



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

August 11, 2009

The Board of Commissioners of the City of Lawrence met in regular session at 5:00 p.m., in the City Commission Chambers in City Hall with Mayor Chestnut presiding and members Amyx, Cromwell, Dever, and Johnson present.

EXECUTIVE SESSION:

Consider motion to recess into Executive Session for the purpose of discussing possible property acquisition. The justification for the executive session is to keep possible terms and conditions for property acquisition confidential at this time.

Moved by Dever, seconded by Amyx to recess into Executive Session for approximately one hour to discuss property acquisition with the justification for the executive session to keep possible terms and conditions confidential at this time. Motion carried unanimously.

Moved by Cromwell, seconded by Johnson, to adjourn the executive session at 5:56 p.m. and reconvene the regular meeting at 6:35 p.m. Motion carried unanimously.

Vice Mayor Amyx said regarding the consent agenda item, increasing the overnight occupancy at the Lawrence Community Shelter, it was important the number of occupancy stated in the ordinance be followed. He said he still had concerns about the safety issues and would not accept anymore amendments.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the City Commission meeting minutes of July 21, 2009. Motion carried unanimously.



As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to receive the Board of Zoning Appeals meeting minutes of June 4, 2009; the Historic Resources Commission action summary of May 21, 2009 and June 18, 2009; and, the Mechanical Code Board of Appeals meeting minutes of June 5, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve claims to vendors in the amount of \$1,716,398.23. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the Drinking Establishment Licenses for Ingredient, 947 Massachusetts; Henry T's Bar & Grill, 3520 West 6th; Rick's, 846 Illinois; Cadillac Ranch, 2515 West 6th; the Retail Liquor Licenses for Mass Beverage, 3131A Nieder Road; and, Spirit Liquor, 600 Lawrence Ave Ste: A&B. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to waive the bidding requirements and authorize the repair of Unit 615, a reserve Quint for the Fire/Medical Department, by Central Power Systems of Kansas City for a total cost up to \$18,210.16. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize the City Manager to execute an agreement with Sunflower Broadband for fiber connectivity between City Hall and the Clinton Plant for \$1,500 per month along with a \$2,000 installation fee. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to set a bid date of August 25, 2009 for PW0901 (City Bid NO. B09049), 23rd Street, Ousdahl Road to Barker Avenue, milling, overlay, pavement marking and geometric improvements (KLINK). Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt on first reading, Ordinance No. 8426, for the rezoning (Z-4-6-09) of 135 & 137 Pawnee Avenue from RS5 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential Office).

This ordinance is being readopted because the conditions of approval were not included in the ordinance that was previously adopted on first and second reading. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt on first reading, Ordinance No. 8449, amending SUP-01-02-07 to increase the overnight participant occupancy at the Lawrence Community Shelter, 944 Kentucky Street. Motion carried unanimously. (5)

Ordinance No. 8437, adding to the City's existing rights under various agreements, leases, and liens used to regulate the Lawrence Community Housing Trust and enabling the county to consider resale restrictions for purposes of determining the fair market value of land trust properties, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to adopt Resolution No. 6860, amending Resolution No. 6844, concerning the debt service reserve requirement for water and sewer bonds. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve annexation A-5-1-09, and adopt on first reading, Ordinance No. 8442, for approximately 4 acres from Pump Station 25, generally located north of 3800 Greenway Circle. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to accept the dedication of easements and rights of way for a Preliminary Plat (PP-5-1-09), a one-tract subdivision for Pump Station 25, generally located north of 3800 Greenway Circle. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the rezoning (Z-05-09-09) and adopt on first reading, Ordinance No. 8444, for the

rezoning of Pump Station No. 25 from County I-4 (Heavy Industrial) to OS (Open Space). Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the rezoning (Z-5-8-09) and adopt Ordinance No. 8443, for the rezoning of Pump Station 25 from OS (Open Space) to OS-FP (Open Space with Floodplain Overlay). Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the Special Use Permit (SUP-5-6-09), and adopt on first reading, Ordinance No. 8445, for a minor utility serving more than one development, generally located north of 3800 Greenway Circle for Pump Station 25. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize payment to the Clerk of the District Court in the amount of \$17,500 for the acquisition of required property interests for the construction of the Burroughs Creek linear park trail. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize the Mayor to sign the grant application for the Kansas Housing Resource Corporation Homelessness Prevention and Rapid Re-housing Program (KHRC-HPRP) as well as subsequent grant agreements and other such documents that may be required by KHRC for administration of the grant. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize the Mayor to sign Releases of Mortgage for Michelle Bird, 1220 Pennsylvania and Ardys Ramberg, 812 New York. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize the Mayor to execute a letter of support for the Bowersock Mills and Power Company's application to the U.S. Department of Energy for a Recovery Act Hydroelectric Facility Modernization grant. Motion carried unanimously. (16)

CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report. He said the Solid Waste Division employees offered exceptional customer service to the community during the annual August move out; staff continued the acquisition efforts of the BNSF depot; the City received its July sales tax distribution; a webpage was created of historical information on city sales tax; and, Jessica Roberts, Projects Specialist for Planning and Development Services Department, was certified as a lead based paint inspector and hazard risk assessor.

Vice Mayor Amyx said he would like staff to follow up on recycling efforts because people in the community could reuse those thrown out items and it would save money and space at the landfill.

Corliss said the City had an ordinance that prohibited picking up items that were in dumpsters, but advised people to put a "free" sign on those items. He said staff would talk to the Sustainability Advisory Board and the Sanitation Division to see if they could encourage the free exchange of those items as opposed to taking those items to the dump.

Commissioner Chestnut said regarding sales tax, Corliss indicated the infrastructure and transit was split out, but the budget number was still together. He said they had budgeted \$16,375,000. He said he disagreed the City was running along with budget because the City was running about 2% behind on sales tax collection outside of transit and infrastructure. It was about a \$400,000 shortfall, which started to become some significant money. He said staff might want to take a look at how the City was running with all the other expenditures because the City Commission might want to take that under advisement if that trend continued.

Corliss said staff would take a look at that issue.

(17)

Conduct the public hearing on the proposed 2010 Budget and consider the following items related to adoption of the City's 2010 budget

Mayor Chestnut called a public hearing on the proposed 2010 Budget.

David Corliss, City Manager, presented the staff report. He said staff thought they were on track with the budget the City Commission was currently reviewing. To achieve the goals, the revenues and expenditures were balanced and were not spending down the fund balance which was important, particularly given the economic climate and projecting further when looking at 2011. The overall mill levy was stable and one of the major projects staff looked at was fees. Staff showed the increases, but a lot of what was looked at, staff did not recommended fee increases.

He said the City still wanted to maintain a high level of service. Positions were cut and positions were cut in past budgets, but the challenge was to continue to provide that high level of service even with fewer employees, deferring expenditures, and replacing equipment. The assessed valuation trend looked like a gentle slope and then there was the decline in the growth of the assessed valuation where the City was enjoying the numbers in the earlier part of the decade and since then, growth slowed down and thought the numbers would be negative to build the 2011 budget and was why there was focus on core service, public safety, and public infrastructure.

He said a graph showed in the report revenues brought in from the new sales tax which accounted for a healthy portion of that revenue growth and fee increases, which included parking that would start around September 1st.

He said that the City was not recommending a reduction in public safety departments and were moving toward full staffing in the Police Department with the graduation of another academy later this year. There were cuts in departments on the administrative side of the house and utilities as well. He said there were almost 12 fewer FTE's in the 2010 budget than in the 2009 budget.

He said it was important to give the right tools and compensation to the 700 to 800 City employees because they get the work done in public safety, infrastructure, social services, and economic development. The budget also included the public safety Memorandum of

Understanding, which was a 1.25% merit pool for eligible employees and fully funded longevity which remained at the City Commission's discretion. Staff was currently working on a recommendation on a Third Party Administrator (TPA). Staff would try to beat that number as far as the budgeted increase of 15% over 2009 costs.

He said there were funds in the City's equipment reserve to gain efficiency by allowing additional bookings outside of the County jail. The ITC improvements were part of the Capital Budget. He said in the debt budget there were a couple of pieces of fire apparatus for the Fire/Medical Department. Again, while the City Commission was adopting the Capital Budget, the Commission was not authorizing any of those projects and all those projects would be coming back for further additional review by the City Commission.

He said the City was maintaining existing funding of street maintenance programs of roughly \$5 million dollars, which was an important goal for the Commission. He said the sales tax that the voters approved, last year, provided additional resources for street maintenance activities.

Under the additional resources for the infrastructure sales tax, the Public Works Director had a meeting on the Kasold project, south of Clinton parkway, which was half of the estimated cost of that \$3 million dollars in 2010 and there were additional resources for street maintenance.

He said during tough economic times, the importance of maintaining outside agencies was discussed and would maintain those agencies at 2009 levels. However, the funding of those agencies would be brought back to the Commission for additional discussion and direction, expanding/replacing the role of the Special Alcohol Fund Advisory Board with a Social Service Advisory Committee.

Economic development was a high priority for the community and the Commission. There was full funding for the bioscience incubator and were on track to start construction on the west campus for the incubator facility.

He said there was \$2 million dollars budgeted for water and sewer lines. A concept study would begin on the sewers and options would be presented for pursuing that project.

Finally, in the general fund, staff was recommending the 2 positions in the Human Relations Division of the Legal Department not be funded in 2010 and the responsibilities were left with other Legal Department staff. He said most significantly, the Mayor made a strong point in his comments in the newspaper, was the departments understood the tough economic times in presenting their budgets and staff was able to start in good shape because the departments had already been asked to reduce their budgets from 2009. He said staff was also deferring equipment, computer equipment and other things, but nothing that would hinder the City's ability to provide quality service next year. He said staff would be taking on additional responsibilities next year which included, for example, Burroughs Creek Trail.

The budget also included recommendations to change the transient guest tax from 5% to 6% and supporting materials were presented. The conservative estimate on the additional revenue was about \$100,000 in a tough year. Staff was recommending those resources go to assist with the renovations of the Carnegie, the Freedoms Frontier National Heritage area and additional marketing promotion.

In the Library Fund, they were making strong support of the public library and staff was recommending transferring funds from the capital improvement reserve fund that was set aside for the library to give an increase to the library in 2010. Also, staff was devoting debt resources with a half million dollar roof repair estimate and the lighting and HVAC work from the stimulus funds. The library had been appropriately cautioned about their reliance on property taxes because assessed valuations were down.

In the Water/Wastewater Fund, the original budget was reduced by about \$2.5 million and their 2010 Budget was not counting the fund balance transfer which was not part of their operations which was 8% less than their 2009 budget. Staff believed they had achieved a good balance between maintaining quality service and rates. Staff would continue to monitor

expenditures and the master planning process would help staff in setting out how to respond to a more slowly growing community as far as the size and scope of the City's ability to run that important department.

There would be additional discussions in the fall regarding the items in the Capital Budget, including: the Carnegie renovation, ITC Building, Parks & Recreation, Bowerstock Dam, water and sewer projects, fire apparatus plan, a sidewalk project, and others that were identified as likely projects in the sales tax campaign.

He said in the budget transmittal letter, it talked briefly about the concept of a different responsibility for maintaining sidewalks under state law. Property owners had that responsibility if they were adjacent to a sidewalk and there were a number of questions about the proposal to have the community accept that responsibility with an additional charge on all property owners within the community.

Staff's role was to implement the budget, respond to the Commission's questions and the Commission made the budget their own.

Mayor Chestnut called for public comment.

Bobbie Flory, Executive Director of the Lawrence Homebuilders Association, said the association opposed Ordinance 8439, regarding the increase of impact fees and not to include that increase in the City's budget. She said a 5/8 inch meter, which was standard for a single family home the sewer impact fee would result in a \$500 increase and with a 1-inch meter would be a \$700 increase. Incrementally, it added to the cost of housing and it was a very bad time to add more cost to housing.

She said January through June, there was 33 single family building permits and were on track to approach 70 building permits for the year, but in previous years, had over 400 building permits. Building houses was a stimulus for the community and an economic development driver and at one time, it was the second largest industry. She said housing provided jobs and increased the tax base and asked that the City Commission encourage housing.

She said the Journal World wrote a story that stated the average income spent on an average house was 52% which was not appropriate. In a healthy vibrant community it should be in the range of 25% to 30% of a person's income spent on housing. She said the 52% was a deterrent for future companies.

She said it was mentioned the Utility Department decreased their expenses by 8% and suggested, instead of increasing the costs, the decrease should be looked at again and decrease those cost more in the Utility Department. The Homebuilders Association could certainly provide resources from the builder and developers' prospective to take a look and offer help in that review.

Reverend William A. Dulan, Lawrence, said that he was concerned about cuts to the Human Relations Department. He said he was afraid that some of the concerns would not be adequately addressed.

Elder Neez asked how many staff personnel were in the Human Relation Department staff.

Corliss said there were currently 2 positions.

Neez said of those two positions, he asked what was the ethnic background.

Corliss said the two individuals were African American.

Neez said if the budget was adopted, he asked what would happen to those two African Americans and how would it effect those two positions with the City.

Corliss said one of those individuals was in discussions about an early retirement package and the other individual staff would hopefully find employment elsewhere with the City.

Neez said he had a concern about people, the fact the Human Relations Commission had only two that were staffed, did not send a good message to this community and other communities.

Judy Billings, Destination Management Inc., Convention and Visitors Bureau, said the City Commission received information that they supported the increase from 5% to 6%. It was

always difficult to raise a tax, but cities all over the country were increasing taxes and they did not think the increase was out of line. She said they also supported the expenditure to renovate the Carnegie Library Building.

Robbie Derrit, President of local NAACP chapter, said that he did not want the Lawrence community to take a step backwards with the cut of the Human Relations Division. He said that eliminating those two positions was a grave mistake.

Verdell Taylor, Pastor, St. Luke AME Church in Lawrence, said that he was concerned about eliminating the two positions in the Human Relations Department. He said it affected the entire community.

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

Corliss said regarding the first ordinance, in addition to adopting the budget, was to appropriate by fund which was an important statutory law.

The next ordinance was based on a state law that stated if spending more property tax money one year versus another year, an ordinance needed to be adopted stating that fact. In this case, because of what was being done with the different funds, was that the City General Fund Mill Levy was increased and bond and interest debt mill levy was reduced. He said that most of the other ordinances were straight forward – the solid waste service rate ordinance, the water sewer, and the whole sale rates for the City's water customers. The next ordinance was for system development charges (impact fees).

The final item was the charter ordinance on the transient guest tax. A charter ordinance exempted the City from a non-uniform state enactment. In this case, the state law that allowed cities to have a guest tax was not uniformly applicable to all cities, and a charter ordinance could be adopted to be exempt from state law. The Kansas Constitution allowed cities to exempt themselves and in this case, allowed the City to go from 5% to 6%. A charter ordinance

required 4 affirmative votes of the City Commission, was published twice, effective 60 days after the second publication, and was subject to a protest petition.

Vice Mayor Amyx said regarding the system development charges, he asked what the anticipated revenue for system development charges in covering part of the utilities budget.

Corliss said it was similar to what was done in previous years. It was half a million each and a million dollars total.

Vice Mayor Amyx said if the increase was anticipated to make up for any shortfalls in building for next year or was it to keep up with what other communities were doing.

Corliss said that it was part of the City's budgeted resources for next year. If the City did not have that million dollars, the City needed to go back and look at what was not going to be done next year. He said the request was to not increase the system development charges and the City would not be losing a million dollars, but what that incremental increase would be.

Vice Mayor Amyx said his concern was with the single family residential portion with the estimated increase of \$30,000 in revenues and did not think this was a good time to do that.

He said he appreciated the Commission willingness to look at the recommendation of the \$300,000 in sales tax reserve recognizing there might be other needs in Parks and Recreation and not look at one specific project. He said he appreciated the City Manager's recommendation, but the City Commission made a recommendation not only to look at that project, but many other projects and stretch those dollars.

He said regarding the Human Relations Department cut, he asked if the budget left a fund balance of \$80,000.

Corliss said the budget staff had presented to the City Commission for adoption, if assuming 100% percent revenues and 100% expenditures, it provided an ending fund balance, December 31, 2010, of approximately \$170,000. He said the City always tried to beat the 100% expenditures and never land on a dime. The City was able to limit expenditure growth and bend

that expenditure curve, in the past two years, to less than 1% growth in expenditures the past two years.

Vice Mayor Amyx said Toni Wheeler, Legal Services Director, and her staff in the legal department could appropriately represent the Human Relations ordinance. He said he had a concern the City might need to add a couple of attorneys if the number of cases increased which would raise costs in the future.

He said he also wanted to thank the public for their input on the budget and reassured the public that staff was working hard on a difficult budget. He said staff and the City Commission made a point that as this community came out of the economic slow down, the City was in a position of prospering.

Commissioner Johnson said he wanted to thank the City Manager and City staff for putting together a good budget in hard times and the City Commission and Mayor Chestnut for his great leadership as well as the public for their input.

He said that he understood the concerns of the Lawrence Homebuilders Association and this was not the time to place increased fees on the building community.

He said he did not believe that it was the correct time to dig into those fees, but suggested looking at the entire rate structure, system development fees and how it played into the scenario. He said the Commission could help that segment of the economy by making it easier to get a project to market. He said he wanted to deliver back a value that helped trump the fee increase.

He said he also understood the concern with the Human Relations Division. He said if he did not think City staff could handle that division, he would not be in support of eliminating those two positions. He said there were a lot of other cuts in City departments and they were not singling this division out.

He said regarding Vice Mayor Amyx's comments, in the future, legal staff might need to be added, but just like any business in tough times, adjustments needed to be made.

Commissioner Dever said it had been an incredible year with close to 10% unemployment in the nation and everyone was cutting back. He said he was happy to say the community had someone like Mayor Chestnut involved in the budgetary process because he doubt this process had been scrutinized this heavily in the past as it had this year. He said the Mayor and City staff mainly had done a good job in trying to determine how the City did more with less. The members of the public needed to be assured the budget had been analyzed and scrutinized.

He said the most difficult thing was to lose a position. He said it was a testament to the people whose jobs were at risk with the people who came to speak on their behalf. He said it would be important to assure people who lost their jobs, to find jobs elsewhere in the City. He said he found it difficult to cut anyone's position, but in a community like Lawrence, they did a good job at not laying off masses of people because the City did a good job of not spending more when times were tight.

He said the City also was able to maintain property tax and a steady mill levy. In adjusting to living in Lawrence, those numbers would go up overtime. In light of the property development fees, this Commission had to do what it could to increase the costs as those cost came and those were minor costs in a cost of a home. He said he was in favor of most of those changes and wanted to focus on figuring out how to spend less money this year.

Commissioner Cromwell said he wanted to thank staff, the Commissioners, and Mayor Chestnut's for his hard work in analyzing this budget. He said utilities were doing a great job maintaining quality services while dealing with an 8% decrease. The City was still seeing rates increase, but hopefully they could do better next year. If the Commission had a full year to think about it, they could cut more to stabilize utilities and use that cost savings to off-set the builder's fees, hopefully from savings. All of the trades were hurting and it was important to do the best by them.

He said concerning the end balance, they were seeing a variety of increased fees that were not budgeted and asked if the City would see any revenue from those fees that were not accounted for, during this interim period before the end of the fiscal year.

Corliss said that individual line items would likely increase in municipal court fines on a per charge basis. Municipal court fines were not at budget this year and hoped to get to or exceed budget. The City was anxiously watching the interest revenue which would probably not make budget by about a half million dollars. There would be growth, but it would be made up of revenue loses and some of the smaller items. The parking fund was a separate fund and the City would see growth in revenue, but would also start implementing other things such as increased foot patrols downtown. He said even before actually implementing the fees, they started that additional expenditure. He said there would be additional revenue from Municipal Court fines, the parking fund would see more, but were spending more. The other items were not likely to see a lot of growth this year. The fee increases were modest in Parks and Recreation and staff was trying to find good ways to avoid that fee increase with the wading pool and the suggestion of a sponsor ship so that it was cost neutral.

Commissioner Cromwell said he had great concern about the Human Relations Division, but had confidence in Legal staff, however, he was worried about the impression it made to the community in that the City would tolerate inequalities and injustices. He said he wanted to keep the division open as a message, from this City, that it was a critical aspect the City was willing to protect.

Commissioner Chestnut said in 2007 when he and Commissioner Dever were elected and there was a political will in trying to manage the City General Fund, in particular, much more closely. In 2006, there was a \$3.5 million deficit and had to start with a significant hole to dig out.

He said there were two issues, one was system development charges and the comparison of other communities and could not believe the disparity was \$500 to \$9,000. In

other words, there had to be other revenue streams that other communities were receiving and it was not a level analysis of where Lawrence stood.

He said staff studied the movement in water and wastewater rates for individual residences, but had not studied enough, development fees and how much those fees had increased as a percentage. He said he supported using economic type development funds to rebate back some of those development charges because he did not want to mess with the rate structure. He said focus was needed on utilities because water rates continued to climb due to capital investments being made.

In regard to the Human Relations Division, he said he agreed with Reverend Leo Barbee's statement of "people versus infrastructure." While he agreed with Reverend Barbee's premise, he looked at the priorities of this budget and the City Commission provided a 1.25% merit increase for City employees, but was not including any furlough days in any of those recommendations, which was what surrounding communities were doing. He said Olathe was going to take 15 furlough days over the next 18 months which was essentially a pay cut. The City Commission had made a commitment to law enforcement to keep sworn officers by continuing to have rotating academies at a level that would keep those police officers safe on the streets. He said it was a commitment to fund outside agency levels, including Ballard Center, Big Brothers and Sisters, Boys and Girls Club, DECCA, LCS, Van Go, and Women's Transitional Care Services at a level that was equal funded this year in those challenging times when those funds were needed.

Finally, the zenith of the head count number in general fund was 815 and it was now 771 for 2010. The City had effectively reduced the head count by about a half of a percent in the past few years and some of those positions had been people within those departments. All of those cuts were carefully considered in the context of workload and how to deliver service at the same level with fewer resources. He said he supported the recommendation of Legal Staff in that they could continue to enforce the ordinance in its full effect and the Legal Staff took the

ball, at some point, to move forward with the courts and that had always been the process. He said Vice Amyx had an important point about adding staff because positions would most likely need to be replaced when economic activity picked up, it would require the City to probably replace some of the position the City was forced to be removed by economic circumstances.

The issue with a surplus of \$170,000 was the variables involved, in a 60 or 70 million dollar budget, could easily fall through and use up \$170,000. There were state funding sources the City could not count on and a lot of variables involved and the Commission tried to make the best assumptions and it was good to leave some surplus, but even if that number was hit, this Commission and previous Commissions had committed to a fund balance of 15% of its expenditures. He said as expenditures grew that meant that fund balance needed to grow to some element to continue to have that reserve.

He said he had concerns about the water/sewer rates and the development charges, but other remedies should be explored.

He said he appreciated the compliments, but if he was acting alone in putting the numbers together, it did not mean anything, because it was really the political will of the governing body to want to maintain the mill levy steady, try to preserve employment as much as possible, and all the priorities the City Commission set together as a group and a lot of those priorities were accomplished. He said he was particularly happy based on other municipalities because it was tough and relative to leaving some surplus next year, it was going to be harder in 2011 due to losing more assessed valuation in that year and could not be confident the economy would turn around.

Moved by Amyx, seconded by Johnson, to adopt on first reading, Ordinance No. 8440, adopting and appropriating by fund the 2010 City of Lawrence budget. Motion carried unanimously. (18)

Moved by Johnson, seconded by Amyx, to adopt on first reading, Ordinance No.

8441, noting the necessity of appropriating/budgeting property tax revenues for 2010 in excess of that which was appropriated/budgeted for 2009. Motion carried unanimously. (19)

Moved by Dever, seconded by Cromwell, to adopt on first reading, Ordinance No. 8416, establishing solid waste service rates for 2010. Motion carried unanimously. (20)

Moved by Johnson, seconded by Dever, to adopt on first reading, Ordinance No. 8438, establishing water service and sewage disposal rates for 2010. Motion carried unanimously. (21)

Moved by Amyx, seconded by Cromwell, to approve the wholesale water rate for 2010. Motion carried unanimously. (22)

Vice Mayor Amyx said what the Mayor's suggestion was for Ordinance 8439, establishing system development charges for water utility and wastewater utility connections for 2010.

Mayor Chestnut said it was a good idea to adopt the ordinance. In the short term, other possible funding needed to be explored for some type of percentage rebate for a period of time for new single family homes, or look at getting up to higher efficiency energy standards. He said there were a lot of different things that could be done. He said also looking at getting more information on what it took to build a house and how much growth with those development charges over time. He said the Commission needed to challenge staff to figure out a way to mitigate or figure out another way if inconsistent with other communities.

Commissioner Dever asked if Corliss knew the percentage increase over the past few years.

Corliss said he did not, but as part of the City's utility package every year it was looked at and there had been adjustments every year since enacted since 1995 or 1996. He said he assumed the percentage had gone up over the past dozen years, but staff could research the history and alternatives for the Commission. The system development charges would come into

effect January 1. It was important to look at all of the costs associated with impact fees and development costs.

Commissioner Amyx said if the ordinance had to be adopted prior to receiving the information, since the ordinance would not go into effect until January.

Mayor Chestnut the ordinance had to be published in two weeks and it needed to include those fees.

Corliss said the City Commission was adopting the budget and included that revenue, but staff could come back with additional information on ordinances. He recommended adopting the ordinance and work on it later.

Mayor Chestnuts asked if the ordinance could be deferred, but still publish the budget.

Corliss said the City was adopting the budget and once the ordinance was published it would be fine. If the City did not get their revenue, they would just not have that revenue.

Mayor Chestnut said that there were more options, but was a matter of how to go about those options.

Vice Mayor Amyx said that it would be best to compare the system development charges with other communities and that information was important prior to making the decision.

Mayor Chestnut asked what the best course of action would be.

Corliss said staff would work on a staff report and have the ordinance on a future agenda later this month or early September. He said staff might want to talk with the Homebuilders Association to make sure staff was comparing the same information when looking at comparable communities because it was a challenge.

Mayor Chestnut said that he has a problem with the analysis due to the disparity in numbers. He said with Topeka at \$500 and Olathe at \$9,000, he found it hard to believe that municipalities could be that different with the amount of revenue generated from homes being built. There had to be different sources of revenues.

Corliss said impact fees were challenging policy choice for a number of communities on the growth scale. The information that was presented was accurate, but might not be complete.

Mayor Chestnut said there might be one piece and other pieces to look at.

Commissioner Johnson said that he liked the thinking toward the proactive side. Time was money and to the development community or the builder. Sometimes when it was an out of pocket cost, being able to deliver something a week earlier or a review done quicker could mean picking up those costs.

Moved by Amyx, seconded by Johnson, to defer consideration of Ordinance No. 8439, establishing system development charges for water utility and wastewater utility connections for 2010. Motion carried unanimously. (23)

Moved by Amyx, seconded by Cromwell, to adopt on first reading, Charter Ordinance No.39, regarding the transient guest tax. Motion carried unanimously. (24)

Consider authorizing the City Manager to execute a Video Service Provider Agreement between the City of Lawrence and Community Wireless Communications, Co. and authorize the City Manager to send a written request to Community Wireless Communications, Co., to pay a video service provider fee equal to five percent (5%) of the gross revenues received for the services provided within the corporate limits of the City.

John Miller, Staff Attorney, presented the staff report. He said that this item was deferred from last week's agenda to this week. Since that time, City Staff and Community Wireless Communications (CWC) had agreed to the terms and the form of the video service provider agreement. Staff was recommending that the City Commission authorize the City Manager to execute the agreement and to send the written request for CWC to pay a video service provider fee as a result of the agreement. CWC executed the agreement that staff prepared last week and the terms of the agreement had not changed since last week except for one minor modification. The City and CWC came to terms over the agreement Thursday of last week. Staff was recommending that the City Manager be authorized to execute the agreement

and send the written request for the gross revenues. The agreement satisfied the statutory agreement for video service providers.

Mayor Chestnut asked if Shon Qualseth, attorney for the CWC, had any comments.

Qualseth said he and his client agreed.

Vice Mayor Amyx said there was a lot of policy discussion and asked if every point that was in the agreement was covered by the law.

Corliss said correct. He said Qualseth's statement was accurate in saying that State law set out the video service agreement requirements. The City had placed references to right-of-way regulations in those franchise and right of way agreements. It was essentially what was seen in that video service agreement. What Qualseth was proposing, was probably legally sufficient, but staff believed the City agreement was a better form for the community because it had all the regulations in one place and easily identified. He said the City was required by state law to have this type of agreement and the agreement had all of the right of way protection in the agreement and were in compliance with the State law.

Mayor Chestnut called for public comment.

Rodger Kutemeier, General Manager of Sunflower Broadband, said that he applauded the City, their team and CWC because they agreed in the video franchise to pay 5% of their revenues on their most profitable product. It was similar to what Sunflower Broadband did with their franchise. He appreciated that as an above board approach to paying for their right-of-ways. He said it was a good step toward resolving their concerns about an even playing field for competition in the City of Lawrence.

The concerns still outstanding were if it was legal to pay on Broadband revenues and if for some reason it was challenged, by a customer of community wireless or someone else, and if the charging of franchise fees on Broadband revenue was illegal, he asked what would happened to the agreement and would the agreement come back to the City for renegotiations under normal attachment rules and right-of-way negotiations.

He said they welcomed for profit competitor into the market and believed competition made everyone better. In a market competition had to make Sunflower Broadband the company that it was today, offering the best services and options for video internet and telephone service.

In an email CWC indicated it would continue to offer low income services. He said their concern was if that meant that CWC, a for profit company, whom this franchise was to be granted to would be marketing as Lawrence Freenet, currently called a not-for-profit company, then again Sunflower did not feel they were on equal footing. CWC would be selling a pay internet and a pay video service. If it were to be called Lawrence Freenet, then it needed to be understood that it was a for-profit company that was selling those services.

Finally, the third concern was Sunflower would like to see the City adopt a framework for the value of the right-of-ways in Lawrence. Perhaps, after a review period of 3-5 years, look at the value of the right-of-ways. Their interest were if they were going to start allowing many different companies into the limited space of right-of-ways that the City should be compensated, for those like Sunflower and soon to be Community Wireless Communications could be protected from service interruptions from other companies might also take advantage of those franchise agreements and if they were going to offer 5% of their revenue, those right's of ways had value and should not be filled with multiple providers who were not generating revenue for the City out of their digging and placement in those right-of-ways.

Commissioner Dever said regarding the value of the right-of-ways, he asked if Kutemeier was referring to the above ground right-of-ways or the subsurface right-of-ways.

Kutemeier said the City owned right-of-ways that were granted franchise fees for use underground.

Commission Dever asked if it was just underground.

Kutemeier said yes unless there was property that was above ground owned by the City, such as the water towers and illumination poles.

Commissioner Dever said digging was mentioned so he was curious as to what he was talking about.

Kutemeier said that digging was more of a concern from a service interruption point of view for those companies that were in the right of way.

Mayor Chestnut said he was becoming very dangerously uneducated on franchise law. He appreciated comments relative to valuing the right of way. However, the City was precluded from doing some things such as charging for internet service so regardless what the City thought the value of that right-of-way, the City had an obligation to grant that gratis for internet service

Kutemeier said that was currently the law under cable modem service. Under this agreement with the City, the CWC had offered to pay 5% of their broadband revenue. There was value if other companies came in to those right-of-ways and wanted the City to consider putting a framework in place so a minimum amount was generated.

Mayor Chestnut said he appreciated the work that council, City staff and CWC provided.

Vice Mayor Amyx said it was smart to wait a week because it gave the opportunity for legal staff on both ends to review the agreement. It was important that CWC understood the City was protecting the interest of the public for the right-of-way.

Commissioner Dever said it was a great step forward for legitimizing relationships and the basis by which the City made business decisions. Everyone would gain from this agreement and the City might be testing the waters in the legal aspects, but believed the City would be okay.

Mayor Chestnut said he thought this issue should be placed on the City's legislative agenda. He said it was obvious the franchise fee situation was becoming murky at the Federal level because technology kept evolving. Now, almost anything could be delivered over cable modem and it was obvious the City risks losing franchise fees regardless of the delivery system because the market would figure out the cheapest place and would always be something that

needed to be fought against. He said he encouraged the Commission to place something in their next legislative letter that was sent to federal legislatures in the communications area because municipalities would suffer over time. It was possible cities would see an erosion of franchise fees over time.

Corliss said the policy rationale for not charging franchise fees for internet service was a pioneer's preference and not to step on new technology. The new technology might be the way that everyone would communicate.

He said given the email correspondence from Joshua Montgomery, Community Wireless Communication, staff would like to discuss that email and look at the next steps.

Mayor Chestnut said this was appropriate. He said there were the policy and practical aspects that they needed to remind governing bodies above to not forgive fees that impacted local budgets.

Moved by Amyx, seconded by Dever, to authorize the City Manager to execute a Video Service Provider Agreement between the City of Lawrence and Community Wireless Communications, Co. and authorize the City Manager to send a written request to Community Wireless Communications, Co., to pay a video service provider fee equal to five percent (5%) of the gross revenues received for the services provided within the corporate limits of the City; and direct staff to engage in discussions with representatives of Community Wireless Communications to address the items identified in the email today from CWC. Motion carried unanimously. (25)

Receive update on the University of Kansas/City Transit Coordination Planning Team activities.

Mayor Chestnut said that a unified route map would be available and should be celebrated because people had worked hard to get this map in place.

Robert Nugent, Transit Administrator, presented the staff report. He said there were five items to present. 1) The "Guide to Ride" which included maps, schedules, and other information

about riding the systems; 2) Shelter Maps combined to include City and University routes; 3) Information Hotline; 4) Coordinated new route number 11; and, 5) continued and ongoing efforts.

He said over the last year there had been a considerable amount of time and energy in coordinating the services between the University and the City. The community's overwhelming support of the tax to support public transit last year was the first key step. The second key step was the joint planning team between KU and the City. The final key step was hiring a nationally recognized transportation expert to provide the needed technical support. The vision of the Commission and the community, the effort of the University/City planning team and the technical support of the transportation experts had brought them to this point.

The Guide to Ride was a joint publication between the City and the University. It incorporated the maps and schedules for both systems. The creation of this guide would ease the ability to use the system and remove barriers. He said this guide included: how to ride, how to get on a bus, tips for riding, fares, passes, transfers, general rules, lost and found, ADA services, hours, service alerts, service calendar, and points of interest. Maps were also available at the shelter locations. The maps were specific to each shelter and included times buses departed from that particular location.

The main transit information number was (785) 864-4644 and citizens could obtain information at Lawrencetransit.org.

He said route 11 was combination of three routes: City route 8 and University routes 24 and 25 which connected the downtown area to the main sections of campus. He said this route would have a major impact on the frequency of bus arrivals. Another bonus was that it would provide service during the evening, Saturdays and school breaks for the University. It was a win-win situation for the citizens and students even though they were not saving the dollars, they were improving the service. Route 11 would be provided by KU buses because KU had larger busses and larger volumes of people. The KU buses did not have bike racks, and those

using route 8, at the present time, would have difficulty, but transit would look into that problem in the future.

He said one of the on-going efforts was the joint maintenance facility. The planning team believed a joint maintenance facility would improve their ability to use resources wisely. In order to explore those options, KU was planning on issuing an RFP that included: lease, lease to purchase and purchase options. The lease options included a 10, 15 and 20 year term. In response to the RFP, they expected the City and University to evaluate alternatives and recommend the best solution for the future. They were also planning on working with a sustainability group in the upcoming weeks.

The City joined Google transit last year and it allowed an individual to plan a trip. They were currently upgrading to migrate from Route 8 to Route 11 and from there, work to include as many university routes, but it was a process that took time.

The Planning Team was also reviewing the initial recommendations presented by the transportation experts that would guide them in to the future. For example, how to deal with routes that was not performing well or how to approach implementing new services. The next step was to coordinate the recommendations transit put together by early next year because there were other routes needing to be coordinated which took time. He said he recognized the team effort of the Planning Team.

Commissioner Chestnut said that he appreciated the Planning Team's hard work.

Mayor Chestnut called for public comment.

After receiving no public comment, May Chestnut said that he appreciated the Planning Team's good work.

Commissioner Dever said he was happy that everyone was on the same side.

Vice Mayor Amyx said that he thanked everyone involved in this project. He said he looked forward to the RFP for the joint maintenance facility.

Commissioner Cromwell said the City was headed in the right direction in transit. **(26)**

Consider authorizing the City Manager to negotiate and execute an agreement with University of Kansas Parking and Transit to provide game day shuttle service for the 2009 University of Kansas Football season.

Johnathan Douglass, Assistant to the City Manager, presented the staff report. He said the City received one response to the RFP for a shuttle service provider from one vendor, KU Parking and Transit, which was the same vendor that provided service last year. The service would be the same with pick up locations at the Riverfront and New Hampshire Street garages and parking was free on game days. The shuttles drop off on Mississippi Street, north of the Stadium. The major difference was the shuttle would charge \$1 fare and last year was free.

KU Parking and Transit did not have the resources to provide any more routes than what was already being provided and staff was looking at the feasibility of using Route 11 to provide some service in the South Iowa area. The ridership was uncertain for that route because it had not started yet. However, as the season started and those routes came on board, options would be assessed. Minor reroutes might need to be done or City resources might need to be added to service any ridership.

He said staff's requested action to the City Commission was to authorize the City Manager to negotiate and execute an agreement with KU Parking and Transit for a shuttle service.

Corliss said that he recommended the cost be split evenly between the Guest Tax Fund and the Parking Fund. He said the reason the City provided bus service on KU game days was that KU and their athletics was an important economic driver for the community. It was helpful for downtown to have a strong connection with Memorial Stadium. It also helped with neighborhood parking but did not solve the problem. There was some email correspondence that people really enjoy the shuttle and it was worth the level of investment.

Vice Mayor Amyx said the bus service was popular last year and was a great to do again this year.

Mayor Chestnut called for public comment.

Mayor Chestnut said he agreed with Corliss. The shuttle service was wildly popular last year and helped to focus energy downtown. It was an opportunity for people that had a difficult time getting around and the opportunity to get right in front of the venue was a significant convenience.

Commissioner Dever said it was a great idea with Route 11.

Commissioner Johnson said it was a great idea that was well worth the effort.

Moved by Cromwell, seconded by Dever, to authorize the City Manager to negotiate and execute with University of Kansas Parking and Transit to provide game day shuttle service for the 2009 University of Kansas Football season. Motion carried unanimously. (27)

PUBLIC COMMENT: None.

FUTURE AGENDA ITEMS:

- 08/18/09
- Adopt on second reading, Ordinance No. 8440, adopting and appropriating by fund the 2010 budget for the City of Lawrence.
 - Consider approving a request for a 24 month extension of the approval for SP-12-93-06, a site plan for a new office building at 501 Rockledge Drive.

ACTION: Approve a request for a 24 month extension of the approval for SP-12-93-06, if appropriate.
 - Consider approving a request for a 24 month extension of the approval for SP-06-54-06, a site plan for Glenwood Apartments located in the southeast corner of the intersection of Wakarusa and Eisenhower Drives.

ACTION: Approve a request for a 24 month extension of the approval for SP-06-54-06, if appropriate.
 - Defer consideration until August 18, 2009 of 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. (PC Item 4; approved 6-2 on 5/18/09, BoCC approved 3-0 on 6/24/09) *This item received notice of consideration on July 28, however, consideration will be deferred to August 18.*
- 08/25/09
- Consider Bowersock Dam Repair Proposals.

- Consider an appeal of the Planning Commission's approval of a Preliminary Plat for Fifth Street Bluff Subdivision, including variances related to dedication of rights-of-way and frontage, a 0.29 acre subdivision consisting of one lot, located at 427 Country Club Court and accept dedication of easements for PP-04-01-08. Submitted by JMC Construction, Inc., property owner of record. (PC Item 1; approved 7-0-1 on 5/18/09)

ACTION: Uphold, if appropriate, the Planning Commission's approval of PP-04-01-08 and the associated variances, and accept dedication of easements 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.

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| 09/01/09 | · General obligation bond and temporary note sale. |
| 09/08/09 | · Public hearing date 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 specified period of time. |
| 09/15/09 | · 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 | · 2009 LEAP Awards Ceremony |
| TBD | · City Auditor update on scope and method of performance audit related to solid waste. |
| | · 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. |

COMMISSION ITEMS:

Moved by Dever, seconded by Amyx, to adjourn at 8:47 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF AUGUST 11, 2009

1. Bidding requirements waived – Fire/Med Unit 615 by Central Power Systems for \$18,210.16.
2. Agreement – Sunflower Broadband fiber connectivity City Hall & Clinton Plant for \$1,500 mo. & a \$2,000 installation fee.
3. Bid Date – 23rd, Ousdahl to Barker mill & overlay, Aug 25th.
4. Ordinance No. 8426 – readopted on 1st Read, rezone (Z-4-6-09) 135 & 137 Pawnee from RS5 to RSO.
5. Ordinance No. 8449, 1st Read, amend SUP-01-02-07, increase overnight occupancy, Community Shelter, 944 Kentucky.
6. Ordinance No. 8437 – 2nd Read – Agreements/Leases/Liens regulating Lawrence Community Housing Trust & Cnty to consider resale restrictions for fair market value of land trust.
7. Resolution No. 6860 – amend Res 6844, debt service for water & sewer bonds.
8. Ordinance No. 8442 – 1st Read, annex (A-5-1-09) 4 acres, Pump Station 25, 3800 Greenway Cir.
9. Prelim Plat (PP-5-1-09) – Pump Station 25, 3800 Greenway Cir.
10. Ordinance No. 8444 – 1st Read, rezone (Z-05-09-09) Pump Station 25 from County I-4 to OS.
11. Ordinance No. 8443 – 1st Read, rezone (Z-05-08-09) Pump Station 25 from OS to FP.
12. Ordinance No. 8445 – 1st Read, (SUP-5-6-09) minor utility svc, Pump Station 25, N of 3800 Greenway Cir.
13. Clerk of the District Court payment – Burroughs Creek Linear Park Trail \$17,500.
14. Grant Application – KS Housing Resource Corp Homelessness Prevention Program.
15. Mortgage Releases – Bird, 1220 Penn; and Ramberg, 812 NY.
16. Letter of Support – Bowersock Mills to US Dept of Energy for Recovery Act.
17. City Manager's Report.
18. Ordinance No. 8440 – 1st Read, 2010 City Budget.
19. Ordinance No. 8441 – 1st Read, Tax revenues for 2010.
20. Ordinance No. 8416 – 1st Read, Solid Waste Rates for 2010.

21. Ordinance No. 8438 – 1st Read, Water & Sewage Rates for 2010.
22. Wholesale Water rate for 2010.
23. Ordinance No. 8439 – 1st Read, System Development Charges for 2010.
24. Charter Ordinance No. 39 – 1st Read, Transient Guest Tax.
25. Community Wireless – Video Svc Provider Agreement with City.
26. KU/City Transit Coordination Planning Team activities.
27. KU & Transit shuttle service for 2009 KU Football season.