



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

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

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

September 8, 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, Cromwell, Dever, and Johnson present.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Chestnut declared the week of September 6 – 12 as “International Literacy Week” and “Suicide Prevention week” and the week of September 13 – 19 as “POW/MIA Recognition Week” and Friday, September 18, as “POW/MIA Recognition Day.”

Consent agenda item number 9 (Preliminary Plat PP-6-3-09) was deferred indefinitely at the applicant’s request.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Cromwell, seconded by Amyx** to approve the City Commission meeting minutes of August 11, 2009 and August 18th, 2009. Motion carried unanimously.

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to receive the Sales Audit Committee meeting minutes of May 14, 2009; the Traffic Safety Commission meeting minutes of August 3, 2009; and the Board of Plumbers and Pipe Fitters meeting minutes of May 20, 2009. Motion carried unanimously.

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to approve claims to 434 vendors in the amount of \$1,303,600.76. Motion carried unanimously.



As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to approve drinking establishment licenses for Zig & Mac's 2, 1540 Wakarusa Ste L, 1540 Wakarusa Ste: L; Harbour Lights, 1031 Massachusetts; Louise's Bar Downtown, 1009 Massachusetts; Kobe Japanese Steakhouse, 2907 West 6th; Johnny's Tavern, 401 North 2nd; Lawrence Country Club, 1501 New Hampshire; and, the Retail Liquor License for Myer's Retail Liquor, 902 West 23rd. Motion carried unanimously.

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to set a bid date of September 22, 2009 for a vehicle chassis and a bid date of October 20, 2009 for a truck body. Both chassis are for a post blast investigation vehicle for the Police Department. The vehicle will be fully funded from a grant from the Northeast Regional Homeland Security Council. Motion carried unanimously. (1)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to set a bid date of September 22, 2009 for a fencing project at the Youth Sports complex. Motion carried unanimously. (2)

The City Commission reviewed the bids for Burroughs Creek Rail Trail for the Public Works Department. The bids were:

BIDDER	BID AMOUNT
Engineer's Estimate	\$918,967.00
R.D. Johnson Excavating	\$591,632.97
Miller Paving & Construction	\$599,917.25
Freeman Concrete Construction	\$655,163.00
Mega Industries Corp.	\$665,515.00
King's Construction Co.	\$679,742.20
Graybeal Construction Co.	\$686,745.10
Meadows Construction	\$691,532.00
Benchmark Construction	\$698,412.47
GSR Construction	\$704,102.78
Pavers, Inc.	\$1,003,296.34

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to award the bid to R.D. Johnson Excavating, in the amount of \$591,632.97. Motion carried unanimously. (3)

The City Commission reviewed the bids for the Comprehensive Rehabilitation Program at 936 Pennsylvania Street and 1132 Rhode Island. The bids were:

BIDDER	BASE BID		
<u>936 Pennsylvania</u>			
Comet Corp	\$33,935.00		
T & J Holdings, Inc.	No bid		
Staff Estimate	\$29,980.00		
BIDDER	BASE BID	ALERNATE 1	ALTERNATE 2
<u>1132 Rhode Island</u>			
Comet	\$29,285.00	\$6,000.00	\$1,075.00
T & J Holdings, Inc.	\$29,315.00	\$5,500.00	\$1,000.00
Staff Estimate	\$23,277.55	\$3,375.00	\$525.00

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to reject both bids for 936 Pennsylvania and 1132 Rhode Island, because contractor was no longer in business and bid exceeds program limits. Motion carried unanimously. (4)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** adopt on first reading, Ordinance No. 8458, establishing no parking along the south side of 13th Street from 300 feet east of Oregon Street to 300 feet west of Oregon Street. Motion carried unanimously. (5)

Ordinance No. 8457, allowing possession and consumption of alcoholic beverages on certain city property pursuant to Jo Shmo's sidewalk dining and hospitality license, 724 Massachusetts, was read a second time. As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (6)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to concur with the Planning Commission's recommendation to approve a Preliminary Development Plan (PDP-6-1-09) of approximately 43.88 acres, for the commercial portion of Bauer Farm, property located at 4700 Block No. 2, Overland Drive, subject to the following conditions:

1. Provision of a revised Preliminary Development Plan to show additional landscape per the drawing dated July 31, 2009 for Lot 3, Block 6; and,
2. Provision of a revised Preliminary Development Plan to include the following note on page 1 of the drawing to state "See FDP-1-2-09; Bauer Farms-Phase 2 (residential development) approved by the Planning Commission on May 18, 2009 for related residential development of this project."

Motion carried unanimously. (7)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to authorize staff to negotiate an agreement with Olsson & Associates for engineering services for the 6th Street ITS project. Motion carried unanimously. (8)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to authorize the Mayor to sign a Release of Mortgage for Janice Doores, 1605 Cadet Avenue. Motion carried unanimously. (9)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to authorize the City Manager to execute a First Amendment to the Site Agreement with Cingular Wireless for leased space on the water tower at 1815 Stratford. Motion carried unanimously. (10)

As part of the consent agenda, **was moved by Cromwell, seconded by Amyx** to approve as signs of community interest, a request from the Friends of the Lawrence Public Library, a request to place signs in various locations advertising a fundraiser book sale. The signs would be placed between 6th and 9th Streets between Massachusetts Street and Tennessee Street the morning of Friday, October 2 and removed the afternoon of October 10. Motion carried unanimously. (11)

CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report. He said the City's Department of Utilities recently published revised standards and details for watermain and sanitary sewers; Hobbs Park was nearing completion of renovations; and Parks and Recreation Department made a number of improvements to the indoor recreation facilities.

Mayor Chestnut said regarding the City's pavement index for streets, watermain and sanitary sewer, it seemed like the City was making a lot of good progress.

Corliss said those improvements were also part of staff's work. Staff used some of the initial GIS information to age the different mains and sewer lines. Staff was also including the repair history as part of the index to determine where the resources need to be allocated. (12)

REGULAR AGENDA

Conduct public hearing 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.

Mayor Chestnut called a public hearing to discuss the dilapidated structure at 426 Perry Street.

Brian Jimenez, Code Enforcement Manager, said a licensed contractor sent Staff photos of the property's condition and asked staff to see what was needed from a code enforcement stand point. This property was owned by Norman Denton, who owned many properties throughout the community, but has since passed. The properties were inherited by his daughters, Jeanette Denton and Norma Jantz.

He said he made contact with Jeanette Denton and her attorney, Darrel Graves, last fall, to explain concerns about the property and staff was assured that after 617 West 4th was addressed, the property located at 426 Perry would be dealt with in an appropriate manner.

A meeting to discuss the property was held on March 6th of this year. Jeanette Denton and her attorney were advised, at that time, that staff would take necessary steps if some type of action did not occur soon. No action occurred and on April 15, 2009 a search warrant was obtained through the District Court of Douglas County. The following day, April 16, Staff

completed an interior and exterior inspection of the property where ceiling debris and mold was found as well as an unsafe basement.

On March 30, 2009, Denton mentioned that she would not sell the property and intended for the property to be demolished in a couple weeks, but the demolition did not occur.

Earlier this afternoon, Norma Jantz asked that this item be deferred because there was a potential buyer for the property, but the buyer was not confident it would happen. Jimenez said he advised Jantz and the potential buyer that the process would continue and the City Commission would make a determination if the structure was unsafe and dangerous by resolution, but staff would deal with the transaction of the property, if the property was sold.

Vice Mayor Amyx said if the Commission proceeded with determining the structure was unsafe and dangerous and the sale went through, what the buyer needed to do to clear up this matter.

Jimenez said he discussed the sale of the property with the potential buyer. The buyer had built two to three houses in that general area already and planned to rebuild the house. The front section of the house did not look bad, but the mid-point and back was not good. He said he was confident the buyer would either rehab or demolish the structure and start all over.

Mayor Chestnut called for public comment.

Norma Jantz, property owner, said there were several incorrect statements in the search warrant and asked the City Commission to review the search warrant. She said many of the statements were obtained from a neighbor and the information was not verified through public records.

She said they were not unwilling to sell the property, but had not received a high enough purchasing price. She requested additional days in order to sell the property, other than the 30 days, because they had three or four people bidding on the property.

Mayor Chestnut asked if the information would change Jimenez conclusion.

Jimenez said no.

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

Vice Mayor Dever said the building was in horrible condition and was unsafe. The property owner did not have a good track record in adherence to those extensions of time. He said Jimenez was doing his job and the Commission needed to look seriously at this issue.

Commissioner Cromwell said he was frustrated with the length of time it took to deal with properties that were a detriment to the City and could have been dealt with a long time ago. Another thirty, sixty, or ninety days was just telling the neighbors the City did not care. He said they needed to stick to the timeline and fix that area up.

Vice Mayor Amyx said regarding City government not caring about a piece of property that obviously needed help, it was verified through the City water billing records that the structure did not have water since at least 1990. The only way the City Commission could deal with this situation was with the resolution.

Commissioner Johnson said he wanted to address Commissioner Cromwell's comments and believed the City had been patient. The process worked and the City was sensitive to property owner rights. The structure needed to be demolished or reconstructed.

Mayor Chestnut said he agreed. He said regardless of whether the property was sold or not, it was not a reconstruction project. He said he would like to move forward and adopt the resolution sooner than later.

Moved by Dever, seconded by Amyx, to adopt Resolution No. 6864, ordering the repair or removal of the dilapidated structure at 426 Perry Street within thirty days. Motion carried unanimously. (13)

Consider authorizing the City Manager to execute agreements with Hernly Associates, Inc., for the Phase 1 BNSF Depot report.

Diane Stoddard, Assistant City Manager, presented the staff report. She said the City Commission provided Staff direction to work on the acquisition of the BNSF Depot, located on

East 7th Street. This was the depot that was an active Amtrak Station. Staff was working with BNSF on that process and hoped to have something back to the Commission before the end of the year related to that transaction.

In anticipation of applying for grant opportunities that would enable the City to take advantage of grant funding for the restoration work of the facility, Staff had been pursuing the opportunities through the Transportation Enhancement grant projects through the Kansas Department of Transportation. Those were pass through monies from the Federal government that enabled 80% of project cost to be covered by the grant. The grant application deadline was set for the end of this year, with grant recipients to be notified by Spring of 2010. Staff would like to position the City, if the Commission so desired, to apply for that grant. Those grants only come open once every year.

In order for the City to put forth a good application, staff needed to put together good project cost estimate, an outline of the project cost and also indicate phasing of the project, with the highest priority items early in the project and lower priority items as a lower item. Staff recommended Hernly Associates for this project. The report was a historic structures report and it went into detail, building off of existing information, regarding the historic structure, mechanical and electrical systems, and possible future uses. Staff knew that BNSF crews needed to remain at the building unless the City or the community can come up with like space. However, any renovations that might be undertaken needed to be undertaken in light of what the ultimate future desired use of the building would be. This report would go through all of those scenarios and come up with some design schemes for Staff to process with the grant application.

If the City was successful, this project envisioned a possibility of a phase 2. Phase 2 was not in the current agreement before the City Commission this evening, but envisioned utilizing the existing architecture firm to develop the more detailed drawing that would be used for any of the repairs and renovations.

The price that Staff negotiated with Hernly Associates for this project was \$24,600 which Staff recommended the funding came from the City share of sales tax receipts from the County sales tax. As mentioned in the memo, this item was not budgeted for this calendar year.

It was important to note that the building was not currently owned by the City. Staff would work closely with BNSF in terms of getting the consultant into the building, but the Commission should understand that Staff was not one hundred percent certain they would receive this grant. However, Staff was confident the City was a strong candidate for this historic grant under the Transportation Enhancement Program because so many historic depots in the State were funded.

Commissioner Johnson asked if the scope and budget could be determined after phase 1.

Stoddard said yes. Staff planned on taking it one step further to ask the consultants to break it down into appropriate priority order so if needing to scale back, staff knew appropriate points to do that.

Commissioner Dever asked if the money would only be spent in the event the City was able to receive title to the property or would this be done simultaneous to the attempt to require title.

Stoddard said Staff was recommending if the Commission wanted to meet the deadline for this TE grant round at the end of the year, staff needed to proceed now. The time frame of getting the report, the architect on board and giving them adequate time to do the work was a tight schedule. It was scheduled for the end of November and allowed time to turn around the application for the end of the year deadline.

Commissioner Dever said if there was any indication from the BNSF as to when they would hand over title.

Stoddard said no, but she relayed to BNSF that they would like to have it done by the end of year. BNSF thought the transaction time frame was doable, but Staff had to be very diligent in working with BNSF.

Commissioner Dever said if the City could apply without ownership, but not receive funding without that ownership.

Stoddard said correct. The City would have to be very close to ownership, if not already received by the time the City accepted any grant in the Spring.

Vice Mayor Amyx said regarding funds not reimbursable under the TE grant, he asked about the possibility of securing tax credits or other opportunities to help defray the cost.

Stoddard said the historic tax credits were something the City utilized previously on City projects. This was basically where the City applied through the State, for certain historic structures, and the City was able to sell someone else's tax liability that people would then buy. It was usually about 85 cents on the dollar. It would enable the City to get money back for the project. That was one source of money and believed it was used on the Union Pacific Depot.

Corliss said it was used on the first phase of the Carnegie Library rehabilitation. He said he did not believe the tax credits were available for the other depot project. Tax credits were valuable for private entities, public entities and individuals.

He said he went to the Castle Tea Room reception on Friday and understood from one of their foundation members that they were very successful in marketing their tax credits. He said it helped their bottom line because they did not pay income taxes, but could find someone that did and the tax credits were transferable.

Stoddard said there was discussion from the community interested in helping with fundraising toward the project. Those were the two sources that she envisioned however she was sure there were other opportunities out there. There were a variety of opportunities for historic structures like this so it would be something that Staff could pursue.

Vice Mayor Amyx said selling tax liability worked.

Stoddard said it was a unique transaction.

Mayor Chestnut called for public comment.

Carey Maynard Moody, Depot Redux, said was encouraging the Commission to hope the transfer would happen in a timely fashion. It was somewhat of a leap of faith to work on the report prior to the ownership transaction. However, she said the project was very popular and there were scheduled events at the Depot.

She said Representative Dennis Moore was present in June and it was a staggering turnout for his briefing. There was a wonderful convergence at the meeting of the Mexican American community.

Concerts were also being held on Friday night when the number 3 train arrived at midnight. There were not too many elderly people, but there were a lot of young people and passengers. The passengers get a feel for Lawrence as a welcoming place. She said the ridership had curiously gone up to 16%, while the ridership of the train that stops at the facility has gone down 1.3%.

Tom Harper said there were many ways this project could have derailed, but had not. It was one of just handful of buildings in Lawrence that represented this era of architecture. It had not been messed up and he applauds the Commission, if they vote yes, in terms of preserving this building for future generations as well as rail travel.

Dennis Domer said the architect would probably spend about three times as much time on the project as what the City might pay so they were getting a very good deal.

Stan Hernly, Hernly Associates, said that it tended to be true that they end up spending more time on preservation projects than other types of projects, but it sprang from their desire to put together a project the building deserves. It was a jewel sitting at that location.

Cromwell said it was a great project and he appreciated the hard work. It was a concern to spend money on a property the City did not own, but every indication had been that things were rolling right along and he was all for this project.

Vice Mayor Dever said if there was any update on the actual ADA upgrades and repairs that needed to be done. He said if Staff had heard anything about those upgrades and repairs and the effects it would have on the City's efforts.

Stoddard said not at this time, but there was a contact person and BNSF was working on a number of projects nationwide. Their architects and contracting office were very busy with the stimulus money.

She said staff heard from Amtrak last week that received funds to improve signage. There would be a kiosk sign installed near the platform. Hernly Associates needed to know to what extent to which the ADA platform improvements would be done and what effect it might have on the building. There was about \$600,000 that has been set aside by Amtrak to work on the platform and ADA improvements. The questions would include if they intended to spend all of that money and if not would they have money left over that could be used on the structure itself and any type of interior ADA improvements.

Commissioner Johnson said it was a step the Commission needed to take if they were going to make a serious run at this project. The transfer of title and applying for grant money was a time issue. By taking this step, it put the City in a situation to know what was going to be done and puts the City in a better position to be ready to take advantage. He said he was in support of it.

Vice Mayor Amyx said he agreed. This building was a jewel and over time would see an increase in train travel.

He said he had some concern with proceeding with property the City did not own. He said he assumed the City could expect that transfer of title in the future.

There was a lot of work that went into obtaining the money for the ADA compliance. He said he appreciated Staff's recommendation about the funding coming from the Parks & Recreation sales tax.

Mayor Chestnut said he wanted to thank Depot Redux because they started the ball rolling. Another point to be made with the TE Grant money was that the well, at some point, would be empty. He would hate to count on another round. He said he would like to get out in front and get it earmarked now, as long as continuing to progress with the railroad and they felt like they were close. He said it was a small amount of funding for something that needed to keep moving.

Moved by Cromwell, seconded by Amyx, to authorize the City Manager to execute agreements with Hernly Associates, Inc., for the Phase 1 BNSF Depot report. Motion carried unanimously. (14)

Consider recommended plan design changes for the City's employee healthcare plan. Consider authorizing the City Manager to enter into contract negotiations with Cigna, Delta Dental, and MedTrak for healthcare services for the City's employee healthcare plan effective 1/1/2010.

David Corliss, City Manager, introduced the item. He said the Commission was generally familiar with how the City provided healthcare for their valuable employees. It was considered a very essential benefit to attract and retain a quality workforce. It was a guarded and very important benefit. Staff had gone through a multi month process. Staff engaged the consulting services of Hayes Companies to help look at the City's healthcare plan and the selection of a third party administrator. He said the City self insures for the healthcare claims, dental claims and prescription claims that were of importance to the employees. He said the City self insures, but did not self administer.

Since he has been with the City, the TPA was been Blue Cross/Blue Shield of Kansas. Staff was recommending that it is changed beginning January 1 of next year to Cigna. Blue Cross/Blue Shield also did the administration on dental but was recommending the City with Delta Dental. The City was with MedTrak for the prescription work and was recommending that they stay with MedTrak. He said Hayes has been a valuable guide and voice in all of those considerations.

The Staff memo outlined where the City had been and where the City was proposing to go regarding the premiums, the copayments and the general plan design for 2010. He said the recommendation for the premium single employee coverage stay at 100% funded by the City without a premium. There were also recommendations for City employees that seek dependent coverage for family, spouse, or children coverage. They were recommending that the premium was not increased in 2010 for those individuals if they do two things. There might be an issue with timing and a little bit of look back in the premium where staff would do a health risk appraisal and be a nontobacco user. Both of those steps would be steps forward regarding the wellness of employees. It was important to retain the investment the City had in employees as well as protecting the claims that the City tax payers had to pay.

He said the change to a TPA was not taken lightly. That was the major comment from employees. There were two general employee meetings held last week and the memo was emailed to all City employees.

As staff had looked at the displacement between whether or not the network that was currently provided would be significant if they went to CIGNA. Staff was assured the displacement was not significant. Staff looked at the utilization of hospitals and physicians that were mapped under BCBS and whether or not those physicians were on the CIGNA network and there was little displacement. It did not mean that you could not go out of network, but it was more expensive to the employee's pocket book if they choose to do so.

Those were the major items presented. Staff believed it was important to get at the issue of the copay with emergency room use. They had also instituted out of pocket maximums.

He said he has used the term "we" very liberally, but the City had an Employee Healthcare Committee that was the workhorse regarding review of the healthcare plan. A number of those healthcare committee members were present and he wished to thank those committee members for their work. However, their work was not done because it was a continuing process to make sure this benefit was available and affordable.

Lori Carnahan, Human Resources Manager, introduced several individuals on the Healthcare Committee and a member from Hayes Companies and CIGNA.

Vice Mayor Amyx said how many current retirees were in the system.

Carnahan said approximately fifty and the City ran right at fifty most of the time.

Corliss said, under State law, the City was required to provide access to healthcare plan for retirees that were not Medicare eligible due to age. The issue was what premium to charge. The City provided a subsidy for that current premium and not the full cost. They really had not determined full cost.

Carnahan said Hayes calculated a premium equivalent projected for 2010 and used that calculation to base the number for the retirees to pay off of. The retirees were paying either eighty or one hundred percent of the coverage of the projected cost of the premium equivalents that was set for the plan. The employee, retiree or the retiree family was at an 80 percent rate and the two middle groups were at a hundred percent rate. Those were two recent additions and those rates were placed in at a hundred percent rate. Most of the retirees were carrying the retiree only or retiree spouse. There was one or two that carry the retiree family.

Vice Mayor Amyx said the retiree and the retiree family was eighty percent and the other two were at a hundred percent.

Carnahan said yes.

Vice Mayor Dever said what the percentage of actual cost was versus the burden to the retiree. He said if it was currently at eighty percent and would continue to be that way.

Carnahan said yes.

Vice Mayor Dever said there would be no change.

Carnahan said the percentage did not change, but the rate was changing pretty significantly between 2009 and 2010. It was a steep increase moving between this year and next.

Vice Mayor Amyx said the retiree plus family was going up \$245 a month and asked if that was still eighty percent of the actual total cost of that policy.

Carnahan said that was correct.

Mayor Chestnut said the City had a calculated Cobra rate for a while.

Carnahan said staff did have it calculated each year. The change coming in the way it was calculated for 2010 versus 2009 was that 2009, and years prior, BCBS provided Staff with premium equivalents, which was the rate that Staff calculated Cobra off of. This year Hayes calculated that rate for Staff, using the allowable calculations under standard underwriting procedures. Hayes' calculation method was different than BCBS. That attributed to part of the increase that was seen in the retiree rates and would likewise see in the Cobra rates for 2010.

Commissioner Cromwell said the City only had fifty retirees in the system because once the retirees qualified for Medicaid, the retirees were cut out of the system.

Carnahan said it was only those who retire prior to age 65.

Corliss said that Medicare was available at age 65.

Vice Mayor Chestnut said based on the calculation based on those who were electing Cobra, to some extent, there was a big differential between what was charged this year and what was charged next year.

Carnahan said yes. It would be about the same differentials being seen.

Mayor Chestnut called for public comment.

Mike McMillen, IAFF Local 1596, Healthcare Committee member, said he dissented on the memo and he wanted to explain why he did. He said Hayes had the cost comparison and showed a significant saving by switching to CIGNA. In the memo, it is \$600,000. He said he argued to help ease the employee burden with that savings, but the Committee went elsewhere. He said it was better to help the employees due to the current economic times. He said that employee salaries were not increasing at the rate that they were, this was one way that the Commission and the City Manager's office could help ease the burden on the City Employees.

He said he suggested that the City Manager's Office come back with a recommendation that he applauded in holding employee premiums where they were. He said the City Manager suggested two things: the first suggestion was an online health assessment because it gave him a way to track his health and be healthier.

However, he was unhappy with the second step. The second suggestion would not encourage people to quit using tobacco. He said instead of an affidavit, to pledge to be a nonsmoking community. He said why not pledge to put those wellness initiatives in place that were going to get us to that goal. His association, IAFF, had made that pledge that they want to be a totally smoke free union, but they were not there yet, but they did provide, working with Pfizer, in getting the medications that could help people quit, as well as resources and counseling. He challenged the City Manager and City Commission to look at that route. He said from his research that the American Cancer Society says that support was needed from all angles. Family, incentives and support groups were all resources that needed to be used. He said that was a better way to improve employee wellness.

Mike McAtee, Chairman of the Lawrence Police Officers Association, said the concern of the LPOA was the asterisk part of the plan, the health risk assessment and the tobacco free section. He said they agreed with the health risk assessment. He said he took a physical fitness test four times a year and many people in the police department take a physical fitness test requiring running, lifting, sit-ups and things of that nature. They also have a very good aerobics point program where they are encouraged to take care of their hearts and cardiovascular fitness.

The problem, in the LPOA's opinion, was the smoke-free affidavit, because of certain aspects of law enforcement, if an employee swears to an affidavit and for whatever reason they celebrate their niece or nephew's birth or were at a wedding and they smoke a cigar, now the employee had violated that affidavit. He said neither he nor his membership has seen the affidavit and he did not believe it was appropriate to say they supported a contract that they had

not read yet. He said he was a firm believer that people did things with a carrot instead of a stick. He was a firm believer in wellness and he believed health risk assessments. There would be a lot more support from the 870 employees if the wellness aspect was pushed as opposed to signing a piece of paper. It created tension among other city employees. He said he requested that staff send that affidavit back to the health care committee so they could work on that aspect of that program. The change to CIGNA would make a significant change savings in money, which was good for the city and the citizens of Lawrence.

Commissioner Cromwell said he was a big wellness fan and would like to see it backed up with some non-smoking help. He said he agreed there should be an affidavit, but agreed the City could provide smoking cessation classes or something like that. When he has heard about various things in the news about programs and offering a different rate or requiring it, they were at the same time providing this source of services to employees to enable them to achieve and affidavits were easy to sign.

Corliss said staff fully planned to step up the smoking cessation classes that the City has routinely offered. He said he felt as though the City should do this regardless of whether it was a non-smoking affidavit.

Cromwell said it was a money saving plan.

Corliss said it saved money. The healthcare committee did look at that and McMillen and McAtee were not at that meeting. It was also talked about at the employee meetings last week. He said they could have used the term "pledge", but that word sounded like it was something that you might be doing in the future. It clearly had to be part of a plan where they were going to have medical needs, whatever was necessary to facilitate employees moving away from being a tobacco user, was something that they were planning on doing.

He said he had another comment regarding savings. He said he was very skeptical about that but he did not want to say that with CIGNA and Hayes in the room because he was going to hold those two companies to it. They were using 2008 claims and were projecting what

CIGNA's network was going to do with those claims for 2010. He said he did not want to start spending that \$600,000 yet.

Mayor Chestnut said no one was writing them a check.

Corliss said no. He said he hoped that he could use it for all of the good things the City wanted to do as an organization, whether its compensation or other things they want to do as a City. But he did not feel comfortable in significantly spending it down based on how those numbers were arrived at. He was going to hold those companies to it, but there could also be some unfortunate medical incidents that occur.

He said Commissioner Cromwell raised a very good point. Clearly, the City could not provide the financial incentives, \$4 a paycheck, without providing some way to try and get here.

Commissioner Dever asked if there would be any blood testing.

Corliss said no, staff had not prepared the affidavit.

Commissioner Dever asked if it would be a self inflicted affidavit.

Corliss said yes. It will state something like, "I state that I am not going to be a tobacco user during 2010. If I am a tobacco user, I understand that I will be assessed an additional four dollar on my premium." There would not be means of finding it out, but it would be on the honor system and he trusted employees to tell the City those things.

Vice Mayor Dever said the affidavit would be worded in such a way that it would reflect that actual medical problem of smoking or using tobacco on a regular basis as opposed to the occasional cigar.

Corliss said he was zero tolerance unless the City Commission directed him otherwise. It was no tobacco period.

Commissioner Dever said he did not recall how it was worded.

Corliss said staff would look it up and make sure that Legal wrote it in a way so that it did not create any legal problems for the police department or anybody else.

Mayor Chestnut said there are hundreds of affidavits out there and was very standard.

Vice Mayor Amyx said for example, someone turned McMillen in because he had a cigar and it cost him four dollars more a pay period and asked if there was a program he could go through so he could get back on the wagon.

Corliss said zero was zero. He said he wanted to be on the same wagon with McMillen so staff would see what could be done. He said he thought there should be zero tolerance and see what happened in 2010 to see if the City wanted to continue in the future years. This did not apply to all employees. The single employees that were not paying the premium did not need to sign anything. What he was trying to do was respond to the concern that in modest wage increases, the City needed to watch how much it was going to cost out of pocket for health care. It was a legitimate concern, but he could not respond to it as well as he would like, but this was one way to move the wellness initiative forward.

He said it was up to the City Commission to decide whether that was right thing to do. But he said there should be zero tolerance. It was going to be the honor system and there might be reporting. Staff was very busy so he was not going to spend a lot of staff time trying to check out those situations because he trusted City employees.

Commissioner Dever said from the standpoint of projected costs, he said BCBS had historically estimated certain costs and the City had exceeded those costs dramatically. For example, actual data for 2008, it appeared the City was off. The City was using numbers to switch providers based on potential savings, but there was no real guarantee there would be actual savings. He said if there was any actual benefit from the switch.

Mayor Chestnut said essentially, they looked at that claims profile and the top hundred providers. They looked at discounts, like the discounts that the network provided for Blue Cross and the discounts Cignia provided. He said he could guarantee Lawrence Memorial Hospital was number one and they were probably out outpatient discounts. They go down the line and basically calculate if this claim had been filed under this network it was so much less. It was respective analyses based on not knowing what the future held and were assuming getting

some of this benefit because the pattern of the claims tended to run fairly steady with the stable workforce. That was how they came to that number. They basically took all of the claims data and crunched it through their own network to determine what the cost would have been in their network versus the claims that were run through Blue Cross.

He said he thinks it was a pretty reliable number. Obviously, contract rates change and it was an ever revolving thing. However, there was some benefit that would be realized.

Vice Mayor Dever said why the City was so far off using Blue Cross's expended claims historically.

Carnahan said staff had been aware for some time that BCBS underwriting process underestimated the claims for the upcoming year. That was one of the reasons the City had moved to other cost analysis when providing budget projections over the last several years. There were no other mechanisms for establishing premium equivalents. The City did not employ an underwriter so they had to require on BCBS. That was part of what was seen in the memo. That was BCBS's estimate a year ago. It was a further illustration of why the premium equivalence was also underestimated for several years. She said she did not believe the City would experience that with Hayes on board because they did employ an underwriter so the City would do that analysis in the future. Staff would hold CIGNA to that same standard and staff would figure out whether their projections were on target, underestimated or overestimated as time went on as well.

Vice Mayor Amyx said if the projections were based on what the assignment of a particular cost of a procedure might be and that was where the \$600,000 in savings might come from.

Mayor Chestnut said claims were coded very precisely. That was how claims were processed. The provider took the group of codes and ran them through the CIGNA network. That was the contract amount for CIGNA and they compared that to the contract amount that was paid under BCBS. It was a huge analysis that they went through. They went through 800

people's worth of claims. Again, it was difficult to measure because a year from now BCBS might have another contract. Those contracts change on an ongoing basis, but it was based on one point in time, looking at a static comparison, and coming to the conclusion that this savings could be achieved. He said he thought it was pretty real, but wanted to interject one thing. Having a broker relationship was very valuable. He said he did not think Staff internally could have had the bandwidth to go through seven different networks. The providers did a lot of work in providing the financial analysis and the group was reliable coming up with that type of conclusion. What was unknown was what the health of the employee workforce was going to be for the next couple years. He said the most important thing in the numbers he had seen was that those were overall industry trend numbers. About a 10 to 11 percent increase was about what everyone was projecting for 2010. Hopefully, they could mitigate that ever increasing cost curve.

Vice Mayor Amyx said being able to anticipate savings was where the committee ended up. He said his concern was signing a piece of paper and someone turning someone in unless there was a way to get back on track and get back into good graces of the plan. He said he did not know how that would be written, but organizations gave second chances.

Commissioner Cromwell said he did not know if this City would sign an affidavit to offer more classes but maybe they could come up with something to increase wellness.

Mayor Chestnut said he agreed, but the wording had to be done, but the bigger picture was missing. He said it was a transition for organizations to be consumer oriented in healthcare consumption. It was an important aspect of this because with the health risk assessment and the affidavit, what you were telling people was that smokers as a population had a much higher claims profile. Everybody had to share in that because it was a self insured plan. It was really trying to work for people to be healthier. Personally, from health risk assessment, out of 300, 400 or 500, four or five people that had several risks that were identified that day. This was not only a benefit for the cost savings of the City, but a benefit to employees. It could be someone

that was 27 that worked out all the time and had a combination of factors that is a freight train about to run them over and something really bad was going to happen to them. It was a great move to get employees participating in the process. A lot of organizations were going through this right now and was becoming consumer oriented. He said it would be great for everybody. He asked if Staff could look at the wording in the affidavit.

Corliss said staff would work on the affidavit for a future agenda. He said staff would also show what the plans were for smoking cessation.

Mayor Chestnut said it was appropriate.

Commission Johnson said he wanted to commend the Staff and committee. It was something that was really good for the employees.

Mayor Chestnut said it was a lot of work and he really appreciated the work. He said he predicted that they would see a lot of benefits overtime.

Moved by Amyx, seconded by Cromwell, to approve the City's employee healthcare plan and authorize the City Manager to enter into contracts with Cigna, Delta Dental, and MedTrak for healthcare services for the City's employee healthcare plan effective January 1, 2010. Motion carried unanimously. (16)

PUBLIC COMMENT:

Norma Jantz said she wanted to address the house at 617 West 4th Street. They were extremely disappointed with the work and conduct of the contractor that had been working on that home. They paid more than \$35,000 so far and what were being charged were several thousands of dollars more than the original bid. Right now, they were looking for a new contractor. They were told by Brian Jimenez, Code Enforcement Manager, that they had six months after the work stopped before the building permit ran out. They were asking that this issue not be on the agenda next week while they were looking for another a contractor.

Mayor Chestnut said the Commission would take that under advisement and staff would follow up by Thursday.

FUTURE AGENDA ITEMS:

09/15/09

CONSENT

- Approve an amended Special Use Permit SUP-4-3-09, repealing the Adaptive Reuse of a Historic Property element of the application, for property located at 603 Tennessee Street for a Bed & Breakfast. Submitted by Rainbow Works LLC, property owner of record. Adopt on first reading, Ordinance No. 9456, for Special Use Permit (SUP-4-3-09) repealing the Adaptive Reuse of a Historic Property element of the application, for property located at 603 Tennessee Street for a Bed & Breakfast. (PC Item 1; approved 8-0 on 8/24/09)
- Ordinance No. 8387, for the Rezoning (Z-2-2-09) of 1725 New Hampshire Street from RM24 (Multi-Dwelling Residential) to CS (Commercial Strip)
- Approve Text Amendment TA-4-4-09, to various sections of the City of Lawrence Land Development Code to address implementation issues regarding Parking Standards. Adopt on first reading, Ordinance No. 8453, for Text Amendment (TA-4-4-09), to various sections of the City of Lawrence Land Development Code to address implementation issues regarding Parking Standards. (PC Item 8; approved 8-0 on 8/24/09)
- Approve Text Amendments TA-6-10-09 and TA-6-11-09, to various sections of the City of Lawrence Land Development Code to permit the location of non-ground floor dwellings and work/live units in various zoning districts and for revisions to the standards for multi-dwelling structures in various zoning districts. Adopt on first reading, Ordinance No. 8454, for Text Amendments (TA-6-10-09 & TA-6-11-09), to various sections of the City of Lawrence Land Development Code to permit the location of non-ground floor dwellings and work/live units in various zoning districts and for revisions to the standards for multi-dwelling structures in various zoning districts. (PC Items 9 & 10; approved 8-0 on 8/24/09)
- Approve Text Amendment TA-6-15-09, to Article 10 of the City of Lawrence Land Development Code to amend standards for landscape plans. Adopt on first reading, Ordinance No. 8455, for Text Amendment (TA-6-15-09), to Article 10 of the City of Lawrence Land Development Code to amend standards for landscape plans. (PC Item 11; approved 8-0 on 8/24/09)

REGULAR

- Conduct public hearing and consider approving Site Plan SP-6-26-09, and the sidewalk dining and hospitality license, for the Granada, located 1020 Massachusetts Street. Submitted by Paul Werner Architects for Granada LLC., property owner of record.

ACTION:

Approve Site Plan (SP-6-26-09) and the sidewalk dining and hospitality license, subject to conditions, for a sidewalk hospitality area for the Granada, located 1020 Massachusetts Street, if appropriate.

- 09/29/09 · City Commission Meeting canceled – fifth Tuesday
- 11/05/09 · 2009 Employee Service Awards.
- 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.
- 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.
- Staff report regarding potential annexation of Westar Energy Center.

COMMISSION ITEMS:

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

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF SEPTEMBER 8, 2009

1. Set Bid Date – Vehicle chassis for PD – Sept 22, 2009.
2. Set Bid Date – Fencing at Youth Sport complex, Sept 22, 2009.
3. Bid – Burroughs Creek Rail Trail to RD Johnson for \$591,632.97.
4. Rehab at 936 Penn – Reject bids – exceeds staff's estimate.
5. Ordinance No. 8458 – 1st Read – “No Parking” – S side of 13th from 33' E of Oregon to 300" W of Oregon.
6. Ordinance No. 8457 – 2nd Read – Jo Shmo's Liquor possession & consumption – sidewalk dining, 724 Mass.
7. Prelim Dev Plan (PDP-6-1-09) 43.88 acres, Bauer Farm.
8. Agreement – Olsson & Assoc for engineering svcs – 6th St. ITS project.
9. Mortgage Release – Doores, 1605 Cadet.
10. Site Agreement – 1st Amendment – Cingular Wireless.
11. Signs of Community Interest – Friends of Lawrence Public Library, Oct 2nd – Oct 10th.
12. City Manager's Report.
13. Resolution No. 6864 – Repair or Removal of Structure at 4262 Perry. (Public Hearing)
14. Agreement – Hernly Assoc – Phase 1 BNSF Depot.
15. Employee Health Care Plan – Cigna, Delta Dental & MedTrak.