



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

October 13, 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, and Johnson present. Commissioner Dever was absent.

RECOGNITION/PROCLAMATION/PRESENTATION:

Receive presentation from Shirley Martin-Smith on the Community Career Connection.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to receive minutes from Mental Health Board meeting of 07/28/09 and Lawrence Cultural Arts Commission meetings of 08/12/09 and 09/09/09. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to approve all claims to 416 vendors in the amount of \$1,789,268.54 and payroll from September 27, 2009 to October 10, 2009 in the amount of \$2,831,716.67. Motion carried 4-0.

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to approve Change Order No. 5 and Final to Ballou Construction Co., Inc. in the amount of \$25,800.95 for the increase of asphalt patching performed in preparation for microsurfacing on various street locations included in the 2008 Microsurfacing Program. Motion carried unanimously. (1)

The City Commission reviewed the bids for Comprehensive Housing Rehabilitation for 936 Pennsylvania and 317 Lawrence Avenue, for the Development Services Department. The bids were:



BIDDER	BID AMOUNT
936 Pennsylvania	
Vintage/Greenmark, Inc.	\$32,125.00
T & J Holdings, Inc.	\$32,610.00
Staff Estimate	\$29,000.80
317 Lawrence Avenue	
Vintage/Greenmark, Inc.	\$10,895.00
T & J Holdings, Inc.	\$10,200.00
Staff Estimate	\$ 9,911.25

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to waive staff estimates and award the bid for 936 Pennsylvania to Vintage/Grenmark, Inc., for \$32,125; and, 317 Lawrence Avenue to T & J Holdings, Inc., for \$10,200 (homeowner will provide funds in excess of the program limits of \$25,000). Motion carried unanimously. **(2)**

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, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Johnson** to adopt the ordinance. Aye: Amyx, Chestnut, Cromwell, and Johnson. Nay: None. Motion carried unanimously. **(3)**

Ordinance No. 8465, for Text Amendment (TA-7-18-09), to various sections of the City of Lawrence Land Development Code to (1) exempt certain projects in the CD, Downtown Commercial District, from site planning requirements, and (2) revise certain requirements in Article 13 Development Review Procedures related to Major, Standard, and Minor Development Projects, was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Johnson** to adopt the ordinance. Aye: Amyx, Chestnut, Cromwell and Johnson. Nay: None. Motion carried unanimously. **(4)**

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to receive Downtown Lawrence, Inc., second quarter report. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to authorize the City Manager to execute a renewal contract with Marsh McBirney – Hach for data delivery services associated with the wastewater collection system's long-term flow and rainfall monitoring program, for \$214,800. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to authorize the City Manager to execute and approve a License Agreement between the City of Lawrence and Bauer Farm Development (Free State Holdings, Inc.) for placement of private business markers on the City's right of way. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to approve as signs of community interest, a request from the Pilot Club of Lawrence to place a sign at the northwest corner of 23rd and Harper Streets on US Bank property that advertises the Antique Show & Sale from October 23-24, 2009. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to approve as signs of community interest, a request from First Southern Baptist Church to place a sign in front of the church property at 4300 W. 6th Street, promoting their annual Trunk or Treat event on Saturday, October 31, 2009. The sign will be placed on October 17 and removed after the event on October 31. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to approve Sign Permit for Mural Installation at 12Th & Haskell Recycle, 1146 Haskell, as proposed by Artist Heather Reynolds-Nance, and as recommended by the Lawrence Cultural Arts Commission. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Johnson**, to authorize the Mayor to sign a Subordination Agreement for Elizabeth Patrick, 3734 Bonanza. Motion carried unanimously. (11)

CITY MANAGER'S REPORT:

The second quarter Economic Barometer was released on October 1st. Economic conditions continued to deteriorate in Lawrence, though unemployment rates held steady and home sale prices showed a modest increase. The Economic Barometer found that job losses in 2008 were concentrated in the retail, tourism, and food service industries. Those industries made up almost two-thirds of the job losses last year. While large layoffs at construction and manufacturing firms are easier to see, job losses in those two industries accounted for less than a quarter of the total in 2008; The Barometer Report also compared performance by industry locally versus the state and finds that prior to the recession in 2008, job growth was low not only in Lawrence, but throughout Kansas. Lawrence and Douglas County performed slightly worse than the state overall because of some lower-than-average job gains in high growth industries such as Health Care and Administrative Services, and higher-than-average job losses in struggling industries like Manufacturing and Retail Trade.

Other items in the City Manager's Report were the City of Lawrence was actively working with the Lawrence-Douglas County Health Department to disseminate information to the public regarding the seasonal flu and H1N1. Egov Coordinator Eric Gruber created a web page (<http://www.lawrenceks.org/H1N1>) for citizens to access current information from the CDC, and KDHE and Lawrence-Douglas County Health Department regarding flu shot clinics, flu prevention and community education; and, the 2009 KLINK mill and overlay of 23rd Street from Ousdahl to Barker was completed three days ahead of schedule. The contractor was Bettis Asphalt and Construction with a total project cost of \$556,399.25, with KDOT providing \$200,000. (12)

REGULAR AGENDA

Consider approving an update to the 2008 CDBG-R Substantial Amendment to the 2008 Consolidated Plan Investment Summary for Lawrence Community Shelter, 2176 E. 23rd Street – Property Acquisition for Emergency Shelter Site - \$78,789

Consideration of this item was deferred until related land use recommendations from the Planning Commission were considered by the City Commission. (13)

Consider authorizing the City Manager to execute an engineering services agreement for \$297,883, with Burns & McDonnell Engineering Company, Inc., for services in conjunction with the Wastewater Master Plan

Mike Lawless, Assistant Director of Utilities, said in terms of the design years, they were looking at 2010, 2020, and 2030 for the Wastewater Master Plan and triggers to help staff determine when to construct projects. Since the completion of the previous master plan, staff had collected data on flows in the system. Where the previous master plan looked at five (5) flow meters in a small concentrated area of their system, for almost the past three years, the City had 31 meters and had considerably more data than from the previous master plan. In the new master plan, the entire sanitary sewer system would be modeled where in the previous master plan they modeled the trunk system which started with 12 inch pipes and larger pipes.

In the previous master plan a lot of GIS information was not available nor did the City own the model. The consultant that prepared the plan had the model and staff did not have easy access. He said the new master plan would be based on GIS information and it would be tied to the City's GIS System. As new infrastructure was added to the GIS System, the infrastructure could be added into the model. He said staff would be looking at the individual basins and what happened in those basins rather than the overall network.

Finally, he said the overall study area would be expanded to the new UGA (Urban Growth Area) in areas outside of City limits such as the 155 acres at the Farmers Turnpike which was not considered in the previous master plan.

Since last discussed, staff and the consultant, Burns & McDonnell and Black & Veatch, had met multiple times over a 4 to 5 month period to negotiate the scope to get those hours

correct in getting a fee that fit within the dollar amount allocated for this project. Staff felt they did a good job of negotiations taking into consideration what could be done in-house to drive those costs down.

David Corliss, City Manager, said one key issue to recognize was in this process staff would acquire software to do its own modeling of the wastewater system to see the impact of the wastewater collection system. He said the City was not buying this software with this contract, but were buying the services of the consultants to help get that software. The software costs, according to the consultants, were approximately in the \$40,000 to 50,000 range, and he estimated the costs to be \$20,000 to \$30,000 range. He said he wanted to make sure the City Commission knew about the additional cost elements of this project.

Lawless said staff currently had the scope of services for the City Commission to review.

Vice Mayor Amyx said regarding the software package and the engineering companies that would help the City acquire that software, he asked if this contract would buy the City additional time for the study.

Corliss said that was staff's intent because the City would own the model and populate the model with new data as the data came on line. The City's need for larger master plans would be significantly diminished. He said the city would obviously need consultant services for specific projects and if there were new areas the City had not contemplated in the master plan, the City might need specialized assistance. He said the City would own its master plan and model so that plan could be populated with new information as it came on-line.

Lawless said the model itself dealt with the collection system and it told how to distribute the flow in the system and how it gets to the treatment facilities. Once getting to the treatment facility that was where the model stopped. In the future, as the City had treatment needs or regulation changes that were associated with treatment, staff needed to engage consultants to

help with those types of issues, but in terms of the collection system, the model and the input on this master plan should help the City greatly reduce those needs in the future.

Vice Mayor Amyx said rather than looking at an upgrade every six to eight years with a full blown master plan for approximately \$300,000, the City might buy 10 or 12 years.

Lawless said it would be longer when looking at the collection system, but depending in treatment regulations, the City might need to do smaller studies to take individual looks at certain pieces of the treatment process.

Corliss said it was much like the City needing to have a small study on the airport sanitary sewer needs. Staff needed to find out a good prediction for the sewer needs at that location, how to get it into the system and if the system could receive it. He said the City would still need those types of analysis in the future, but would need a lot less system-wide collection analysis.

Commissioner Cromwell said he understood with the input, the data between the major studies would be better too.

Lawless said absolutely.

David Hamby, BG Consultants, said they were the local team that would be assisting Burns and McDonnell. He said their local expertise would come into play in looking at the planning, basin, and land use areas, allocating certain flows based on the land use in the areas and projects. He said they would also be part of the public relations team and heading up that portion of the study as well and putting together capital improvement plans based upon the master plan generated that was needed for improvements, as well as the cost associated with those as well.

John Grey, Burns and McDonnell, said the idea was a living master plan concept and this plan was different from previous studies where an analysis was conducted and a comprehensive plan was developed for the next 15 to 20 years, but 5 years later the plan needed updating. One of the core items was the change in technology and the entire plan

would be integrated with City developed GIS layers that were already created and was updated on a regular basis. As GIS layers were updated or something changed, the techniques were there to bring those updates or changes into the model and hydraulic analysis all the way through the capital improvements program.

Another key feature of a living master plan was that it allowed evaluation of real time. The impact on system data that was already in the model, the model would be up-to-date and the extra work needed for new information which then could be incorporated into the overall system. Because it was real time, anytime data needed updating, there could be a current analysis and should not be hearing that two years after a master plan was delivered, that an analysis could not be performed because the GIS needed to be updated.

The model would update the capital improvement plan and timing to see the impacts of current changes on improvements that needed to be built on a growth concept or impacts on rates of improvements that were planned. The analysis included triggers for the Wakarusa Plant.

The model selection would be with City input and a workshop type of presentation with vendor input on the major software packages that were available today. Some of the key features in selecting software would be something commercially available, supported and developed by a vendor who was a major player in the market place.

He said the living master plan and population projections were based on the best available data. The Planning and Development Services Department had tremendous investment in existing plans already, such as the urban growth boundary which was defined in the Horizon 2020 and T2030 Plan. The projects were available and those projects would be tempered with local engineering input that BG brought to the table on this project. The output was to have some projections both for the range of possible growth and location of growth that were realistic and represented the best growth patterns to be planning for at this time, something else that could be updated through the models process in the future. That was

adaptive through GIS and the model, those projections once their developed, went into tables that could be updated easily.

One of the most important items of the overall planning approach was the public stakeholder's idea that BG Consultants would be leading and incorporating a stakeholders group of key interested parties selected with City assistance and would have an opportunity to provide input on the different growth scenarios, not just the total projections. He said it provided more information for a more flexible plan when moving forward.

He said regarding the full projections, it was mentioned the City's investment in flow and rainfall metering data was excellent data. The City had an extensive network that covered the entire system and BG Consultants would process that data and determine the flow parameters for master planning. He said in the future, perhaps every six months or a year, the additional flow data could be evaluated with the on-going contracts and bring it into the model so that base information was available for the next analysis.

He said the key items for the finally negotiated scope was: 1) the software selection process; 2) a variety of technical memoranda that would take everyone through every major task in the scope of work; 3) background information on existing information, the model selection process, growth scenarios and rain data analysis; 4) rehabilitation and replacement plan; 5) cost and schedules for the capital improvement plan.

He said some of the bigger items that were changed over the summer were the Wakarusa and what triggered needing that treatment plant. He said it was still included in the scope, but removed the detailed evaluation of plant process and process alternatives from the scope; the utility rate model was changed where they removed the budget from their scope realizing that City staff had the model, but they would provide the input which would be a cost savings; and identified tasks that City staff could do to save time which helped significantly in reducing the fees.

The City had a number of responsibilities and they were listed in great detail in the scope. Basically, the scope was to process the information the City was already collecting in ways to fit in the City's model. He said it would be a living tool and something the City would own.

Vice Mayor Amyx said in part of BG Consultant's report, it mentioned "needs and timing" and when looking at growth scenarios in different areas of the community, he asked if this tool would prioritize the needs and what was needed for new infrastructure.

Grey said the tool would prioritize those needs, for example, if an existing sewer was overloaded, there would be a date prioritization with the growth scenario. He said there would be a list of scenarios from where the City might develop and how fast in different areas. Basically, there would be different plans for each of those scenarios that were developed. As for deciding how to prioritize one facility versus another, the political side, the plan did not do, but did the capacity and costs. There was a staged plan because they would be running design years and would have a great breakdown of timing.

Vice Mayor Amyx said in the 2003 Study that was used by staff for planning growth, he asked what would be the difference between this plan and what was in place to avoid questions about the growth and development to the northwest and how that should help.

Corliss said it helped in a number of aspects. That study was based on 2002 and earlier data and this plan would be more recent. Most importantly, the plan was not just going to have a date of when something needed to be upgraded, but a quantifiable trigger. He said staff would be able to check to see that flow and have real time data. He said the master plan was going to be base on flow because the City would have that information.

Lawless said the model would be another large aspect. He said regarding the 2003 Master Plan, there was one growth scenario that was modeled that needed improvements and was rolled down into a year cycle that then build the rate plan. He said that fell short in terms of staff's ability to assess changes or be flexible as planning decisions were made. By not having

that tool of the hydraulic model to say if a land use assumption was used in the new master plan in any one of the scenarios and there was a thought even before the person came to annex or having initial meetings with the Planning Department, staff could look what the requested land uses were versus what the land use assumptions in the master plan and see that impact. The model would help a lot where staff had not had a tool like that to access those changes as they came about.

Vice Mayor Amyx if a rezoning came forward, staff could look at the effect on the downstream function and at the same time build cost models for that development.

Lawless said staff could look at those triggers to help determine those changes.

Mayor Chestnut called for public comment. No public comment was received.

Vice Mayor Amyx said staff had done a good job in presenting this item. It was important to have this type of model to trigger what would be needed to determine the needs for this community that the City would own.

Commissioner Johnson said he wanted to commend staff for reducing the costs of the model. He said it was a real benefit, not only from a money saving standpoint, but staff being involved in the updating of the model was huge step forward.

Commissioner Cromwell said it was a fantastic example of how City staff's expertise had increased to the point where that expertise could be taken advantage of with the new tools and technology as it came available. This new living model would give the City the flexibility going forward to make changes on the fly that staff was not able to do before without having to reinvent a whole new study.

Mayor Chestnut said he appreciated staff and the firms involved in this work. He said this was a sort of transfer of accountability to City staff to be dynamic in getting real time data, analyzing where the City was, being able to make decisions that required an analysis, especially moving forward in the large capital project the City might see in 20 to 25 years. Ultimately, staff

needed to make sure they could justify the rate case to the taxpayers. He said he was looking forward to a concept of the master plan every five years.

Moved by Johnson, seconded by Cromwell, to authorize the City Manager to execute an engineering service agreement with Burns & McDonnell Engineering Company, Inc., for \$297,883 for services in conjunction with the Wastewater Master Plan. Motion carried unanimously. (14)

Consider authorizing staff to advertise a Request for Proposal for Engineering Services related to the preparation of the Water System Master Plan

David Corliss, City Manager, said staff did not see this Water System Master Plan at the same level of involvement as the Wastewater Master Plan for a number of different reasons. Some of those reasons were technical and some reasons were because staff would have already updated a lot of population scenario information that would be done at the Wastewater Plant and that would be able to flow appropriately with the Water Master Plan. Also, the City did not have as large as a capital investment looming, that staff knew what they had to deal with on the wastewater side. He said the City had already made a substantial capital investment on the water side at the Clinton Reservoir Water Treatment Plant on Wakarusa Drive. He said the City continued to have water issues that required a system-wide analysis when looking at water, west of K-10 and the area following up on the Farmers Turnpike Sector Plan, water needs in certain portions of the southeast area and further to the south, and how to integrate some of those areas into the City's water needs.

Also, there was progress made in the area of the City's waterline rehabilitation which was an important aspect of maintaining what the City already had. There was preliminary work done and staff was following-up on that information. Significantly the community has invested a lot in waterline rehabilitation in previous years. He said 60% of all water lines had either been installed or rehabilitated since 1980. He said the City had water lines that were over 100 years old and had to find good ways to prioritize and water lines that had peculiar construction

methods. He said staff saw value in proceeding with this item and would apply some of the same level of analysis that was done in the negotiation and recommendation on the wastewater side.

He said the next regular agenda item was Diane Stoddard's, Assistant City Manager, report concerning consultant selection practices for the City of Lawrence. Whatever selection process the Commission determined was appropriate for the City was what would be used to apply for the RFP and the RFP would not proceed until there was clear direction from the Commission. He said staff thought there was value in running those things roughly concurrent.

Mayor Chestnut said if Corliss saw the same deliverable as seen on the wastewater master plan where there was a transfer of ownership and data where there would be some type of dynamic modeling that was deliverable.

Corliss said yes, but he did not think the City needed to buy particular software. He said the most important item coming out of that Water Master Plan was clear criteria about how to build on an annual basis, or five year basis, a capital improvement plan for rehabbing various aspects of the water infrastructure.

Mayor Chestnut said to dovetail on that comment, he said staff had a good idea with the City's street maintenance program that if there was an extra \$500,000 to spend on street maintenance, the City had a good idea where that money would go based on the pavement condition index.

Mayor Chestnut called for public comment

K.T. Walsh, East Lawrence Neighborhood Association, said when talking about a wastewater plan, many people that lived in older sections of the City who had lines that failed from their house to the alley, replacement costs of those pipes were about \$3,000. He said it was a real hardship for some people in her neighborhood and those people went without that utility while trying to pull together that money. Other cities had started programs, especially in

hard times where somehow there was a cooperative agreement for a low interest loan through the City to space out those payments over many years.

She said also, in those peculiar places where waterlines needed to be installed, in other cities it created an opportunity for neighbors to band together and implement green initiatives which required City/County participation in terms of low interest loans.

Commissioner Johnson said he was ready to move forward and the timing was right in with the sewer master plan. He said with the entire idea of getting this community into the 21st Century with a living model versus something that was antiquated, it would be nice to be progressive and not always be responding to a crisis mode.

Commissioner Cromwell agreed. He said he liked the direction the City had gone with the waste water plan.

Vice Mayor Amyx said there would be decisions made based on quality information versus best guess information.

Mayor Chestnut said on this issue there was a particular challenge because as the Commission went through the budgeting process, there were water rate challenges that would be on-going because the City had gone through an aggressive cycle of Capital Improvements in the water infrastructure. He said he hoped one of the deliverables was how they could make sure the City controlled the rate case and take resources and allocated those resources to the highest priority projects and they had to figure out the highest priority projects.

He said they needed to see if there were other deliverables that needed to be looked at as far as neighborhood input.

Corliss said he planned on following up with Margene Swarts, Assistant Director of Development Services, because the City had been involved in CDBG type loans. He said he would provide the City Commission with information.

Moved by Johnson, seconded by Amyx, to authorize staff to advertise a Request for Proposals for Engineering Services related to the preparation of the Water System master Plan. Motion carried unanimously. (15)

Receive status report regarding consultant selection for the City of Lawrence

David Corliss, City Manager, said the main question from the City Commission was to take a look at what Johnson County did with their modified and qualification based selection process to see if that was a process this City would want to use, particularly where the focus was on making a recommendation to the Commission that was not only based on the qualification of the engineering firm, but also some of the cost elements as well. He said Diane Stoddard, Assistant City Manager, followed up in a memo and provided examples that came from Johnson County.

He said staff's conclusion was that Johnson County had made it a priority to put the resources in their initial review of a consultant and develop a further defined scope. Johnson County talked about actual deliverables they would be looking for in a particular project which required in-house consulting services. It was not unheard for a community to hire a consultant to develop a draft scope and send it out to someone else. If the City was to proceed along those lines and based on some cases, a project was small enough where a lot more of the scope could be developed, but on the larger scale project, the City did not have the in-house expertise. The City had great engineers in Utilities and the Public Works Departments, but in many cases they were not as experienced and did not have the work in other communities to help define that scope. The City did have an in-house architect, but that person was not involved in the usual architecture work as far as the consulting side. He said there was a challenge in being able to compare apples to apples with some of the City's staffing resources. If the Commission wanted staff to do that, staff would try to find ways to make it work, but it would probably slow down the ability to move some projects and it would be a challenge.

The report from Stoddard responded to questions about the Brooks Act, which was the Federal Law that set out how to retain consultants and the City had a number of projects primarily on the Public Works side and the Surface Transportation side where staff was trying to access Federal money from KDOT.

He said Johnson County did not think this modified QBS process had reduced their participation from consultants.

The memo also sets out alternatives that staff suggested and one was to consider a modified process that mirrored Johnson County's modified QBS process. They were leery about the staffing commitment, but it could be done. Another suggestion was to look at a curve that reflected a comparison between the costs of design services versus the estimated costs of construction. He said he was more focused in looking at the scope and if it looked reasonable. The process staff worked on in the wastewater master plan was good evidence. In the alternative, staff was looking at the percentage of estimated construction costs which varied with the complexity of the project. He said another alternative was to not make any changes at this time.

He said it was valuable to give the Commission information in a memo on the recommendation on a contract and give as much scope information as possible so the Commission could make comparisons in the scope and those costs. When there were good estimates on construction cost, they could have a percentage that was shown in the memo.

Mayor Chestnut called for public comment.

Scott Heidner, Executive Director of the American Council of Engineering Companies – Kansas, said based on the current discussions about the urgency of engineering projects, they were sensitive to the fact the City was not in the position for a great deal of delay in reaching a determination on City process.

A good engineering project and a good successful project, as an owner, was all about the scope of services and as they listened to City discussion and read the staff reports on this

subject, it was comforting and evident the City appreciated how important that scope of services and showed an appreciation of City staff time and expertise and what that might mean in comparison to what Johnson County had available and what type of resource demands that might make on the City of Lawrence from a FTE standpoint if the process was changed. He said he heartily agreed that changing the City's procurement process almost had to be predicated on a belief that City staff could draft a scope of services that was thorough enough that consultants could respond effectively with a project that brought the maximum value to the owner. It remained their belief that simply, in the vast majority of cases, that was not a possibility.

He asked Corliss to propose to City Staff how many of the RFP's, under the QBS system, resulted in negotiations where no change to the scope of services occurred. If the staff answer to that question was that was a fairly common phenomenon that staff did not make any change to the scope of services once entering into negotiations with an engineering firm, that was very credible evidence towards making a change. If staff responded that in most cases there was some change in the scope of services from which was originally sent out, that increased the value of that project to the City for the dollars that were expended and was a strong encouragement for the City not to change the current system. He said they were very confident that in almost all of the cases, they would find that City staff reporting that when entering the negotiations with the topped rank firm, they were able to tweak and amend their scope of services in a way that enhanced their ability to get the project the City truly wanted with the budget they began with. He said seeking that information from staff would be helpful.

He said they heard the City Commission discuss whether or not the fees for projects were appropriate. He said members had faith in City staff and their expertise in knowing the appropriate fee and those members had resources they had called on which were members of APWA and League of Municipalities. He said City Manager Corliss referenced some percentages in fee curves and their association would not comment on those. There were

resources staff had available and believed City staff had the expertise to whether or not they had a fair fee in place for the work that was being performed. He said he also asked the City Commission to ask City Staff “if” or “how often” staff accepted the offered fee of an engineering firm. He said he would guess that was a rare practice or more likely the engineer firm did not walk in with a fee because the firm would not know the fee until further define the scope through negotiations.

He said the one point that needed reiterating was that QBS gave the City the ultimate authority and control of a project. The City could control the scope, but when it came to fees, it was critical to remember the City was also in control of those fees at any time in negotiations with the City topped rank firm and the City felt they were not getting a fair fee proposed, the City could terminate those negotiations and move on to the next high ranked firm. He said in some of the discussion that took place after the last meeting, it was evident it was not enforced at all times or clearly understood. It was critical to remember about the current process in place.

He said Commissioner Cromwell made an excellent point about the citizens and their understanding about the process. He said citizens hear that engineering firms bring in a quote and staff gives their okay which was a misconception about the current system. The City, as an owner, had the final say and could walk away from those negotiations.

He said accountants, lawyers, doctors, auditors, and a number of professional trade groups had policies in favor of Qualifications Based Selection for Professional Services. He said if he was in the City shoes, he would be jaded to those endorsements because they seemed self serving. The American Public Works Association like City staff had no objective, no profit motive other than the best value for the tax payer dollar.

He said the City’s current policy, QBS, facilitated a partnership between the City and its designer. It was an encouragement to the contractor, the engineer, to work with the City to be flexible on what was brought to the table. He said when introducing a fee component, an engineering firm’s options would be restricted and had to come to the table with one plan in

mind which was typically the lowest cost plan and it put them in a position where they could not be as flexible. If the City changed the process that was the position the City's design professionals would be in and would certainly reduce and increase number of change orders and take away that partnership the City currently had with a number of good designers.

Trudy Aron, Executive Director of the American Institute of Architects, said they believed qualification based selection was the way that public entities should choose their architects and engineers. She said when using QBS, ideas, concepts, new approaches, owner input, and questions were received. The City hired the firm that was the best qualified for the project. The City and firm agreed on the scope of services, agreed on a reasonable price, and a timetable.

Without QBS, the City would receive one approach which would be least costly because they wanted the project. If the City had changes in the project, it would cost more because it would take the architect more time. She said those were the reasons QBS was the way to go.

Ron Gaches, Executive Director of Kansas Society of Professional Engineers, said this discussion was greatly educational, not only for the Commissioners, but those that represent the design professions because it was always interesting to hear people's perceptions and impressions of the process, how it worked and how it did not work, and what the strength and weaknesses might be. He said it made their Professional Engineers sharpen up their message and think more broadly about issues they were trying to represent.

He said the Commission made a decision earlier to approve a contract to move forward with Burns and McDonald and BG Consultants on the Wastewater Plans. There was a lot of discussion on that project, more than the entire concept of QBS. Imagine trying to take that project and push it out with a predetermined scope of services and asked design firms across northeast Kansas to bid on the project. He asked the Commission to think about how they would be short changed and how citizens would have been short changed from not having the opportunity to have the interplay between the design professionals and the City's professional

staff in considering all of the different options. He said this project was a great example of the strengths of QBS.

He said no one had heard any data driven reasons for changing from QBS. There were a lot of misconceptions and hopefully those misconceptions had been clarified. He said there were certainly distinctions between Johnson County and its capabilities and what the City had the ability to do right now and hoped the Commission would make the best decision.

Commissioner Cromwell said if the City were to need a new driveway in front of a City building, he asked, through QBS would the City end up finding out that Burns & McDonald had more design experience than a small local firm that was perfectly capable of doing that 50 foot stretch of road.

Corliss said that was a fair question because some of the larger, regional, and national firms had a lot of expertise. He said for the smaller projects there was less interest from the larger firms. Usually there was a value in having someone locally which was somewhat of a built in bias, but it was not in the criteria about having someone locally because of the ease of access to the projects, the ability to move it forward because it was usually straight forward in its scope. While a larger firm, particularly in tighter economic times, might be interested in that type of project, usually it worked its way out where the larger firms were not interested in the smaller projects. For the smaller projects where there were no great complexities, the City did not need some of the expertise that the larger firms would bring. Usually the project budget did not allow for something like that.

A lot of times project, similar to the wastewater project where there was some regional national expertise on some of the issues that were valuable, but there was also importance knowing the community locally as far as the geography and joint partnerships would be established.

The QBS project did not mean that they picked a Nobel physicist for every time the City wanted to design something. It meant staff wanted to right scale the design firm with the project.

Phillip Ciesieiski said the firms seemed to have an understanding in terms of a project scope. He said the firms had an idea of where they could compete effectively by project size. As an example, staff recently presented the recent sewer rehabilitation on New Hampshire and Delaware which was fairly complex in terms of the property and public involvement, but what was seen were local firms come to that project. He said staff would bring the Commission a recommendation on the sanitary sewer station. It was a fairly large scoped project with complexity with regard to sanitary sewer pump stations, but again there seemed to be a self selection within the firms where the bulk of those responses were from local and regional firms. Within the qualifications based selection criteria, there were other criteria regarding schedule, experience with staff, and successful completion of similar projects for the City.

Commissioner Cromwell said he was not prepared to make a major change. He said he would like minor tweaking regarding firm selections. He said he would like staff to continue to think about smaller local companies that might not have had an opportunity to work with the City as of yet.

He said regarding the fee curve, he suggested that something be put into place to trigger City Commission review or some other type of review once outside that norm. He said the Commission could come up with something that would make sense and were formalized. He said so rarely was the City kicking a design firm out because negotiations had broken down and the City needed to be prepared to let everyone know that they were prepared to do that. Those types of things would help increase the transparency to the general public and to receive better fees and service to the City without having to hire 5 architects and 20 engineers.

Mayor Chestnut asked if Commissioner Cromwell was leaning toward the second alternative which was utilizing the current process with some modification, but the consultant could utilize fee guidelines that related to the industry standard.

Commissioner Cromwell agreed.

Commissioner Johnson said he would not go that far. The process the City had now was fine. He said he believed the QBS system in place provided the best value for the taxpayer dollar. He said that did not always equate to the cheapest design price, but good design was not necessarily a commodity and there were so many issues that came up in construction and the life time frame of a project. He said in saying the word "value" that was what QBS was all about.

He said the City had put the consultants on notice that the City was watching, but he did not think the City needed to change its system. He said he liked the idea of coming up with tools used for checking things such as fee curves or APWA Standards.

Vice Mayor Amyx said it was mentioned in the agenda meeting by Commissioner Johnson the best product could be produced by going through the process. He said in spending the last sixteen months working with Burns & McDonald and BG Consultants, the City Commission took no action and deferred indefinitely, the Wastewater Master Plan. He said staff did a good job of coming up with a scope of services and ultimately, a price that was affordable.

He said he was not an engineer or had no background in that area and needed to rely on staff for recommendations after interviewing companies that came forward regarding RFP or RFQ and provide the Commission with the best possible company for that particular project. In the end, the City Commission had the ultimate authority to approve or not approve a project. He said the Commission could become involved in any part of the process in negotiating fees and scope of services. He said he wanted to stay on course.

Mayor Chestnut said he did not support a hybrid system after looking at Johnson County and realizing it was introducing more staff into the process and the City was not at a critical

mass to manage that type of process to receive their scope of service. He said he appreciated Stoddard's investigation of that idea because it enlightened the Commission. He said it was difficult to know if a project was going to be state or federally funded because it was in somewhat a state of flux in this recent route of stimulus money that was flowing down and wondered if the City had been in a hybrid system, the City would have had to rebid some projects because the City did not go through the QBS process.

He said modifications to the current process and a fee curve was a good tool as a guideline, but not necessarily a hard and fast rule. He said he agreed with the Vice Mayor about relying on staff, but staff needed to get better at what they were doing, be more transparent, and have the ability to see the process and make decisions. He said that was part of the yearning from the Commission, was to try and understand staff's selection process.

He said he agreed with Commissioner Cromwell's comment about "most qualified" versus "best fit", but that was relying on staff's judgment to drive through that process of a person with the most qualification, but what was the best fit for the job. He said a lot had to do with trying to understand and have dialogue about those decision making criteria and was in support of a fee guideline.

Corliss said he was hearing the Commission wanted staff to look at the alternative, but staff needed to look at the City's purchasing policy to see if changes needed to be made. He said he did not think changes were needed, but was a matter of reporting back to the Commission, the negotiated fee, how that fee compared to industry standard as a percentage of construction costs in areas where there was a construction cost. Sometimes when selecting a consultant, the City was not necessarily building anything, the Wastewater Master Plan was an example, but staff was trying to get additional comparative information.

He said getting a lot more information when making a recommendation and then coming back to the City Commission again with the negotiated contract was going to be very valuable

and that was a fair criticism because staff assumed things, which was not good and it needed to be explained and justified.

Also, he heard comments about that it was not necessarily the most qualified, but best fit and staff wanted to take those additional steps to make sure those smaller local firms were able to participate. He said that was probably another area where staff was not doing a good job of explaining and in many cases, staff tried to break down projects so that it was not just a large firm that could take the project, but tried to break it down so that smaller firms could be involved. He said staff already practiced that break down, but did not do a good job of relaying that to the City Commission.

He said the City did not fire firms very often, but it happened. He said he did not like talking about it because those were great firms, but for some reason it was not fitting well with the City for that particular project. He said it did involve quality and in one case, involved the fee issue.

He said starting with the City Commission's next agenda, staff would start reporting back on the fee and consultant fee guidelines and find out whether or not to build that into the actual purchasing policy or build that into a memo template to report back.

Mayor Chestnut said it was probably not going to be in the City's purchasing policy because that purchasing policy applied to procurement of all professional services and he was not sure in all cases if that type of fee curve was available. It seemed to make sense to make it part of a Standard Operating Procedure for engineering services and Utilities, Public Works and to some extent, Parks and Recreation.

He said he thought about a lower threshold, if a project was a certain dollar amount, but that threshold would get very dicey because the level of complexity and the dollar amount did not necessarily correspond. The City Commission had to rely on the judgment of staff and drive a good process and get better at providing that level of transparency in order to have a better

comfort level about moving forward. He said he agreed with Commission Cromwell's comment about the face of it and not seeming to fit together.

Commissioner Johnson said he thought it was just the matter of communicating the decision or the negotiating that took place better. He said the City Commission was empowering City Staff to step it up and negotiate. He said Corliss said the City did not want to get in the practice of firing, but the City Manager had the backing because the Commission was watching the dollars too. He said nothing was wrong with the process other than the communicating that decision making.

Mayor Chestnut said staff needed to review the purchasing policy and any type of processing improvement specifically to engineering services and possibly a standard on a fee curve. Also, information about what that decision making grid looked like.

Vice Mayor Amyx said what was being changed from the current QBS process.

Mayor Chestnut said the Commission would discuss, in the future, the idea of changing the current process and asked staff to draft a memo regarding engineer services and proposed procedure on not changing the QBS process, but if there was a fee curve, what the City would use as a standard and some of the decision making criteria.

Corliss said the City Commission would see on their agenda staff's recommendation to hire a firm for a particular project and negotiate a contract for City Commission approval. There would not be any dollar amounts in that memo, but qualifications of that firm and the process to date, the justification for the project, and those types of things. Staff would be directed to negotiate a scope of services, fee amount related to that scope of services, but as staff reported back to the Commission, and ask the City Manager to sign a contract with those firms, staff would be providing a construction estimate and showing that curve as the percentage, looking at industry standards, and keep a tabulation to show the Commission what the historic rate has been on what the City paid for design services on construction. He said he did not think it changed the City's purchasing process, but he would read that policy to make sure that was not

the case. It was not changing the QBS system, just reporting back how staff negotiated that fee and how that fee was justified.

Mayor Chestnut suggested that staff provide comments about the other successful projects the City had with a particular firm in the past. (16)

Consider authorizing the Mayor to execute a Cooperation Agreement with Douglas County in relation to the position of the Sustainability Coordinator.

David Corliss, City Manager, said the Assistant City Manager was notified the City's application to the Federal Government, Department of Energy, for the stimulus funding was approved. He said the money was available to the City and he and the County Administrator were working on a cooperation agreement which was approved by the County Commission. The position would be a County Employee and would report to the County Administrator with City Manager, City Commission, Sustainability Advisability Board, and Department Directors input about what work items should be. That position would be doing 40% of their work on City related projects and he and the City Administrator would coordinate on the cases where the projects were combined (City/County). The position was funded \$100,000 salary and benefits with the sustainability grant from the federal government and the County would fund the position for a like period of time. After that, if wanting to continue with the position and they were starting down this path, assuming they would want to continue with the position. He said when the City and County were both fully funding the position the City would pay 40% of the salary and benefit costs. He said staff needed to follow all of the federal requirements to make sure the City received the money back.

He said one of the issues that position would be working on was other elements of the grant such as the lighting and HVAC at the library and if any funds were left over, staff would work on the downtown street lights in making those light more energy efficient. Hopefully, that person would have a great mixture of technical skills, public presentation skills, advocacy skills

in the community and try not to just have them work on governmental buildings, but on the entire community. This effort was a major recommendation from the Climate Protection Task Force and staff thought it was appropriate to execute the agreement. It would not cost the City any budgeted funds this year or in 2010, depending on how quickly they could get that person placed. The County funding at 100% would run out in 2011 and as they build the 2011 budget, staff would discuss how much of that funding the City had to pick up.

Commissioner Cromwell said on the \$100,000, he asked if the City Manager could describe the timeline.

Corliss said to start with, the position and its benefits were going to be less than \$100,000 on an annual basis.

Commissioner Cromwell asked if it was the City's intention of spending the entire \$100,000 for whatever period of time that would buy.

Corliss said yes. He said that idea was the County's. He said staff thought the position was around the \$60,000 range and with the added benefits, that package would be up to \$80,000 to \$85,000 which would stretch it beyond 12 months.

Commissioner Cromwell asked if that was salary and benefits only and no budget.

Corliss said on the budget side for particular projects, if there was a City project, that person would work staff about some of the procurement being made in the Utility Department to help standardize to bend the energy consumption curve in the Utility Department. If there were hard costs associated with that person's work, such as a specialized consultant or software, then the City Utility Department would pay for that consultant or software. If the County had a like-type project and wanted to encourage sustainability regarding something else, then the County would fund that aspect.

Commissioner Cromwell asked if staff would be looking for someone who could read a spreadsheet and crank the numbers through as well as the other benefits. He said this was a County position and asked if the City had any authority.

Corliss said in the negotiated agreement, the City Manager did not have the authority to approve the position, but the County Administrator was required, under the terms of the contract, to consult with the City Manager. He said he commented to the County Administrator that he wanted someone that could run a spreadsheet as well as versed on the presentation side.

Mayor Chestnut called for public comment.

After receiving no public comment, Commissioner Cromwell said this was a fantastic opportunity to get behind some of the nuts and bolts of the sustainability issues and save some dollars as well as the resources the City and County was trying to save. He said the City and County would see some saving that would justify the existence of that position in the future.

Moved by Cromwell, seconded by Amyx, to authorize the mayor to execute a Cooperation Agreement with Douglas County in relation to the position of the Sustainability Coordinator. Motion carried unanimously. (17)

PUBLIC COMMENT:

Sean Takasz said recently, the Kansas Department of Health and Environment had a clandestine lab cleanup program and if the Police were called to check on reports of a meth lab, the Police checked the conditions to see if the place was suitable for living. He said recently, on July 1st, that funding was cut, leaving it up to local law enforcement. The KBI and DA took the chemicals away, but it was up to the landowners to regulate whether the living situation was safe. He said if Lawrence could pass any City Codes concerning safe living conditions in meth lab situations.

David Corliss, City Manager, said he would follow up on that concern. He said the meth lab cleanup funds were scarce and he would provide contact information to the Police Department.

FUTURE AGENDA ITEMS:

10/20/09 Public hearing to discuss the condition of the dilapidated structure at 1232 Louisiana Street and to consider declaring the structure unsafe and ordering its repair or removal within a specified period of time.

10/27/09 **CONSENT**

Approve Comprehensive Plan Amendment, CPA-6-3-09, to Chapter 3 to remove the "Table of Land Use Categories & Locational Criteria." Initiated by the Planning Commission on June 24, 2009 as part of the Annual Review of the Comprehensive Plan. Adopt on first reading, Ordinance No. 8463, for Comprehensive Plan Amendment (CPA-6-3-09), to Chapter 3 to remove the "Table of Land Use Categories & Locational Criteria." (PC Item 3; approved 9-0 on 9/21/09)

Consider Comprehensive Plan Amendment, CPA-6-4-09, to renumber the Implementation Chapter to be 17 and reserve Chapter 13 for future use. Initiated by the Planning Commission on June 24, 2009 as part of the Annual Review of the Comprehensive Plan. Adopt on first reading, Ordinance No. 8464, for Comprehensive Plan Amendment (CPA-6-4-09), to renumber the Implementation Chapter to be 17 and reserve Chapter 13 for future use. (PC Item 4; approved 9-0 on 9/21/09)

11/10/09 2009 City employee longevity payments

TBD Kasold, south of Clinton Parkway, Project discussion.

Ordinance concerning the Economic Development Board structure and composition.

Discussion of financing methods for traffic calming devices.

Fairfield East maximum special assessment hearing

Recycling report with comments from SAB

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.

Discussion of non-tobacco user affidavit and smoking cessation programs for city employees.

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.

ACTIONS: Hold a public hearing. Find that the proposed sidewalk dining and hospitality use is in the public's interest, if appropriate.

Approve Site Plan SP-6-26-09, for a sidewalk dining and hospitality area for Mike Logan, Granada LLC, d/b/a The Granada, 1020 Massachusetts Street (submitted by Paul Werner for Granada LLC, property owner of record), if appropriate.

Approve sidewalk dining and hospitality license for The Granada, 1020 Massachusetts Street, and authorize the City Manager to enter into a right-of-way agreement with the applicant, if appropriate.

Adopt on first reading, Ordinance No. 8459, allowing possession and consumption of alcoholic beverages on certain city property pursuant to The Granada Sidewalk Dining and Hospitality License, if appropriate.

COMMISSION ITEMS:

Commission Johnson said he did a ride along with the Lawrence Police Department and a person would get a sense of the dedication of the Lawrence Police force and encouraged citizens to participate.

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

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF OCTOBER 13, 2009

1. Change Order No. 5 to Ballou Construction Co., Inc. in the amount of \$25,800.95.
2. Bid - Comprehensive Rehab at 936 Penn to Vintage/Grenmark, Inc., for \$32,125 & 317 Lawrence Ave to T & J Holdings, Inc., for \$10,200.
3. Ordinance No. 8454 – 2nd Read, TA-6-10-09 & TA-6-11-09, permit location of non-ground floor dwellings & work/live units in various zoning districts, revisions for standard multi-dwelling structures.
4. Ordinance No. 8465 – 2nd Read, TS-7-18-09, exempt certain project in the CD & revise Article 13.
5. Receive Downtown Lawrence second quarter report.
6. Renewal Contract, March McBirney-Hach, wastewater collection system for \$214,800.
7. License Agreement – City & Bauer Farm Development, private business markers.
8. Signs of Community Interest – Antique Show & Sale, Pilot Club, NW corner of 23rd & Harper.
9. Signs of Community Interest – Trunk or Treat, First Southern Baptist, 4300 W. 6th
10. Sign Permit, Mural Installation, 12th & Haskell Recycle, 1146 Haskell.
11. Subordination Agreement, Elizabeth Patrick, 3734 Bonanza.
12. City Manager's Report.
13. Defer 2008 CDBG-R Substantial Amendment to the 2008 Consolidated Plan Investment Summary.
14. Engineering service agreement, Burns & McDonnell, Wastewater Master plan, \$297,883.
15. Request for Proposal, Engineering Services, Water System Master Plan.
16. Status report, consultant selection discussion.
17. Cooperation Agreement, Douglas County, Sustainability Coordinator.