



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

July 21, 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, and Cromwell present. Commissioner Johnson was absent.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to receive the Sustainability Advisory Board meeting minutes of June 10, 2009.

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to approve claims to 296 vendors in the amount of \$1,604,741.77 and payroll from July 5, 2009 to July 18, 2009 in the amount of \$1,849,709.63. Motion carried unanimously.

The City Commission reviewed the bids for one (1) self propelled greens aerator for the Parks and Recreation Department. The bids were:

BIDDER	BID AMOUNT
Redexim Charterhouse Inc. (cost with trade)	\$15,250
MTI Distribution (cost with trade)	\$17,405
Midwest Turf & Irrigation (cost with trade)	\$18,522
LL Johnson Distributing (cost with trade)	\$24,397
Heritage Tractor	No Bid

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to award the bid to MTI Distribution, in the amount of \$17,405 because the low bid from Redexim Charterhouse Inc., did not meet minimum specifications. Motion carried unanimously. (1)



As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to set a bid date of August 18, 2009 for the Comprehensive Rehabilitation Program at 1827 Alabama, 1132 Rhode Island, and 936 Pennsylvania. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to authorize the City Manager to execute a Supplemental Agreement with Peridian Group in an amount not to exceed \$6,000 for additional engineering and geotech services for Fairfield East Addition No. 1, generally located east of O'Connell south of 23rd Street. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt on first reading Ordinance No. 8434, establishing "no parking" on 9th Street along the north side from Tennessee Street to Indiana Street and along the south side from Ohio Street to Indiana Street. Motion carried unanimously. (4)

Ordinance No. 8426, the rezoning (Z-4-6-09) of 15,625 square feet located at 135 and 137 Pawnee Avenue from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential-Office), was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever and Chestnut. Nay: None. Motion carried unanimously. (5)

Ordinance No. 8430, for Text Amendment (TA-5-8-09) to various sections of the Lawrence SmartCode to revise the architectural standards, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever and Chestnut. Nay: None. Motion carried unanimously.

(6)

Ordinance No. 8413, concerning parking rates, overtime parking, and modifying penalties for violations, was read a second time. As part of the consent agenda, **it was moved**

by Amyx, seconded by Dever, to adopt the ordinance. Aye: Amyx, Cromwell, Dever and Chestnut. Nay: None. Motion carried unanimously. (7)

Ordinance No. 8425, rezoning (Z-04-5-09) Lawrence Municipal Airport, containing approximately 503 acres, from GPI (General Public and Institutional) to IG (General Industrial). There is existing ASO (Airspace Overlay District) and FP (Floodplain Management Regulations Overlay District) zoning overlays on all or portions of the property being rezoned to the base IG District, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever and Chestnut. Nay: None. Motion carried unanimously. (8)

Ordinance No. 8420, increasing fines for certain parking and traffic offenses, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever and Chestnut. Nay: None. Motion carried unanimously. (9)

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, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever and Chestnut. Nay: None. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to authorize the Mayor to sign a Release of Mortgage for Carolyn Scripps, 209 Arrowhead Drive. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to authorize the City Manager to enter into a License Agreement with Robert and Sandra Schumm for the installation of a second floor balcony, subject to conditions, at 719 Mass Massachusetts. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt Resolution No. 6845, setting a public hearing date of September 8, 2009 to discuss the condition of the dilapidated structure at 426 Perry Street and to consider declaring the structure unsafe and ordering its repair or removal within a specific period of time. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to adopt Resolution No. 6841, ratifying the Lawrence Journal World as the official newspaper of the City of Lawrence. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Amyx, seconded by Dever**, to receive Bert Nash 2nd Quarter Outreach Report. Motion carried unanimously. (15)

Mayor Chestnut, at the request of the League of Women Voters, pulled for separate discussion, text amendment (TA-5-5-09), and adopt on first Reading, Ordinance No. 8429, the revision of Section 20-1003 of Chapter 20 of the Development Code pertaining to interior parking lot landscaping standards.

Marci Francisco, League of Women Voters, said that the League believed the landscaping standards have been important to the community. The League had a few concerns about specific wording. Under the section of applicability it was not clear whether the term “lots” referred to parking lots or buildable lots. The Planning Commission included in their minutes that it is buildable lots and the League would appreciate that being part of the record of the City Commission discussion as well. She said the League did note that some of these lots that are 150’ deep could be 600’ to 800’ feet wide, and they appreciate that in this case staff has the opportunity to waive the requirements and hoped that they use that judiciously and that in the case of very wide lots that are not very deep if there is a very large parking lot that extends from front to back that landscaping requirements be considered. She said the other issue the League looked at was in the landscape area where it talks about in C-4 that the landscape areas to be credited toward meeting these standards shall have minimum dimensions of 8.5’ in all directions

and it shall be contained in the parking lot as established by the perimeter parking lot curb. She said they knew that in many cases people have built a peninsulas that extends into the parking lot for landscaping, technically that would not be in the area of the lot, and they thought it would be appropriate to specifically note that we are talking about the parking lot areas excluding landscape peninsulas that meet those minimum dimensions that are called for. She said that the League appreciated the efforts that developers are making to add these and believed that it is appropriate to make sure that these areas that event into the parking lots are counted towards the landscaping.

Scott McCullough, Director of Planning and Development Services, said that he appreciated the catch on one element of the amendment. This is the section of the code that deals with interior parking lot landscaping. He said it is a requirement that within parking lot areas there are certain requirements that have to be provided for any new or substantial development that requires a certain number of trees and that sort of thing with its purpose to break up expanses of pavement to provide relief from the heart island effect, and this is new language to provide for traffic flow within the lot. He said he wanted to make one clarification, some of the language that Marci mentioned is existing, the part, however, that providing for a lot less than 150' deep there are ways for alternative compliance, that language exists and this process clarified that "lot" is buildable lot not parking lot. He said we think that this was intended in the code to account for a lot of the commercial lots along the arterials that are shallow, so that we have had several alternative compliance requests that we have pushed the required landscaping to the outside of the lot. He said he wanted to show some new language this evening that staff was asking the Commission to approve the ordinance with these modifications; it falls under C-4 as noted earlier that the landscape areas should be credited toward meeting the standards should have minimum dimensions of 8.5' in all directions and the landscape areas should be contained within the parking lot. The parking lot shall be established by the perimeter parking lot curb excluding landscape area peninsulas that meet the minimum

dimensions. The representative from the development community that contacted us and we agreed that we need to clarify what sites are eligible for this. The language helps us all understand that to be eligible it's going to have to be within the lot and not outside of the lot, against the building or in the buffer yard. He said we think this is a good amendment that we accept and recommend that you adopt tonight with this ordinance and we'll revise the ordinance for second reading next week.

Commissioner Dever said the idea of adding additional buffering along the perimeter of a lot, say you had 15' and you wanted to increase it to 25' to increase the area of pervious surface and reduce the impact of the heat sink of the parking lot, it sounds like they wouldn't get any benefit from adding any additional distance between the curb and parking surface.

Scott McCullough, Planning and Development Services Director, said staff discussed that item at the Planning Commission meeting and under that scenario, they did not think it necessarily was the purpose of that code section to break up expanses of pavement if the majority of it was kept at the perimeter, that functioned as a different type of landscape buffering that bringing that to the interior of the parking lot, but that was not to say staff would not consider alternative compliance for unique situations, in fact, even without the language concerning alternative compliance, an owner could seek alternative compliance and it was called out specifically to recognize there were shallow lots that would have the need for interior landscape parking.

Commissioner Dever said it would achieve the goal for relief of the heat island, but it would not achieve the goal of breaking up the parking space and was the reason staff would not be in favor statutorily stating that statement in the text amendment.

McCullough said under the zoning code 20-1003(c2) "Required minimum parking lot perimeter Landscaping and required Bufferyards may not be used to satisfy minimum interior parking lot Landscaping requirements already existed in the code", but added "required Buffer yards" to make it clear there were three landscaping standards that could effect developments,

its bufferyards when trying to be compatible with uses. There was perimeter parking landscaping when trying to shield light glare from the site and buffer aesthetically. Also, there was interior landscaping and all three of those served a different purpose.

Commissioner Dever said the code stated a “required area” and if a person doubled the area on the perimeter, that could be considered toward the compliance required as deemed necessary on a case by case situation.

McCullough said if there were unique circumstances where all of the required landscaping could not be placed to the inside of the curb, staff would consider, especially trees with canopy to shade the parking lot on the outside of the curb.

Commissioner Dever said it seemed a lot of those interior islands were lined with rock and was not helpful with the heat. If the islands were lined with trees, it might not be irrigated and the City would need to enforce compliance and it seemed like a larger area on the perimeter might serve as a canopy and might allow more effective use of the parking and also the landscaping would stay alive and help cut down on the heat.

Vice Mayor Amyx said in Section 20-1033(e) concerning landscaping and City lots, he said some of those shrubs had grown where a person could not see around those shrubs which created a safety concern and the type of landscaping, in those parking lots, needed to be taken into consideration.

McCullough said the site distance was an important element also.

Vice Mayor Amyx asked if there was language in the text amendment that would address that site distance.

McCullough said not in that particular section of the code, but somewhere else in the code site distance was discussed and it might be site plan enforcement on those properties.

Vice Mayor Amyx said sometimes sections of the code needed to be combined so everyone understood what went with what section.

Commissioner Cromwell said in some of those lots were dead trees or trees had been removed. He said people understood their plan needed to show landscaping in order for the plan to be approved.

McCullough said staff actively enforced those landscaping plans. He said when landscaping was removed from a site, staff would pull the site plan and discuss those plans with the owner and/or developer. He said there were two ways staff enforced the landscaping plans: 1) if staff noticed or received a complaint; and, 2) when an owner submitted a development project.

Mayor Chestnut called for public comment.

Tom Kern, Lawrence Chamber of Commerce, said the Chamber was trying to find good planning guidelines which provided a balance. He said this proposed change was trying to find that balance between the needs of business and development and the needs of planning. Good planning should encourage and facilitate development, not restrict development.

He said a property owner in the downtown area had a raw piece of property used for parking and had not improved that parking because the requirements triggered made it cost prohibitive. He said the requirement, when becoming restrictive, actually did the opposite of what was trying to be accomplished.

Also, when an industrial site considered an addition, it triggered the landscaping requirements in the existing parking and that improvement did not occur and the development went to another City where that company had another facility. He said not only was it a loss of a facility and tax base, but also a loss of potential employment.

He said he encouraged the City Commission to continue to look at ways in which to find a balance in the development code to encourage people to invest in Lawrence, create jobs, and meet the community's requirements for a well planned, well designed community.

Mayor Chestnut said one other issue was existing parking.

McCullough said there was an active text amendment that would be reviewed by the Planning Commission on Article 9, Parking Standards, in the Development Code. He said there were two text amendments and those text amendments would likely come before the City Commission after next months Planning Commission meeting.

Mayor Chestnut said those standards were aimed more at new parking.

McCullough said the way the current code was established it could apply to major development projects and applied to all new developments such as the O'Reilly's store on 23rd Street as an example of the standards in action with the amount of landscaping provided at that location which was a good value to the community and the effect was to push the parking lot bigger than required under lesser area standards and pushed closer to the neighborhood. He said the number of trees required was not reduced and remained the same and were attempting to shrink the pavement area, but keep the canopy the same.

Mayor Chestnut said the next text amendment would attempt to define "major."

McCullough said there was a text amendment underway that would review the code in terms of levels of a project.

Mayor Chestnut said he appreciated the League of Women's Voters weighing in on this matter to help make it a better amendment.

Moved by Cromwell, seconded by Dever, to approve text amendment (TA-5-5-09), and defining "buildable lot"; and adopt on first reading, Ordinance No. 8429, the revision of Section 20-1003 of Chapter 20 of the Development Code pertaining to interior parking lot landscaping standards with amendments proposed by staff. Motion carried unanimously. **(16)**

CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report. He said the new water tower at 6th and Stoneridge was in service which was an important water supply for the west side of Lawrence; finally, the summer youth baseball/softball was coming to a close. **(17)**

Review Fire/Medical Department plans for providing emergency response to areas of Lawrence north of the Union Pacific railroad tracks during the re-construction of North Second and Locust.

David Corliss, City Manager, presented the staff report. He said staff had worked on emergency response plans for this project. Staff planned to provide a dual response, south of the river and on the turnpike. An opticom system would be installed which were on most of the traffic signals within the community that allowed fire apparatus to change the traffic signalization to allow for free flow and allow for stopping traffic at North Second and Locust.

In the first part of the project there would be a significant detour where the north bound lanes would be stopped at Elm Street and the road would be under construction from that point to the railroad underpass. One of the items staff wanted to consider was whether or not it was possible to have an emergency vehicle only, north bound lane during construction which allowed for a clear passage for an emergency vehicle on the bridge and through the construction area and underpass. Last week staff thought that idea was a possibility, but the contractors indicated that idea would not work for their construction crew as far as their clear zone/construction zone and staff wanted to be respectful of that response and their necessity of timely execution of the project.

One of the other items staff examined was the ability to staff emergency vehicles, north of the railroad tracts so there would be vehicles and trained personnel at that location during rush hour traffic. There was a significant concern that when the railroad tracks were full and the traffic was backing up, that it would be difficult for an emergency vehicle to get through on the bridge and wherever else emergency vehicles needed to go in North Lawrence. He said that was the reason staff explored the opportunity of an emergency vehicle only pass, but that idea would not work.

He said staff thought the City had the budget authority to provide for the overtime expense that would be necessary to have fire/medical personnel, north of the railroad tracks, roughly four hours a day, Monday through Saturday. Given the traffic volumes on Sunday, staff

did not see the necessity on Sunday, but staff would continue to monitor traffic flow. He said this proposal depended on the actual costs of the fire fighting personnel which was somewhere around the mid 20's. He said they were comfortable with the location which was at the Solid Waste Annex North Building on Industrial Lane which allowed personnel to have good access to North 2nd Street and other places in the community. He said that was the additional measure and if that measure received City Commission support, staff was ready to implement that plan as the project proceeded.

Mayor Chestnut called for public comment.

Ted Boyle, North Lawrence Improvement Association, said the reasoning behind justifying a first responder in Lawrence was not just for the safety of residences and businesses, but last November, the North Lawrence Improvement Association campaigned very hard for all three of the sales tax proposals, even though North Lawrence had a high stake in sales tax for the pump station at 5th and Maple. He said the North Lawrence Improvement Association produced about 85 signs placed around the City and he went to numerous meetings, encouraging voters to vote for all three sales tax proposals. One of those sales tax proposals was for fire equipment and North Lawrence had a role in the sales tax proposals.

He said when the stimulus money was available, the City of Lawrence asked the North Lawrence Improvement Association to write a letter in conjunction with the City of Lawrence to apply for that stimulus money and received two million dollars and a million dollars from the State for the intersection project. The intersection project was suppose to take place last year and if the project was done last year, it would have cost the City over a million dollars and \$20,000 to \$30,000 for a first responder in North Lawrence seemed like a cheap price and a good deal for the residences and businesses in North Lawrence. He said he encouraged the City Commission to vote "yes."

Jeannie Fridell, Principal of Woodlawn Elementary, said with over 240 students in her care everyday, it would be nice to have the student's safety and well being foremost in people's

minds and help make sure the parents were assured that the safety of the children would be handled appropriately.

Vice Mayor Amyx said there had been a lot of comment about the importance of safety for Lawrence citizens. He said there would be times, in the North Lawrence area, where congestion took place, but having a first responder stationed in North Lawrence would help alleviate that congestion.

He said he had the opportunity to talk with the senior members of North Lawrence about children's safety.

Commissioner Cromwell said this was a great example of the City and neighborhood working together to come up with a solution that would keep citizens safe and an appropriate comfort level which was critical. All citizens in this community had the right to feel and be safe and the folks in North Lawrence sometimes felt a little alienated from the rest of Lawrence. He said it was good to take extra care that all citizens were taken care of.

Commissioner Dever said this was a concession that was first discussed when considering the changes and improvements. It had gone through several iterations and once everyone took a hard look at the geography and island that was sometimes created by the railroad, river and interstate and this might be the best solution. He said he was in favor of the proposal.

Mayor Chestnut said he drove through that area and tried to imagine, one lane backed up and thought there could be some significant issues in that area with access from both ends. He said the first responders stationed in North Lawrence would add some protection.

Vice Mayor Amyx said former Mayor Moody mentioned a situation at 3rd and Lyon's concerning maneuvering a mobile home at that intersection and it taking forever to get the mobile home around that corner. If the intersection work in that area had begun, they would have had all types of trouble with that situation. He said there were mobile homes and transports going through that area at times.

David Corliss, City Manager, said that the additional unit was a supplemental force and was not taking away from another station or all the different planned routes. How the Fire/Medical Department planned their routes was very intricate and those routes would not be disrupted. Staff intent was if those apparatus or individuals were needed elsewhere at that time because of forces needing to respond to a particular incident, they would respond.

Mayor Chestnut said the event needed to be significant.

Corliss said yes. He said appropriate staff would already be deployed. He said the City would be asking staff for volunteers for the overtime work.

Moved by Amyx, seconded by Dever, to direct staff to authorize appropriate overtime expenditures to provide emergency services staffing in North Lawrence during the 2nd and Locust intersection improvements. Motion carried unanimously. (18)

Conduct public hearing establishing the maximum special assessments for improvements in the Delaware Street Commons special assessment benefit district.

John Miller, staff attorney, presented the staff report. He said in 2006 the developers of the property requested the City form a benefit district for the public improvements needed for the Delaware Commons Addition. The benefit district was determined to be necessary to help facilitate the residential infill development. The City Commission in 2006 approved the resolution, directing the improvements be made. At that time, it was determined that 100% of the costs of the improvements were to be assessed to the improvement district. The improvements were completed and total costs of the improvements were \$176,470.04. A notice was published in the newspaper and mailed to the property owners in compliance with State Statute. He said he understood that one property owner contacted the City for information. Staff provided that information and was the only contact from the property owners that were part of the improvement district.

Vice Mayor Amyx said this benefit district was at the request of the property owner.

Mayor Chestnut called a public hearing establishing the maximum special assessments for improvements in the Delaware Street Commons special assessment benefit district. No comment was received.

Moved by Amyx, seconded by Dever, to adopt on first reading, Ordinance No. 8432, establishing the maximum special assessments for improvements in the Delaware Street Commons special assessment benefit district. Motion carried unanimously. (19)

Consider adopting on first reading Ordinance No. 8435, annexing 448 acres of the former Farmland Industries Property and adjacent right-of-way, and directing the City Clerk to file a certified copy of said ordinance with the Douglas County Clerk and the Register of Deeds.

Toni Wheeler, Director of Legal Services, presented the staff report. She said the City Commission authorized the submission of a petition to the County for annexation of this property under K.S.A. 12-521. This matter was considered by the Planning Commission on May 20, 2009 and was found that the annexation was compatible with the land use plans for that area.

A public hearing was heard before the Board of County Commissioners on July 13, 2009, and considered advisability of that annexation, voting 3-0 to approve the annexation.

The final step was to adopt an ordinance, publishing that ordinance and certify copies to the County Clerk, Register of Deeds, and County Election Officer.

The annexation ordinance repealed Resolution No. 6528, a resolution that was passed in 2004 and at that time, the City Commission did not wish for the property to be annexed until the remediation of that property. Staff thought it was appropriate to proceed with annexation at this time, given the amount of information the City had about the remediation and the condition of the site.

Mayor Chestnut called for public comment.

After receiving no public comment, **it was moved by Dever, seconded by Cromwell**, to adopt on first reading Ordinance No. 8435, annexing 448 acres of the former Farmland

Industries Property and adjacent right-of-way, and direct the City Clerk to file a certified copy of said ordinance with the Douglas County Clerk and the Register of Deeds. Motion carried unanimously. (20)

Receive report from the City Auditor on Financial Indicators Performance Audit.

Michael Eglinski, City Auditor, presented the audit report. He said the report was based largely on the financial statements that were in the Comprehensive Financial Report for the City. The purpose was a way to get a broad overview in identifying any looming issues.

The first section discussed governmental activities such as public safety, public works, and general government which represented over 80% of the City's expenses.

He said the first measure, measured the unrestricted net assets/expenses, showed no clear trend, and was below the median. Compared to the median the net resources grew more slowly.

He said governmental funds included the general fund, capital improvements fund, and a dept service fund. The fund basis was frequently seen in the budget and he adjusted those indicators for changes in inflation and population. Total revenue had gone down.

The total expenditures per capita had declined in the last two year. In 2006 the City's expenditures, per person, were approximately \$926 and in 2008 down to \$760 which was a significant drop.

The business type activities were generally intended to recover "some" or "all" of the costs through user fees and charges such as utilities, solid waste, parking, stormwater and golf course. He said in looking at net revenue or net expenses which were the program revenue, less the expenses, the expenses in the financial statements included all costs such as depreciation of truck and vehicles, sewer pipes, and buildings. He said expenses would be higher than the budget expenditures. He said in 2005, water and sewer had 2.6 million dollars more in charges and revenues than in expenses which declined to 2.4 million. He said all five of those business-type activities revenues had performed worse than a couple of years ago.

He said regarding water and sewer, the City was selling less water then the last couple of years and to some extent, was contributed to the weather where people did not need to water their lawns and businesses were not doing much irrigation. He said the number of accounts was steady, but the amount sold had gone down.

He said solid waste had steadily declined and did not know what was happening, but meant that generically, the City was brining in less program revenue than expenses, but why that was occurring, was not clear. He said the City Commission had discussed further audit work in the area of business type activities and from his report, solid waste was the area to review.

Also, since he made no recommendations in his report, he did not ask the City Manager to provide any written response, but the draft was shared with the City Manager.

He said the audit report was available on-line on the City's webpage.

Vice Mayor Amyx said regarding business-type activities net revenues, under water sewer in 2005 the net revenue was approximately 6.2 million compared to approximately 2.3 million in 2008. He said in 2005, he asked if the City was stock piling money and not paying cash.

Eglinski said he did not look specifically look at 2005, but the graph showed there were a lot of unrestricted assets, well above median which was consistent with having a lot of cash on hand.

Vice Mayor Amyx said in 2005, that was when the City started discussing the new Wastewater Reclamation Facility and asked if the City was trying to get into a position of having cash on hand to construct part of that project.

David Corliss, City Manager, said the location and process had not been approved for the Wakarusa Facility and there was no intent to have that cash for a particular project. It was a desire to fund certain projects as needed and placed some of that money into needed projects.

Other projects had not been replenished because the City was not growing and not selling the amount of water the City had sold in the past.

He said on the Utility Department rates, the water use drove the water revenue and helped drive the sanitary sewer revenue because, in part, that was what the sanitary rates were based on. He said that number meant there was a potential for less per unit revenue. Obviously, the rates needed to be increased as well. There also had been some project costs escalation in some of the larger projects.

Vice Mayor Amyx said in looking at 2003 to 2005, there was a great amount of revenue and asked if they were using that revenue for specific projects. He said overall, people were conserving and the performance audit report showed where the City could be in a couple of years.

Commissioner Dever said if the City lost any industrial water users in that period of time.

Corliss said that was a good question and staff should spend time looking at some of the water consumption to see why that number was down. He said he could not think of any industrial water users that left the City.

Commissioner Dever asked if the City was giving water to Farmland at the time.

Corliss said Farmland went into bankruptcy in 2002 and ceased operation at that time. He said the City had sold water to Farmland in the past.

Commissioner Dever said they were looking at carbon emissions when Farmland left and the emissions dropped off tremendously in the City's footprint and it might have correlated at the same time.

Corliss said staff would look at some of the larger water users. It would be difficult to look at 30,000 water users, but staff could look at the top 100 water users over the past decade.

Commissioner Cromwell said he was curious regarding residential use and if taking commercial out, whether there was some type of decline. He said it would be interesting to see how that related to the increased rates. He said the bottom line, year by year, he asked if

people were paying the same amount for their water service or were using less and conserving more. He said he wanted to see how that related to the rate and the consumption of water users.

Corliss said staff would look at that idea. He said he intuitively felt that the City would see the elasticity of water demand.

Eglinski said the biggest customer of water, by far, was the University and if looking at the top ten, five or six of those were rural water districts and then two golf courses and one big industrial user.

Mayor Chestnut called for public comment.

After receiving no public comment, Mayor Chestnut said he appreciated Eglinski's work and it connected to a lot of discussion during the budget study session, regarding utilities and looking at a significant increase in water rates and quite honestly, solid waste was not on the radar screen and that called attention to it. He said this Commission and the former Commission had done an excellent job of managing expenses and had delivered a high level of service, spending less per capita as things had moved down as far as revenue per capita which was a compliment to staff, directors, City Commission, but they needed to move their sights over to some of the utilities. Obviously, there was some change in consumption patterns that needed to be understood. He said what had happened was the City now had the debt service for the Clinton Water Treatment Expansion which had been taken out of cash reserves and in the last 18 to 24 months, the City had taken a much more aggressive program on water than before and both of those were having an impact. Now, rate wise, funds were depleted and the City had to catch up and that was something that needed to be addressed. He said staff had done rate comparisons on water and wastewater, but with solid waste it was probably appropriate to at least gauge to see where the City was in the market. He said they were either not generating enough revenue or had way too much expense and it was one or the other. There needed to be a measuring stick about whether the City was way above the market or way

below the market because he did not remember it being a discussion during any of the study sessions and had not been a focus of the City Commission and should be placed on the radar screen. He said the City Commission directed Eglinski to make that part of his audit plan for next year and hopefully Eglinski could come back with some recommendations on solid waste.

He said he had a question about parking and wondered if that was because of depreciation and wanted confirmation. He said the parking fund, the actual cash fund balance, had not moved around a lot, but was showing a much higher negative number and there had to be an investment the City made or something that created some depreciation.

Eglinski said the depreciation last year in the parking activity was \$154,000.

Mayor Chestnut said in looking at the chart the trend went from a positive \$20,000 in 2006 to a negative \$233,000 in 2007. He said they needed to look at that parking issue in detail. In water/sewer, the Commission had a good feel and solid waste also needed to be looked at in detail.

Eglinski said a lot of that was depreciation of vehicles and other equipment.

Corliss said another view was to extend the life of those vehicles.

Mayor Chestnut said what the report stated was the City made a significant investment in that equipment. He said the City's fund balance had remained fairly level because that equipment probably was funded in cash. He said a fund balance was not being created to go to the next level of investment and the City probably left the solid waste rates fairly flat. He said they would either need to debt finance or something else. He said it could get to some problems where the City could start to uncover what the City needed to do. He said staff needed to find some expense reduction or rates had gotten out of touch with the market because the rates probably had not been addressed for a long while.

Eglinski said it was complicated because there were many services that fall under Solid Waste, lots of expenses, and different fees for commercial and residential.

Mayor Chestnut said that was why it should be kept simple.

Commissioner Dever said an audit topic was discussed framing the assessment in trying to come up with a plan. He asked if there was a timeframe.

Eglinski said the things the City needed to look at based on what he had seen and read was the Sustainability Advisory Board had three recommendations which were curb side recycling, pay as you throw trash collection service, and looking for equity issues where, for instance, students throwing out truck loads full of trash whereas a resident might not ever throw out a truck load of trash, but were paying the same amount.

There was lots of room for comparing other jurisdictions and was somewhat complicated because they had different mixes of services those jurisdictions provided. He said the methods option could be looked at on how they provided services which included mixes of public, private and contracted out provisions. He said also, the history of rates and how the City was managing in accounting for those costs.

Commissioner Dever said the cost seemed to change dramatically when the City started the Monday pickup of yard waste.

Eglinski said he could give the City Commission an update in a month.

Vice Mayor Amyx said during the citizen survey, solid waste was a popular service provided by the City.

Mayor Chestnut said this Financial Indicator Report was an outcome that was not anticipated and he appreciated Eglinski work. (21)

Consider Text Amendment, TA-4-3-09, to various sections of the Development Code to establish the keeping of chickens and ducks within the City consistent with the provisions of Chapter III of the City Code. Adopt on first reading, Ordinance No. 8428, for Text Amendment (TA-4-3-09) to various sections of the Development Code to establish the keeping of chickens and ducks within the City consistent with the provisions of Chapter III of the City Code.

Scott McCullough, Planning and Development Services Director, presented the staff report. He said on March 31, 2009, the City Commission adopted Ordinance No. 8378 and initiated a text amendment to complete the legalization of female chickens and ducks in the City.

The Land Development Code currently prohibited the keeping of chickens and ducks except in RS40 zoning district. This amendment placed references to Chapter 3, Article 5, of the City Code in the appropriate places to legalize in the zoning code, the permitting of chickens and ducks in all districts within the City. He said March 31st was the hearing date that established certain standards about keeping ducks and chickens in the City and established restriction on the number of chickens and ducks allowed which was one per 500 square feet, up to twenty. It also established coup sizes and setbacks and those coups did not need to be re-established, but basically reference Chapter 3 of the City Code.

Commissioner Cromwell said how staff had gotten to the number of chickens per square foot.

Scott Miller, Staff Attorney, said planning staff probably would have opted for lower numbers than were included in the ordinance. Essentially, it was a negotiated number that seemed to be reasonable at the time, but there was no chicken formula.

Mayor Chestnut called for public comment.

After receiving no public comment, **it was moved by Amyx, seconded by Cromwell**, to approve Text Amendment (TA-4-3-09) to various sections of the Development Code to establish the keeping of chickens and ducks within the City consistent with the provisions of Chapter III of the City Code and adopt on first reading, Ordinance No. 8428. Motion carried unanimously. **(22)**

FUTURE AGENDA ITEMS:

- 07/28/09
- George Williams Way school zone
 - Set bid date of September 1, 2009 for the Burroughs Creek Trail project.
 - Freedom's Frontier National Heritage Area Management Plan.
 - Consider approving Comprehensive Plan Amendment, CPA-3-2-09, for revisions to Horizon 2020 Chapter Four – Growth Management and Chapter 6 – Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County. Initiated by the Planning Commission on April 20, 2009. Requested by Rockwall Farms, LC. Approve on first reading, Ordinance No. 8415, for Comprehensive Plan Amendment (CPA-3-2-09) for revisions to Horizon

2020 Chapter Four – Growth Management and Chapter 6 – Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County. (PC Item 4; approved 6-2 on 5/18/09, BoCC approved 3-0 on 6/24/09)

ACTION: Approve CPA 03-02-09 and adopt on first reading, Ordinance No. 8415, for revisions to Horizon 2020 Chapter Four – Growth Management and Chapter 6 – Commercial Land Use to expand the possible locations of conference, recreation, or tourism facility uses in the rural area of Douglas County, if appropriate.

- Consider authorizing publication of the 2010 Budget Summary and establishing August 11, 2009 as the public hearing date.

ACTION: Authorize publication of the 2010 Budget Summary and establish August 11, 2009 as the public hearing date.

- | | |
|----------|---|
| 08/04/09 | <ul style="list-style-type: none"> · Authorize the City Manager or Mayor to send a letter to KDOT requesting the inclusion of certain improvements to the plans for the reconstruction of the 23rd Street bridge. · SUP expansion hearing for Lawrence Community Shelter |
| 08/11/09 | <ul style="list-style-type: none"> · Conduct public hearing on the proposed 2010 City budget. |
| 08/18/09 | <ul style="list-style-type: none"> · Adopt on second reading, Ordinance No. ____, adopting and appropriating by fund the 2010 budget for the City of Lawrence. |
| 09/15/09 | <ul style="list-style-type: none"> · Ordinance No. 8387, for the Rezoning (Z-2-2-09) of 1725 New Hampshire Street from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip) |
| 10/27/09 | <ul style="list-style-type: none"> · 2009 LEAP Awards Ceremony |
| TBD | <ul style="list-style-type: none"> · Consider Electrical Board recommendation to adopt the 2008 National Electric Code. · Discussion of financing methods for traffic calming devices. · Contracting for Professional Services · Fairfield East maximum special assessment hearing · Recycling report · Consider a request from the Oread Neighborhood Association to enact a moratorium that would prohibit permitting Boarding Houses in the City of Lawrence while a text amendment to the Land Development Code to revise standards pertaining to Boarding Houses is processed. |

Commissioner Dever asked if the City Commission received an email from Lawrence Freenet regarding the video services.

David Corliss, City Manager, said John Miller, Staff Attorney, sent a letter to Community Wireless indicating it was the City's interpretation of the state law that the City had 30 days to place a franchise ordinance on a City Commission agenda from granting of a Statewide Video Franchise which was granted by the Corporation Commission. Staff was in active discussions with Freenet regarding the parameters of that franchise agreement. By state law the City had to provide that access to public right-of-way through that agreement, but those agreements needed to be set out. The Public Works Department would work with Community Wireless on their Use of Right-of-Way Plans. The franchise agreement was not ready for next weeks agenda. In discussions with the Mayor, the Mayor indicated that August 4th was appropriate to place the franchise agreement on the agenda.

Commissioner Dever said he had the feeling from the email that it was interpreted differently. He asked about the difference between what the interpretations might be. The law was clear that there was 30 days after the granting of a State franchise.

John Miller, Staff Attorney, said as an example, Community Wireless provided the City a letter in May. If the 30 day period had runs as Jason Montgomery, Community Wireless, was suggesting, the 30 day period would have run before Montgomery actually applied with the State for his video service authorization.

In speaking to other communities and other legal councils about how they interpreted the statute, they interpreted it as once the CCC approved the order for the video service authorization, then the 30 days run at that point for the City and service provide to execute an agreement. The CCC initiated the order Friday afternoon and the City did not receive that order from Community Wireless until Monday morning. He said when staff discussed this issue

back in May, Montgomery indicated that was his understanding of the statute and that was why it was memorialized in the June 4th letter.

Commissioner Cromwell said he spoke with Montgomery and was in the process of applying for some stimulus funding for a project which would require this franchise be in place.

Mayor Chestnut said regarding Freenet, he would like anthology of the City relationship with Freenet as far as the agreement that were already in place.

COMMISSION ITEMS: None

CALANDER ITEMS:

Mayor Chestnut said there was no MPO meeting on the 16th of July.

Commissioner Dever said it was cancelled and rescheduled for 30th of July.

Mayor Chestnut asked that the calendar be updated because he showed up for that meeting and did not read his email.

Moved by Dever, seconded by Amyx, to adjourn at 8:10 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan Douglass, City Clerk

CITY COMMISSION MEETING OF JULY 14, 2009

1. Bid – Self propelled greens aerator Parks & Rec to MTI Distribution for \$17,405.
2. Bid Date Set – Comprehensive Rehab at 1827 Alabama, 1132 Rhode Island & 936 Penn.
3. Supplemental Agreement – Peridian Group, not to exceed \$6,000 additional engineering & geotech services for Fairfield E Add No. 1
4. Ordinance No. 8434 – 1st Read, “no parking”, 9th St along N side from Tenn to Indiana & S side from Ohio to Indiana.
5. Ordinance No. 8426 – 2nd Read, rezone (Z-4-6-09) 135 & 137 Pawnee Ave, RS5 to RSO.
6. Ordinance No. 8430 – 2nd Read, Text Amend (TA-5-8-09), Lawrence SmartCode, architectural standards.
7. Ordinance No. 8413 – 2nd Read, Parking rates, overtime parking & modifying penalties for violations.
8. Ordinance No. 8425 – 2nd Read, rezone (Z-04-5-09) Lawrence Municipal Airport, GPI to IG.
9. Ordinance No. 8420 – 2nd Read, increase fines for certain parking & traffic offenses.
10. Ordinance No. 8423 – 2nd Read, amend alarm ordinance.
11. Mortgage Release – Carolyn Scripps, 209 Arrowhead.
12. License Agreement – Schumm for 2nd Floor balcony, 719 Mass.
13. Resolution No. 6845 – Public Hearing, dilapidated structure at 426 Perry.
14. Resolution No. 6841 – LJW as official City of Lawrence newspaper.
15. Ordinance No. 8429 – 1st Read – TA-5-5-09, interior parking lot landscaping standards.
16. Bert Nash – 2nd Quarter Report.
17. City Manager's Report.
18. Fire/Med Department plans to respond to N Lawrence during reconstruction.
19. Ordinance No. 8432 - 1st Read, max assess and public hearing for Delaware Commons.
20. Ordinance No. 8435 – 1st Read, Annex 448 acres, former Farmland Industries.