a group of people that

said it was the balance of violating those laws and had 88,000 other people expected to be accountable to those laws. He said again, he was disappointed being informed of the occupancy and knowing they were over and it was an unfortunate circumstance and needed to get information on how to with that issue and ask Fire/Medical to proceed with a process that they would proceed in other situations in violation and talk about how that process worked. He said he was concerned because the City was ultimately responsible.

Commissioner Cromwell said there were personal safety issues with the guests and staff of the shelter as well as the Fire/Medical personnel that would be asked to step in. He said the Fire/Medical should take a look at this situation within days. He said if there was something that could be done to limit the liability of risk for staff, residents and Fire/Medical personnel.

Vice Mayor Amyx said he knew the people who worked at Lawrence Community Shelter and the people on the board and the members of the Commission felt responsible for the guests at the shelter. There were rules and procedures to follow to make this facility or any facility in compliance with the Code of the City of Lawrence. There were procedures to clear those conditions.

Mayor Chestnut said there was a similar situation with Family Promise where there were activities not strictly in compliance with the code. At that point, the Commission went through a process with Fire/Medical on how to mitigate the circumstances. He said he would like the LCS and Fire/Medical to get together and talk through that issue because the Commission had a responsibility. The shelter needed to comply with code and figure out how to come into compliance expeditiously.

Vice Mayor Amyx asked if the Mayor asking that the application be made by the shelter.

Corliss asked whether the October item on the agenda was for consideration for the renewal of the SUP that expired in April or was the October discussion just a status report and initiation of an action. He said he understood the SUP expired in April 2010 and without any active action that land use was not allowed after that date.

Mayor Chestnut said his recommendation was to work with the Community Shelter, talk about the time, when the Planning Commission meeting was coming up, to work through their request for an extension and hopefully in the fall, they should have a better idea of the timeframe for that process. He said it probably needed to be initiated and heard by the Planning Commission in October and would come before the City Commission in November.

McCullough said if the shelter had a plan for a permanent location, come with an extension if necessary and talk about how many months were needed for an extension and fit in to the overall relocation.

Corliss said the direction on the current expanding use at 944 Kentucky was to provide the City Commission with additional information and work with the applicant regarding possible non-compliance, but there was no direction to change anything, other than enforcing the existing laws.

Commissioner Dever said if the shelter was violating the current SUP, would the City Commission provide some guidance as to how they would help not violate the SUP.

Vice Mayor Amyx said the Shelter could have a meeting with Fire/Medical in the next couple of days and this item could be back on the agenda fairly quickly and the Commission could use their authority, assuming the Shelter made the necessary corrections to take care of that expanded occupancy.

Corliss said the Shelter would have Building Code/Fire Code work out issues or land use plan work out issues, but staff would advise the Commission, which was a standard process. The standard process was to investigate, send information to the property owner if they find basic life safety and harm issues and occupancy issues. If it was land use issues, it was slower process because it was not usually the immediate public safety harm issues, but staff would provide the Commission with that information.

Commissioner Cromwell said the City had the \$73,000 or \$78,000 federal stimulus money for renovations for a potential site and that money were designed to bring that particular facility up to code.

Corliss said unless otherwise directed, he said he understood that the Commission's approval for that money for the 1242 Massachusetts site was not devoted toward that particular site as it was the temporary need that existed with the closing of the Salvation Army Shelter. The City Commission would decide that reallocation.

The City Commission directed staff to work with the property owner and the Lawrence Community Shelter to initiate Planning Commission consideration of an extension of the SUP at the Planning Commission's October meeting for a November regular agenda item, and directed staff to provide the City Commission with an update on SUP and code compliance in July. (15)

The Commission recessed at approximately 8:40 for five minute.

**Consider adopting 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.**

Scott Miller, Staff Attorney, presented the staff report. He said Kansas had historically addressed the problem of underage drinking by regulating the drinkers themselves, prohibiting the consumption or possession of alcohol by people underage. They also regulated underage drinking under the law by making it illegal to provide alcohol to people who were underage. It was a relatively new development within the last few years in that they started making it illegal for people to provide places for underage people to consume alcohol, which was what they called the Underage Hosting Ordinance and there was a state statute as well. Because it was a new law, the legislature continued to tinker with that law and continued to do so in this legislative session. House Bill 2165 changed the underage hosting law for the State of Kansas by making it illegal for someone who owned property to recklessly allow the consumption of alcohol by underage people.

Normally, this issue would be a consent agenda item because staff would prepare an ordinance that would update the city's ordinance equivalent to the state statute, and then they would be done with the ordinance. However, Jen Brinkerhoff, who was a member of a coalition that currently was seeking to strengthen the underage drinking laws, contacted his office about the same time as this ordinance was scheduled to be placed on the agenda and drafted and suggested it was appropriate to make some Lawrence specific changes to the law; therefore, there were two different ordinances. One ordinance mirrored the state law exactly. The other ordinance had additional prohibitions and provisions that were aimed towards a problem they had in the City of Lawrence. The problem staff was talking about were large house parties, which might not exist to the extent in non college communities as it did in a university community. What the police department found was that there were many parties held where the people who were organizing the parties openly invite whoever wanted to attend the party within a certain age range and certain demographic. They placed information on computer networking sites and social networking sites. They sometimes did posters or word of mouth. They found that alcohol was being provided by individuals in an almost open saloon fashion on a regular basis at the house parties. The other ordinance was drafted in consultation with members of the Police Department, Brinkerhoff, Charles Branson with the District Attorney's Office, members of the KU Police Department and its purpose was to strengthen the City's law to address those open house parties.

He said it made a statutory presumption that people who attended parties, or social activities as defined in the ordinance that they were there as an invitee of people who were organizing the parties and not as a trespasser. It was an important distinction under the current unlawful hosting law because there was liability for intentional and now reckless invitations for people to consume alcohol underage but proving who the invitees were was sometimes difficult.

It also adopted the language that he originally found in a San Diego ordinance that made it reckless, per se, for anyone to host or allow social activity on his or her property without taking



reasonable steps to keep alcohol out of the hands of the minors on the property. Reasonable steps to control alcohol beverages at social activities included such things as excluding those people who were not invited to the social activity from the social activity; in other words, not taking a laissez faire attitude toward people showing up that they did not know.

If alcohol was served and available to attendees and they were apparently underage or mixed age group where people might be underage were included, checking identifications was necessary.

Finally, the ordinance did not apply to licensees from the license beverage association. People who were either with drinking establishments or cereal malt beverage licensees had a whole different administrative process that controlled their activity. He said that was the only substantial set of differences between the proposed Lawrence Ordinance as opposed to the law that would apply elsewhere in the State of Kansas. Staff's recommendation was that one of the ordinances be passed so the law could be square and not less lenient than the state of Kansas law which would not be permissible.

Commissioner Johnson said regarding draft 2 of Ordinance No. 8397, item 5, he said when it stated "Licensed Caterers" he asked if that was general enough or should it state "Alcohol Licensees".

Miller said the ordinance was more specific and the idea was when you were dealing with service outside specifically established premises; the only people under the law who could do that would be caterers. He said if a person had a party at your house, the only person who could serve who was licensees would be caterers, but it also covered permanent drinking establishments and cereal malt beverage establishments.

Mayor Chestnut called for public comment.

Nancy Renfro, Co-Chair of the New Tradition Coalition, said their coalition was made up of parents, law enforcement, prevention specialists, public health officials and community members. They were committed to providing parents and the community

with online information, education and local resources to reduce the incident of underage drinking and its related tragedies. They also brought parents together in a growing directory, online, of families who had pledged to provide safe and supervised homes for the Lawrence youth. Besides being a co-chair of the coalition, she was also a parent of two teenagers; one in college and one in high school.

It had been a long tradition in Lawrence for older youth living on their own to host drinking parties across the town and include their younger friends still living with their parents. It was provided to them in the past, so they provide it for others. The legacy continued to be passed down. As a personal experience, she had a vivid recollection of driving down through Oread Neighborhood and seeing her daughter getting out of a car in front of a house party on campus. Before it registered, she had already gone past and by the time she turned around, they had already gone into the party. It was a dangerous situation. There was usually no invitation necessary if a group of girls showed up at a college party. As a parent, she would like to have tools to help her parent effectively. A strong social hosting law that would be enforced in Lawrence would help her be a better parent. It was important to realize that Lawrence was different than other towns in Kansas because they had such a large population of young people living in town. She supported their Police Department and believed the second draft of the social host law would allow the Police Department do their job more effectively to keep kids safer and encouraged the Commission to past that second draft of the ordinance.

David Scheifer, Lawrence, said he had a 16 year old daughter in high school. Those with children could understand the challenge of raising children today. Knowing as a parent that part of the growing process was to allow children to gain independence and allow them to learn independence and values, but at the same time, the feeling of the parents' part of loss of control because parents could not be there for their children at all times. Teens were not always going to show good judgment, but parents should

be expected to show good judgment. He urged the City Commission as parents to pass the more enforceable version of this ordinance to allow law enforcement to do a better job and allow parents to make that job easier and allow parents to have a little bit more peace of mind.

Jen Brinkerhoff, Director of the Regional Prevention Center in Lawrence and member of the New Tradition Coalition, said social hosting ordinances were a powerful law enforcement tool that allowed officers to crack down on house parties and gatherings where underage drinking took place. They held a person who allowed underage drinking occur to be held criminally liable and in addition fines collected help offset law enforcement prosecution expenses. The mandatory minimum fine in Kansas was \$1,000.

Over the past five years there were 24 social hosting cases filed in Lawrence and only two resulted in a conviction where the fine of \$1,000 was imposed. Within that time there had been specialized enforcement for addressing underage drinking within the Lawrence Police Department. The fact that there were so few convictions might lead community members and some of their coalition members to question if the law was even being enforced. There was a disconnect between what they were telling and educating parents about the laws and consequences and what young people were hearing from their peers or what was read in the paper. Many of the 24 cases were dismissed, modified to another charge, or found not guilty. Most paid only a \$250 to \$450 fine. Many young individuals did not feel that a \$250 fine was a very big deal and heard cases where money was raised at their parties to cover if getting busted.

The new modified ordinance was a proactive approach to enforcing underage drinking laws in Lawrence by getting law enforcement and prosecutors on the same page regarding the law. This would lead to a higher conviction rate and collection of the mandatory minimum fine of \$1,000. As a prevention professional, she could guarantee

and assure that proper enforcement of underage drinking laws was a proven effective strategy in reducing the incident of underage drinking. Well publicized enforcement of the laws might even deter some young people from even thinking of having parties at all.

Kat Brown, Kansas Traffic Safety Resource Office and member of the New Tradition Coalition, said she wanted to talk about four different issues. The most recent statistics reported for alcohol related accidents were from 2007 and only from drivers aged 14 – 20. In the State of Kansas for 14 years old, 2 crashes; 15 years old, 9 crashes; 16 years old, 35 crashes; 17 years old 70 crashes, 18 years old, 152 crashes; 19 years old, 160 crashes; and, 20 years old, 162 crashes, a total of 590 under age alcohol related crashes across Kansas. She said for kids aged 15 – 19, there were 17 fatalities which was a huge amount of lives lost across the state that could have been prevented if those kids had not been drinking alcohol. It was not enough to ban the age of alcohol consumption under age 21 because our youth were still getting a hold of alcohol. They needed to take away the places those youths felt safe to consume alcohol which was at home or house parties.

In 2008, there were 365 people admitted to the Lawrence Memorial Hospital and the number one reason being alcohol poisoning or alcohol related injuries. It was a huge number and one a day and was an increase of 59% since 2003. She said 25% of those 365 people were under the age of 21, which were about 87 people. The most common age seeing people admitted into the hospital was age 18, which made sense because students were moving to Lawrence to attend K.U.

She said she wanted to offer support for the New Tradition Coalition and what they were doing was great for the City of Lawrence. She thanked the parents who had meetings at their house and went out and spoke at meetings to help enforce the laws in their city.

Finally, she wanted to speak on the need of enforcement. Time after time and study after study said the greatest factor for behavior change was the fear of being reprimanded. If the language was changed so that police officers and prosecutors were able to get those convictions, they would see a decrease in the amount of deaths and injuries in Kansas.

Mayor Chestnut said if there was any interpretation of the old ordinance that would get remedied with this new ordinance.

Miller said in criminal prosecution, the obligation of the prosecutor was to prove each and every element of the crime beyond a reasonable doubt. That became difficult when they dealt with specific intent crime, which was what this was. They had to have the specific intent to provide a place for underage people to hang out and drink. Under the law currently in effect with the legislatures recently amended, proving intent could be difficult. With that in mind, that was the major deficiency with conviction rates. The inability to show the property was intentionally provided and showing that any specific person was an invitee as opposed to someone who wandered on the property and began drinking, those were the two issues he saw with the ordinance. To some extent, they were remedied with the new ordinance and they would still continue to be issues under the current law. There would still be cases that were factually lost because it was the way prosecution tended to go.

Mayor Amyx said the way draft 2 was written was specific to Lawrence and would help the City's law enforcement. He said he supported draft 2.

Mayor Chestnut said when he drove anywhere close to 14<sup>th</sup> and Ohio and those adjacent neighborhoods; it was like Mardi Gras sometimes. He said he definitely wanted to support this ordinance. He said there was an issue with intent, but that issue could be addressed and made the ordinance effective enough that law enforcement felt they had leverage and could move forward.

Commissioner Cromwell said he supported the 2<sup>nd</sup> draft ordinance which protected the life and well being of the young people in town and was their primary objective of the City Commission.

Mayor Dever said he agreed that the second draft ordinance would be best.

**Moved by Cromwell, seconded by Amyx,** to adopt on first reading, Ordinance No. 8397 (2<sup>nd</sup> Draft), amending Section 4-103.1 of the City Code related to unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage. Motion carried unanimously. (16)

**Consider approving the selection of Commerce Bank as the City's depository of the year beginning July 1, 2009.**

Mayor Chestnut said this item had been deferred until July to allow staff to interview potential candidates for banking relationship with the City. (17)

**Review draft of City Commission goals from May 26 goals setting session.**

David Corliss, City Manager, presented the staff report. He said with staff help, he tried to listen attentively and write down next steps as action items to respond to goals. He did not change any of the goal statements with exception of the item related to downtown and he tried to forecast that a little bit at the goal session. The term "protecting" downtown sometimes could not encompass everything the Commission was trying to do. They were trying to enhance the downtown and not keep things away from downtown. What he thought was helpful in the ways he tried to structure the document was to let them know what they would see from staff and the expectations in terms of meetings and work items. He asked the City Commission to take a look at the draft and see if it captured the various work items the Commission wanted before staff in the coming weeks and months. They could change those goals, but it was helpful to staff and him in communication with staff members.

Vice Mayor Amyx said the Commission had a good goal setting session with a number of very important items. The Commission was trying to enhance the vitality of downtown in

making sure that downtown remained the heart of this community. The way the goals were written with the different categories and recognizing the next steps, would work well.

Corliss said more foot patrol was something staff would address and would try to make it to the police staff meeting. If he could not attend, he would talk to the Police Chief to work on a report regarding foot patrol downtown. The City had 13 new police officers and most of those officers were in field training, but as they completed their training, the City would have more additional resources to make foot patrol a stronger priority.

Commission Dever said could the Commission ask for those changes and consider any other modifications.

Mayor Chestnut said it would be appropriate that if the Commission had other modifications to present those modifications to staff. He said once there was a final document, that document should be made available and easily accessible to the public to get an idea of what the City Commission was working on.

Commissioner Johnson said his idea was to look at being proactive in funding economic development. (18)

**PUBLIC COMMENT: None**

**FUTURE AGENDA ITEMS:**

06/23/09

**CONSENT:**

- Approve Text Amendments TA-5-6-09 and TA-5-7-09, to various sections of Chapter 20 of the Development Code to address implementation issues regarding Plan Approvals/Extensions and Site Plan Notice provisions. Adopt on first reading, Ordinance No. 8419, incorporating by reference, Text Amendments (TA-5-6-09 & TA-5-7-09) to various sections of Chapter 20 of the Development Code to address implementation issues regarding Plan Approvals/Extensions and Site Plan Notice provisions. (PC Items 8C & 8D; approved 8-0 on 5/20/09)

**REGULAR:**

- Consider accepting dedication of easements and rights-of-way for PP-04-01-08, a Preliminary Plat for Fifth Street Bluff Subdivision, a 0.29 acre subdivision consisting of one lot, located at 427 Country Club Court. Submitted by JMC Construction, Inc., property owner of record. (PC Item 1; approved 7-0-1 on 5/18/09)
- Conduct a public hearing on a request by Steve Mason for a waiver of the

restriction of the sale and serving of alcoholic liquor within 400 feet of a school or church, pursuant to section 4-113(a) of the Code of the City of Lawrence, Kansas regarding the temporary sale of alcoholic beverages at the Americana Music Festival at South Park on Saturday, July 18, 2009 from Noon-10 pm; and consider the adoption, on first reading, of [Ordinance No. 8410](#), authorizing the temporary sale, possession and consumption of alcoholic beverages at South Park related to the event.

**ACTION:** Conduct public hearing, find that the proximity of the Americana Music Festival and temporary sale, possession and consumption of alcoholic beverages, is not adverse to the public welfare or safety; approve the distance restriction waiver request; and adopt, on first reading, Ordinance No. 8410, authorizing the temporary sale, possession and consumption of alcoholic beverages on specified city property, if appropriate.

- 06/30/09 · City Commission Meeting canceled due to fifth Tuesday.
- 07/07/09 · Discussion of 9<sup>th</sup> Street bike lanes (Traffic Safety Commission and Bicycle Advisory Committee will discuss the issue at the July 6 TSC meeting).
- Consider approval of downtown parking fees, fines, and enforcement hours.
- Consider adopting on first reading, Ordinance No. 8420, increasing fines for certain parking and traffic offenses.
- Consider adopting on first reading, [Ordinance No. 8423](#), amending the alarm ordinance to eliminate the alarm user permit, eliminate provisions regarding false alarms, and adjust the alarm company license fee.
- Monday 07/13/09 · City Commission Study Session – 3:00 – 5:00 p.m. Topic: City Manager's Recommended Budget.
- 07/21/09 · Commissioner Johnson absent from July 21 City Commission Meeting.
- Authorize publication of the 2010 Budget Summary and establish August 11, 2009 as the public hearing date.
- 08/11/09 · Conduct public hearing on the proposed 2010 City budget.
- 08/18/09 · Adopt on second reading, Ordinance No. \_\_\_\_, adopting and appropriating by fund the 2010 budget for the City of Lawrence.
- TBD · Bowersock Dam project.
- Discussion of emergency vehicle access during the North 2<sup>nd</sup> and Locust intersection reconstruction.
- Adopt Douglas County Emergency Operations Plan.



- Discussion of City Commission meeting protocols.
- Adopt on second and final reading, 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.

**Moved by Dever, seconded by Amyx,** to adjourn at 9:58 p.m. Motion carried unanimously.

**APPROVED:**

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Robert Chestnut, Mayor

**ATTEST:**

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Jonathan M. Douglass, City Clerk

## **CITY COMMISSION MEETING OF JUNE 16, 2009**

1. Ownership/Maintenance Agreement – refurbished baler, Wal-Mart Eco Center, \$4,110.
2. Change Orders Nos. 3 – 6, King's Construction, \$32,849.41.
3. Ordinance No. 8421 – 1<sup>st</sup> Read, Amend Sect 17-201 & enacting Sect 17-203.1 of City Code, cost & conditions for involuntary towing of vehicles within City.
4. Ordinance No. 8424 – 1<sup>st</sup> Read, amending Art 3, Ch 18 of City Code, removal of noxious weeds, grass and other vegetation.
5. Ordinance No. 8417 – 2<sup>nd</sup> Read, alcohol at S Park on June 18<sup>th</sup> for Callahan Creek Picnic.
6. Ordinance No. 8418 – 2<sup>nd</sup> Read, alcohol at Watson Park, July 4<sup>th</sup>, for Lawrence Originals/Give Back Food Festival & Fireworks.
7. Joint City Ordinance No. 8391/County Resolution No. 09-16 – 2<sup>nd</sup> Read, amend Horizon 2020 Ch 14 Specific Plans, incorporate W of K-10 Plan.
8. Special Event Request – live music, lot south of 701 Massachusetts St.
9. Temp Use of Right-of-Way – The Sandbar, closure of 8<sup>th</sup> Street, Mass St – New Hampshire
10. Ordinance No. 8422 – 1<sup>st</sup> Read, alcohol in area on 8<sup>th</sup> St immediately in front of The Sandbar.
11. Purchase Agreements – Burroughs Creek Trial Project, \$222,923.60.
12. Subordination Agreement, Tenants to Homeowners, Inc., Steven & Janice Sell, 1705 Bullene Ave and Susan Bolton, 2015 Stratford Rd.
13. City Manager's Report.
14. Public Comment – 2010 Budget Issues.
15. Status Update – Lawrence Community Shelter.
16. Ordinance No. 8397 – 1<sup>st</sup> Read, amending Section 4-103.1 of City Code, unlawfully hosting to minors consuming alcoholic liquor or cereal malt beverage.
17. Commerce Bank – City's depository for year beginning July 1, 2009.
18. Draft City Commission Goals.