



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

November 10, 2009

The Board of Commissioners of the City of Lawrence met in regular session at 5:30 p.m., in the City Commission Chambers in City Hall with Mayor Chestnut presiding and members Amyx, Cromwell, Dever, and Johnson present.

EXECUTIVE SESSION:

Moved by Dever, seconded by Cromwell, to recess into executive session for approximately 45 minutes to meet with attorneys for the City on matters which are deemed privileged under the attorney-client relationship. The justification for the executive session is to keep attorney-client matters confidential at this time. Motion carried unanimously.

The Commission returned to regular session at 6:18 p.m.

The Commission resumed the regular session at 6:35 p.m.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Chestnut proclaimed the week of November 16 – 20, 2009 as “US International Education Week.”

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve City Commission meeting minutes of October 6, 2009. Motion carried unanimously.

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



As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve all claims to 530 vendors in the amount of \$2,533,564.79, and payroll for October 25, 2009 to November 7, 2009 in the amount of \$1,788,875.24. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to approve the Drinking Establishment Licenses for The Granada, 1020 Massachusetts St.; Kangaroo, 1200 Oread Ave. Ste. P-415, and the Retail Liquor License for Cork & Barrel 2000 West 23rd St. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to waive bidding requirements and award printing services for the Parks & Recreation 2010 Winter/Spring Activities Guide to Lawrence Journal World, for \$17,000. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to concur with the Planning Commission's recommendations to approve a two lot multi-family preliminary plat (PP-6-3-09) on approximately 7.71 acres for Park Place Addition located at 510-544 Fireside Drive; and; and accept the dedication of easements and rights-of-way subject to the following condition:

1. Provision of a revised preliminary plat to include a note that states "public access shall not be gated in any way to prevent vehicle or pedestrian access to the property or development."

Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to concur with the Planning Commission's recommendation to adopt the findings of fact and adopt on first reading, Ordinance No. 8475, the rezoning (Z-8-12-09) of approximately .189 acres located at 504 Locust Street from IG (General Industrial) to CS (Strip Commercial). Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to concur with the Planning Commission's recommendations to adopt the findings of fact and adopt on first reading, Ordinance No. 8476, rezoning (Z-8-13-09) of approximately .063 acres located at 500-500 ½ Locust Street from IG (General Industrial) to CS (Strip Commercial). Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize acceptance of a donation of Tract D, Block Two, Hanscom-Tappan Addition for the Burroughs Creek Trail Linear Park from Parnell Investors, LLC. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize staff to advertise a Request for Proposals (R09020) for Engineering Services for a Concrete Watermain Assessment (Project No. UT0909DS). Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to authorize staff to advertise a Request for Proposals (R09021) for Engineering Design Services for the North Final Electrical and KAW Well Field Electrical Improvements (Project No. UT0915KW) Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to receive Public Works staff memorandum acknowledging department applications for 2010 Community Development Block Grant. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell** to concur with the Mayor and appointed Dennis "Boog" Highberger to the Public Incentive Review Committee to a term which will expire January 31, 2013. Motion carried unanimously. (9)

CITY MANAGER'S REPORT:

During the City Manager's Report David Corliss said the Traffic Engineering Division completed improvements at 9th and Iowa, 23rd and Ousdahl, and installed school beacons on George Williams Way; Planning and Development Services progressed toward City

Commission goals through code enforcement, facilitating multi-modal development and identification and prioritization of historic cultural resources; updated the Commission on blighted properties at 1232 Louisiana which was demolished, and a new home was under construction at 426 Perry; the City's Waste Reduction and Recycling Division held an electronic recycling event where 35.48 tons of electronics were recycled by Extreme Recycling; The Development Services Division issued 187 permits with total construction value of \$11,627,368 in October; and, the City of Lawrence's website was chosen by the Center for Digital Government as a top ranking website for communities with a population between 75,000 to 124,999. (10)

REGULAR AGENDA

Receive request from the Lawrence Douglas County Bioscience Authority to have the City and Douglas County cooperate in the acquisition of the West Lawrence Laboratories building, 4950 Research Parkway.

Laverne Epp, representing Lawrence Douglas County Biosciences Authority, thanked the Commission for considering the request for the acquisition and leasing of the West Lawrence Laboratories building.

He said the construction progress of the Bioscience and Technology Business Center which was the incubator on the West Campus was going well. He said they were on budget and on time and were beginning to talk with potential companies that might be tenants in that new facility. He said the City made a significant investment in that project and helped create the start point for the Bioscience and life sciences infrastructure that was being built in Lawrence. He said the West Labs building and facility was perfect compliment to the incubator project that was on West Campus. He said it was a little different in that it offered additional space that allowed them to broaden the footprint of the infrastructure they were trying to build in Lawrence, to create an economic engine that would essentially leverage one of the most important resources in Douglas County, Life Science Technology coming out of Kansas University. He

said it allowed them to expand their facility offerings, gave them access to a broader market, and made them a more influential player in the Life Sciences Industry.

Epp said the second reason that was just as compelling to the consideration of their proposal was CritiTech. He said that CritiTech was a Lawrence life science company which was born and raised in Lawrence. It was a Kansas University company, also had its origins at Higuchi Biosciences Center. He said that CritiTech had agreed to a long term lease and would become the anchor tenant in the facility which gave them a chance to keep CritiTech in Lawrence. The Bioscience Authority sees an intangible benefit of creating more companies like CritiTech. As the entrepreneurs at KU seek CritiTech, consider their technologies, spinning them out of Kansas University into our incubator and to this West Lab facility and wanted point to CritiTech and say, it could be done in Lawrence KS, Douglas County and Kansas University.

A third reason, which was important for the Commission to consider, was that the Lawrence, Douglas County Bioscience Authority was a very unique consortium of government, business and university. He said it was the only kind in Kansas. He said their commitment to creating economic development, creating jobs and attracting capital to this region had already begun to work. He said they had already leveraged some local capital to attract state capital relative to the incubator. By allowing them to have access to the West Lab Lawrence facility, gave them additional influence to demonstrate to people that they were in this game, wanted to produce economic development, created it as an important strength of this community, and strengthen their partnership with Kansas University. He said KU had buildings right next to West Lawrence Labs, which gave them great synchronization for programming and leasing space which would make them more effective when trying to produce companies that created the kind of economic development this community was after.

Epp said he wanted to commend all the people that worked on this project and Kansas University was particularly supportive of this endeavor.

Carey Novak, Director of Business Relations and Development at KU, said he worked out of the vice provost for Research and Graduate Studies at KU which was the office that was primarily involved with fostering and pursuing more research at KU. He said he wanted to express support, on behalf of the KU Research, for this facility as it was a very important part of the infrastructure they were trying to build within Lawrence and KU. That infrastructure was to grow and attract tech based economic development. He said they saw this building as being a necessary component of infrastructure system.

He said KU had a robust and ever evolving environment for applied research and there were key areas of research such as pharmaceuticals research. As an example he cited an article in the Lawrence Journal world where KBA was providing a \$3 million dollar grant to KU for cancer research and that the research would be done at the West Campus which was across from their incubator. He said that another area for KU research was in Bio Fuel and Bio Chemicals. He sighted another Journal World article regarding KU doing research in algae, and how algae could be used for Bio Fuels, another kind of research that could be commercialized in Lawrence, in their incubator and also in the West Lawrence facilities. Both were very different, but both had combination of the need for incubation and Research and Development Labs.

A second component for the overall infrastructure was having the incubator. They needed a place to take the early stage technologies and get them in start up companies where they could grow and nurture.

The third component was the multi tenant research and development facility, West Lawrence Labs. This was very important for companies that graduate out of the incubator and also attracting companies that would like to come to Lawrence, but did not necessarily fit the incubator.

The fourth component, part of the infrastructure, was for Lawrence to look at developing a technology research park. Those four components provided a strong infrastructure for growing companies and attracting companies in the tech based economy.

He said from a research perspective at KU they like the building for two reasons: 1) it could be a graduation facility for companies coming out of our incubator which was extremely important because they would hate to spend a lot of research at KU and develop a wonderful technology, get it in a start up company and then that start up company leave Lawrence, which has happened in the past and that was the nature of the business, this facility would help those companies to stay in Lawrence.

The second reason was that there were companies that did not need the incubator, were already mature, and were emerging but wanted to be located in Lawrence. He said in the two and a half years that he had been in Lawrence he had seen three examples of emerging companies wanting to come to Lawrence, but did not have the facility with appropriate lab space. This facility would help meet that need.

He said other university communities doing the same thing were: Madison Wisconsin, home to the University of Wisconsin, where they had a large research technology park that was existence for about 25 years. It was established through a private/public foundation associated with the university. It was a 350 acre park, with 14 companies, and employed 3500 people. There were 36 buildings in the park, most being multi tenant facilities, the 36 buildings represents 1.5 million square feet of Research and Development Labs and commercial sites, associated with the Madison environment. Of the 1.5 million square feet, they had a 113,000 square foot incubator. In Lawrence there was a 20,000 square foot incubator. In addition to their incubator, they had business accelerator, it was a 90,000 square foot facility intended to be a home for companies coming out of the incubator. West Lawrence Labs would be a 17,000 square foot facility. He said this should give some sense of scale as to how Lawrence could grow into this vibrant economy.

The second example was West Lafayette Indiana, home to Purdue University, where they also had a research technology park managed by public/private foundation. Both were similar with what Lawrence was trying to do with the authority, a public/private mix. He said there were 725 acres, 162 companies, 3100 jobs and 52 buildings. They had 105,000 square foot incubator, a wet lab incubator with 28,000 square feet, a 21,000 square foot graduation facility, and a completely private multi tenant facility that was just like an incubator.

In conclusion, he said there was a glide path and Lawrence could move forward similarly to what the other communities were doing. He said he was excited about this facility and how it fit into the system. He said it made a lot of sense, and would take a lot of hard work, but had a great team in place to do it.

Keith Yehle, Director of Federal Relations for the University of Kansas, said the University was very active in receiving federal support for pharmacy research from the national institute of health. University of Kansas on the West campus had well over 30 million dollars worth of federal NIH pharmacy research. The University of Kansas researchers had over 50 drugs in the KU drug pipeline, those were drugs ranging from molecules, found today, yesterday, earlier this month, to drugs that were going into phase one clinical trials. For decades KU led the nation in pharmacy research, which was done quietly. KU pharmacy graduates were prominent leaders in major pharmaceutical firms around the world and this would change with a facility like this. Their faculties were “stay here” and “start up” companies, and would bring back those KU graduates that had capital to fund start up companies, everybody who graduated from KU stated they wanted to come back to Lawrence and asked the City Commission to provide that seed for those students to come back to Lawrence.

A new generation of pharmacy researcher were working everyday over in Lawrence, their goal was not only to educate and do research, but to start up companies. They had one faculty member who had three startup companies. They like moving to Lawrence to teach at KU and liked the community the City provided such as Parks and Rec., good roads, great

schools. He said if providing this other anchor, to keep those student here, he could guarantee that professors with startup companies were actively recruited by other universities. The University of Texas just announced one month ago, they would spend 3 billion dollars to find cures for cancer. If KU was the number one pharmacy school, he asked where they were going to start recruiting faculty.

Sam Campbell, President and Chairman of CritiTech, said he was asked to speak to the City Commission about the company, to give an idea and a feel about what they were talking about, not just about CritiTech, but examples of other life science companies that could locate in this type of facility and grow out of the university.

He said CritiTech was a small company with 14 full or part time people, located in Lawrence, and was about 10 years old. He said their market was not local but world wide and were a technology based company. By technology based company, he meant, they had developed several processes using super critical fluid technology, referred to as SCF technology. He said they could use this SCF technology to improve existing products, like hearing BASF advertise, "We don't make the product, we make it better". He said they were in the business of making pharmaceutical products better.

Campbell said the technology came from an unusual place. He said it started in the school of engineering, in the area of chemical and petroleum engineering, by distinguished professor. The technology was taken to the Higuchi Bioscience Center and was applied to the pharmaceutical industry. He said he wanted to give an idea of the process, so that it could be understood what was being done.

He said there was a vessel that held liquid CO₂ and the CO₂ was placed into a precipitation chamber under certain temperatures and pressure, and it changed state. It changed into a super critical fluid state. When they were in school they were taught there were 3 forms of matter, solid, liquid and gas. It turned out there was more than that. If they had certain conditions right, they could change that state. In this case, turn that CO₂ into someplace

between a liquid and a gas, which was like a fog. Another container held a drug solution that was a drug in a solvent. He said they sprayed that drug in a solvent, through a patented process, into that precipitation chamber that was filled with the super critical CO₂. There was an ultrasonic nozzle that broke that stream of drug and solvent into extremely fine droplets. Those droplets hit the super critical CO₂ and fine drug particle fell out. The CO₂ absorbed the solvent and the fine drug particle fell out. They then take it into a patented particle harvesting unit, was flushed with CO₂ to remove any residual solvent, then collected the solvent and re-circulate the CO₂.

He said they were interested in small particles because they were a lot easier to deliver in certain circumstances and could use them as inhaled drugs, injectable drugs, oral drugs and it enabled them to increase the surface area of those drugs which also could impact the bio availability of those drugs.

CritiTech had taken forward a drug called Nanotax which was a Bristol-Myers Squibb drug, a multi-billion dollar drug for the treatment of cancer, like most oncology drugs it was very insoluble and was extremely challenging to get a drug like that into the body. What Bristol-Myers Squibb did was to use a formulation including Cremafor, which was a harsh solvent and was why so many cancer patients would end up sick from their oncology treatments and it was not just the drug that caused the illness, but the delivery system as well. He said by CritiTech making those small particles, they were able to replace that harsh delivery system with saline, thus removing the side effects. It was very stable and stays in suspension for a long period of time. He said they were focusing their efforts currently on ovarian cancer.

Nanotax were currently in a clinical trial, dosed 8 patients at the Cancer Center at KU and everything was going as planned and was very well tolerated. No observed instances of drug related adverse events. The drug was performing exactly as they had anticipated. They had also opened another site in Wichita with the KU Medical Center located in Wichita.

They had other drugs in development, nanotheisen and a couple of other drugs that were in the pipeline. Nanotheisen was introduced last year and was for the treatment of colorectal cancer and was a different mechanism of intervention, a fine particle suspension and their first meeting with the FDA was scheduled for January.

He said the most important outcome was for a better clinical outcome for patient with cancer in the peritoneum which was a very highly motivating factor for everyone in their company. He said they were trying to help the KU Medical Center achieve its National Cancer Comprehensive Cancer Center designation in order to offer different types of therapy. He said this improved and helped support the cancer research environment at KU as well as drug delivery, manufacturing and handling.

The regional economic development benefits were job creation with highly skilled people and support staff, expansion of the life sciences corridor, and the potential for commercial manufacturing. He said they hoped to take that unit and duplicate that on broader scale and potentially be developing drugs with other pharmaceutical companies that could use that technology to bring their drugs forward toward commercialization.

In summary, CritiTech had an ovarian cancer clinical trial at KU Cancer Center and a second trial site available in Wichita, Kansas at no cost to patients. CritiTech had a second drug focused on colorectal cancer that went before the FDA in January, a strong regional investor support demonstrated by a recent offering this quarter that sold out in three days. CritiTech's production capacity would increase ten times with the introduction of this new patented GMP manufacturing unit and would like to expand its drug manufacturing under this proposed lease.

Diane Stoddard, Assistant City Manager, presented the staff report. She said the Lawrence-Douglas County Bioscience Authority (LDCBA) for the City/County to acquire the West Lawrence Labs facility for community bioscience capacity and graduation opportunities for companies. Under the proposal, the LDCBA would lease the facility from the City/County and

this proposal would keep CritiTech in the community in providing additional bioscience lab capacity.

She said regarding the facility itself, it was located at 4950 Research Parkway. The facility was approximately 17,460 square feet and offered extensive, well-maintained lab space which included Good Manufacturing Practice (GMP) capabilities which was necessary for pharmaceutical production. It was currently owned by the new Oread Group Partnership of which Sam Campbell, CritiTech investor and CEO, was a minority partner in the partnership.

The proposed purchase price of the building was \$2.3 million dollars, their request of the City/County, also included \$600,000 for HVAC upgrades to the building for a total of \$2.9 million. The HVAC upgrades that were proposed were desirable in order to improve the energy efficiency of the building, to segregate lease areas and to make the space marketable.

The \$2.3 million dollar purchase price equaled \$130 per square foot. At the all inclusive price of \$2.9 million dollar cost request, it was \$166 per square foot. In contracts, the new incubator facility currently under constructed on campus was being constructed at approximately, \$270 per square foot.

Under the proposal;

- The City would issue taxable general obligation-backed bonds of approximately \$2.9 million to purchase the West Lawrence Labs Building. This financing would enable the purchase of the building, as well as the needed upgrade to HVAC systems in order to increase energy efficiency, reduce building operating costs, and appropriately segregate lease areas.
- The City and Douglas County would enter into a cooperation agreement whereby the County agrees to guarantee half of the bond issue in the event that future lease revenue does not cover debt service.
- The City and County would hold joint title to the building so that the City/County would have an asset to secure the investment.
- The LDCBA would lease the building from the City/County. The City and County would require approval of the building management structure, and approval of the terms of future lease arrangements made between LDCBA and tenants. LDCBA would be responsible for the maintenance and operation of the building. LDCBA would provide the City/County with semi-annual reports regarding the income stream on the building and updates on maintenance of the building to ensure adequate reinvestment into the asset. The report would show annual net cash flow on building. LDCBA would manage the building and repay the City from lease

payments on the building over a 25 year period. For the first five years, principal payments would be deferred and LDCBA would pay \$25,000 per year to the City to be applied to meet the interest payment. Beginning in the sixth year, LDCBA would pay principal plus interest calculated at approximately 50 basis points over the City's average annual investment rate for the City's idle funds for the previous year, to a maximum of 4% (at rates earned from January to August of 2009, this would be approximately 2.3%). LDCBA would pay the first five years' principal over the remaining 20 years of payments. Based upon an anticipated bond interest rate of 5.5%, the City and County would share in the subsidization of interest costs annually, though for each entity this amount is anticipated to be less than \$20,000 annually, with the exception of a slightly higher annual subsidy in the early years. The City and County annual expenses are shown in the attached Sample Bond Amortization Schedule. It is important to note that if the 5.5% interest rate assumption on the bonds varies up or down once the bonds are actually sold, the City and County annual contribution would vary accordingly.

- Any net proceeds over the amount necessary to pay the City/County annually would be placed into a building fund to equalize any annual net cash flow losses experienced by LDCBA, to retire the debt earlier, reinvest in the asset, provide resources for marketing and attraction of new bioscience companies, or make up the interest subsidy. The expenditure or assignment of funds in the building fund will be made annually upon consultation with the three entities- the City, the County and the LDCBA.
- The West Lawrence Labs building would remain on the property tax rolls.
- The City-County-LDCBA agreement would require that LDCBA enter into an agreement with CritiTech whereby CritiTech agrees to commit to staying in Lawrence at its current employment levels or greater for a minimum of five (5) years and maintain its main office in Lawrence, unless the building is unable to accommodate their growth after the first three (3) years, or the company is sold, in the event of which CritiTech will pay an exit fee for LDCBA.
- LDCBA has preliminary agreement with the University of Kansas to option some portion of the building for possible use.

Roger Zalneraitis, Economic Development Coordinator/Planner, said the occupancy rate was based off of an anchor tenant (CritiTech) and eventually 4 other tenants coming into this space over time and would not be fully occupied until the 5th year at a 90% occupancy rate. The first year was only the anchor tenants. He said KU was interested in reserving some space in the event KU wanted to use that space in the future. He went through the cash flow analysis from LDCBA. He said the building fund gave the City confidence that even if the occupancy rate was down for a couple of years, it was a temporary problem and not a permanent problem. He said if the losses continued because tenancy was dropping off or going to zero, the City had

options and were not locked into paying forever. He said the City could readjust their strategy for marketing the space, adjust who to market to, change the use, or sell the building.

He said over a 20 year period all of the principal would be paid back and the question was if it worked for the City which was where the cost benefit model came into play. He said from the model prospective there were some conservative assumptions.

Consistent with the LBA model there were no one would be hired in the first year, but 40 new employees that would come on in the next 4 years. Based on past occupancy, there could be as many as 70 employees and hoped 40 would be a low ball estimate by year 5. The wages would be about \$55,000 a year, starting next year and going up to \$58,000 the 5th year. The average private sector wage in Lawrence and Douglas County was \$28,000 a year and those jobs, based on the Bureau of Labor Statistics paid almost twice as much as the average wage for a job in the County. Since 2001, jobs in this sector had seen their wages go up by 6.5% per year. He said they did not assume that would continue, but it was eye catching when looking at the statistics, especially when wages were largely flat in Douglas County for this decade. Those were high paying jobs and the potential to go much higher in this model.

He said regarding the interest subsidy they estimated at \$18,500 a year which worked out between the City and County, a total of \$928,000 over 25 years,

He said things not included in the model were the employees in Critech or retained in the community, property taxes, temporary jobs for construction, and factor in the asset ownership in how viable this project would be. He said before taking into account the interest subsidy, the City and County would make between \$30,000 to \$35,000 a year and after the interest subsidy, a \$19,000 year subsidy which impacted the City and County. When factoring in the discounts, in today's dollars, there was a potential, over the next 25 years, for about \$145,000 in benefits to the City and about \$25,000 to the County. The City's break even point would be 2020 or 2021 and the County would be looking at 2030 until breaking even.

Diane Stoddard, Assistant City Manager, said staff positively recommended the proposed transaction for those reasons set forth. She said the suggested structure did accomplish this acquisition while minimizing the risk to the governmental entities by enabling the entities to retain a capital asset.

She said should the City/County wish to proceed, the next steps included County consideration, scheduled tomorrow evening at 6:35 pm. Staff suggested the City Commission consider referring this item to the Public Incentive Review Committee which would meet on Monday, November 16th at 4 pm and there would be future consideration in December of the necessary bond documents and agreements. The action for the City Commission was to direct staff to prepare the necessary agreements and documents to facilitate the request to refer the item to the Public Incentive Review Committee for recommendation and this recommendation could be provided at City Commission meetings, approve a conflict waiver for Gilmore & Bell, serving as Bond Council, because Gilmore & Bell did serve as bond council for both the City and County.

Vice Mayor Amyx asked what the timeframe was for the improvements to the HVAC System, if that item was to proceed.

Laverne Epp, President of LDCBA, said the estimate was provided by a local engineer that did a mechanical system analysis. He said it could be done all at once or over a period of 30, 60, to 90 days, or could be phased.

Commissioner Amyx said from the marketing side, it seemed it would be done quickly.

Epp said that was the LDCBA's preference.

Commissioner Cromwell asked if the marketing of the building would be done by the Bioscience Authority.

Epp said correct. The marketing portion would be in conjunction with the Bioscience and Technology Business Center on West Campus and would give an expanded footprint or space

where they could access several different markets both for the spin-off's and emerging startups in existing companies outside of their area.

Vice Mayor Amyx asked what were the costs related to the same type of facility that had GMP (Good Manufacturing Practices) in bioscience for Kansas City.

Epp said he did not know if Kansas City had GMP type space. He said there was space that Lawrence competes with, but the City's model's had competitive utility rates.

Vice Mayor Amyx said if Lawrence little competition for GMP space throughout this region, at the rates proposed, the facility could fill up faster.

Epp said correct. He said their occupancy assumptions, fill rates were fairly conservative. He said they tried to be fairly calculated taking the approach that they needed to grow into the building. Particularly, since they were also going to market the incubator.

He said what was not reflected in the numbers seen were funds that the LCDBA would use, if necessary, to incentivize companies to come to Lawrence.

Commissioner Cromwell said he was curious about the Bioscience Authority and the incubator marketing this building at the same time. He said he wanted to be sure they would not be flooding the market.

Epp said the market analysis for the incubator that was performed two years ago was an in-depth, anecdotal assessment in trying to identify which companies would have been retained in this community if that type of space was available, which companies were lost, and the prospects. He said the analysis indicated a need of 20,000 to 25,000 square feet of this type of combination lab/office space. In the new incubator that was under construction, they had about 12,000 to 13,000 square feet of rentable space and in this building there was another 17,000 square feet although CritiTech had agreed to rent about 3,000 of that square footage. The LDCBA wanted to retain 2,000 square feet that would be made available to CritiTech in the future to accommodate its growth. He said they thought they were in that range of what the

LDCBA marketing demand analysis showed several years ago. Generally speaking, LDCBA was comfortable with the market reach and what the market demand based on their analysis.

The Bioscience and Technology Business Center was very unique when it came to incubation, it was not just space for spin-off companies out of KU or startup companies. In fact, they targeted three markets which where: 1) spin-off coming off of KU technology; 2) startup companies either KU oriented, community oriented or outside of the community; and 3) major pharmaceutical companies that had collaborative research relationships with KU. The West Labs space was more of accelerator space and more for the emerging company or a company that had been around for awhile such as CritiTech that might not be directly or naturally suited for the incubator, but that next phase of development, which was why they thought the west labs was a perfect complement to what was trying to be built with the incubator. He said it expanded that market and footprint in the community.

Mayor Chestnut said regarding the 2.9% which was about \$166 a square foot, he said Zalneraitis quoted a number with the incubator that was around \$270,000 but that was just construction costs because that land was provided by the University and \$30 or \$40 a square foot needed to be added and were well over \$300 a square foot.

He said at some point Zalneraitis assumed the property tax was going to creep about 1% a year, but if they were at 85% occupancies and were using the income method to assess, he imagined the Douglas County Assessors Office would say that property was worth a lot more than what was on the books.

Zalneraitis said most likely.

Mayor Chestnut said there was also a potential to have significantly more property tax revenue, way in the future when the facility was cash flowing because it would be a more valuable piece of property for the community than it was now because of the use of the income method.

Zalneraitis said that statement was accurate. He said if a job was worth \$70,000 a year instead of \$55,000 they would be buying bigger houses too.

Vice Mayor Amyx said the average income was \$55,000 a year, and asked if those jobs could be compared to the jobs in East Hills Business Park.

Zalneraitis said he did not know those jobs specifically, but manufacturing in Douglas County was approximately \$40,000 a year.

Mayor Chestnut called for public comment.

Larissa Long said she was asking that the City Commission support this project because it was a great opportunity to move forward in creating the environment this City needed to have biosciences located in this community.

Kirk McClure said he, like everyone, was in favor of economic development and certainly knew that bioscience was the area that would see double digit growth in the next couple of decades, but every other economic development agency in the nation knew that as well. He said they needed to be very careful about venturing into this area. He said he was not opposed to this idea, but his expertise was in public finance and real estate investment analysis. He said his job was to know a good deal from a bad deal. He said that did not mean in anyway they did not want CritiTech, graduation space, or labs in the west part of town, but there were right ways to go about this and not so right ways to go about this issue. What was seen so far was a long way short of a compelling case.

The first biggest issue was the purchase price. He said they were looking at a property where the numbers were flying all over the map and unfortunately getting the data from the City had been haphazard. They only learned of this project a few days ago and the information was currently flying out today and in the timing issue, they only discovered today the plan was to rush this idea through in four weeks.

He said he served on a Public Incentives Review Committee for six years and that committee could not schedule a meeting in four weeks. In four weeks PIRC could not meet,

raise questions with staff, gave staff time to answer, come back and report to the City Commission. He said something was going way too fast and he was afraid it raised suspicions on the part of the citizenry.

The purchase price was 2.3 million, plus \$600,000, which might or might not be a good idea. What was being seen was the old game appraisal, which was if not liking the income method than look at the replacement costs. He said he had no doubt it cost more dollars per square foot to build this type of lab space, but this was a building with a checkered history. Its lease rate was at the numbers showing and they looked at the normal capitalization rate today that showed the community was not getting a good deal and were paying too much. If this were a private sector with no subsidy, this building would be worth around 2.1 to 2.3 million which was assuming the 89% occupancy rate was achievable which seemed wildly optimistic. Staff's response was to look out 25 years, but if a deal did not work in 10 years, it would not work. He said as a practical matter, he came out of banking as an underwriting and no one trusted numbers beyond 10 years. The occupancy was a critical issue and this item hinged upon whether or not it achieved 89% occupancy.

He said he had not seen the market analysis, but hearing assertions they could fill that amount of space, but understanding the proforma they were looking at today, they were not only going to fill that space, but fill it and keep it that full for 21 years after the lease period which was wildly optimistic.

The property tax issue was fine, but it was misleading. He said they could say it was on the property tax roles, but if they had to turn around and give it back, it would be double layers of subsidy. He said they were paying a subsidy by way of the general obligation bond and paying a subsidy on top of that to give an out-of-pocket cash subsidy over and above which were two layers of subsidy.

The use of General Obligation Bonds worried him more than anything else. He said what was being asked was for the municipal tax payer to absorb 100% of the risk. He said

there were times that were acceptable. If they felt the deal would work at 60% occupancy, he would be more comfortable, but it would not work at that rate. He said he was not sure it would work at 89%, but he was willing to live with those projections. He said what was being said was “the municipal taxpayer must pick up this risk.” There were other mechanisms that should and could be used and should not be asking the municipal taxpayer to pick up the risk of this project. He said for the City Commission to take some time and look for ways to create an authority to own this property, look for a general revenue bond obligation, so the building could be the collateral for the debt and not to ask the local taxpayer to pledge their future tax dollars to cover this highly risky deal.

Allison Ropley said she agreed with McClure that it was unfair to ask the citizenry for a corporate bailout. She said it sounded as though KU was very interested in this venture and asked about Kansas University’s financial support. She said why KU was not required to step up.

She said another issue was that CritiTech was only required to stay in this community for 5 years. If CritiTech could bailout in 5 years and the City had a 25 year responsibility, she asked where CritiTech’s commitment was. She said there were neighborhoods that did not have street lights and she personally had been asking for her street to be fixed for 10 years which had not happened. She said she saw everyday things not being taken care of in Lawrence, but all of sudden there was a huge need of money and did not understand the citizens should be asked to bear that burden. She said it was great that 40 people could have a job, but not at her expense.

Luke Bell, Lawrence Board of Realtors, said their firm supported this project because it created 40 jobs at \$57,000 a year which was well above medium income. At a time when having trouble retaining manufacturing jobs, retail, and service industry jobs going away at a very quick pace, any types of jobs that could be created or preserved was a great benefit to the City.

He said they were also keeping an emerging bioscience company that could otherwise go to a city like Wichita or Johnson County and those cities were actively recruiting companies. He said it was important for the City to step forward to show the community was interested in fostering businesses and economic development.

Dale Johnston, Lawrence resident, said the City wanted to do a lot of things to bring about economic development. He said bringing 55 jobs that were well paying was not even going to make a dent because Lawrence was at the bottom of the rung in the State of Kansas when it came to per capita income.

He said he agreed that in 5 years CritiTech could bail out. He said if that company was really going to take off, invest in that company so that when it did take off, the City's investment grew. He said he thought this item needed further consideration.

CritiTech needed to guarantee they would stay in this community longer than 5 years. He said they were on the right track to consider those options, but in this economic environment, the City needed to be careful how things were proposed and if it would be fiscally viable in the long run. He said if the university wanted to keep a lot of their talent in this community, those \$30 million grants that KU received could help in this community to create jobs for the citizens that supported this university since its inception over 100 years ago.

Steve Warren, Vice Provost for Research and Graduate Studies at the University of Kansas, said amongst his responsibilities at the University was economic development and he was the person responsible for the \$25,000 just added as an option.

He said the University of Kansas in the last five or six years had gone from a passive approach for economic development to a very active and aggressive approach to economic development. He said KU was spinning out several new companies each year. He said he was asked by someone in Kansas Bioscience Authority, how many new companies had spun out of KU in the last 3 years which was 7 new companies and 41 new licenses. Unfortunately, some of those new companies left rapidly because there was no sufficient space in this

community. The incubator was a huge addition to that and would be a great landing place for the things that were in the infant stages of development of KU and were moving on. This building was an extension of that program in a sense that it gave a place in this community for real companies that were past incubation to land and stay in the community and without that those companies left this community. He said from his personal opinion, there was an opportunity to have something now, and it looked like a real opportunity. He said KU took an option because they were in a space crunch at the University and their research programs were expanding and they could find themselves in a position where they were looking at that space to rent. If he did not think that was a possibility, he would never have authorized an option to be made.

He said he also thought the University had become very active partners in the community and region in terms of bioscience and the incubator was a great example.

Ron Gaches, Lawrence resident, said he did not have an interest in any part of the project proposed, nor did he have any clients that had any interest in the project that was proposed. While he did not have any direct interest in this project, he had some economic development experience. In the course of the last 30 years, he represented either as an employee or on a contract basis many of the State's largest employers. He said he worked with the Department of Commerce recently, to secure a \$14 million dollar investment by the State of Kansas in a Goodyear facility in Topeka which resulted in a commitment by Goodyear for an additional \$250 million dollar investment in Kansas. He said he recently represented General Electric in putting together a package of incentives with the Department of Commerce to bring a General Electric Facility over from the Missouri side of the State line into Lenexa and was the government relations person on the ground with Goodyear when at the time they persuaded the City of Wichita to make the largest industrial revenue bond investment in the State of Kansas history in support of plant expansion at Boeing in the 1980's. In many smaller projects he had assisted his clients in working with the Department of Commerce in various

municipalities across the state as they had looked at evaluating investments in various communities.

He said he believed this was a great project for the City of Lawrence for three reasons. First, this was as close to a guaranteed slam/dunk as the City would get in the economic development business. The City already had a tenant that was ready to make a commitment for the City. The City was not purchasing an open building, but a building with a commitment. He said think about how many communities, including Lawrence, consider making investments in spec building. He said this was worlds better than a spec building investment. He said the City Commission already discussed the favorable purchase price of this facility. He said he lived in that community and had every intention of being present for the next couple of decades and he had every expectation the values, including the commercial values, the property on the west side of Lawrence were going to regain the momentum they had the last 10 to 15 years when recovering from the current recession.

This firm represented the kind of high value, high compensation jobs that our community kept telling themselves they wanted and asked whey the community was hesitating when it was sitting in this community, ready to happen.

He said this community had talked about wanting to be the home for moving University based jobs into commercial application and create our own homegrown high valued jobs, but doing so, the community learned over the years required a series of support mechanisms and services that this community currently did not have. This facility filled a very important gap in the series of support mechanisms, and was only as strong as the weakest link in the communities support services. If the University of Kansas was going to be birthing firms and leaving because this community did not have a facility that met their needs and this facility met their needs, he as a taxpayer thought it was great investment.

He said the community needed to demonstrate for themselves and to the business community outside of Lawrence, that Lawrence was open for business. This community was

only beginning to understand that the private sector development had slowed down the last decade. He said outside the community, those factors were well known. He said Lawrence needed to take some dramatic action that signals to this community and businesses outside this community that Lawrence wanted high valued job growth and were willing to partner with private sector firms.

This community would hear from opponents that now was not the time, this was not the right deal, and/or questioned the financing. He said those opponents might be right if wanting to stay with what this community had, the last 10 years. If comfortable with the progress made in this community in private sector job development and comfortable the City had the tools in place for whenever the economy rebounds, then he suggested not doing this deal, but if not satisfied with the private sector job development for the last ten years, then something else needed to be done. He said as a taxpayer, he encouraged the community to take that risk. He said he viewed this type of investment as critical to re-energizing the growth in the private sector for Lawrence and growing long-term the tax base of this community.

John Ross, local businessperson, said it took courage and a vision to put together a project such as this project. It also took courage and vision for the City Commission to take and evaluate this program. He said the program was well thought out and well put together and a good project to approve.

Beth Johnson, Vice President, Economic Development, Lawrence Chamber of Commerce, said her job was to bring those jobs to Lawrence and talk about the benefit to the community. She said she was present to remind everyone that this was not the only project or the last project. Later this week, she would be meeting with a company from Germany that was in the wind industry business. It was a great opportunity for this community, just like bioscience. She said every economic development project was just one of a string of many other projects. She said she hoped the City Commission would support this project.

Marilyn Bittenbender, Commercial Real Estate Broker, Grubb and Ellis, said she represented the New Oread Group of this property. She said there was a comment about a corporate bailout and that was an erroneous statement she did not want to leave the community with. CritiTech was not gaining any type of financial incentive in this project, in fact, their costs would increase, their rent would be going up, but CritiTech was willing to make that commitment because that company wanted to stay in this community and grow jobs. She said this was a hometown company started by hometown folks. The only reason they were limiting their commitment to 5 years was because they were hopeful they would outgrow this space and if the space could no longer accommodate their company, they would go next door and build a building on the lot adjacent to this facility and hoped CritiTech had the opportunity to build that facility.

Life science buildings around the country were few a far between. Those buildings were expensive to build and maintain. She said the majority of those buildings were owned by former occupants, university campuses, or through other municipalities because of the cost of construction and no startup or entrepreneurial company in the country would be able to afford those costs. Therefore, those buildings were subsidized to the tune of 60% to 100% across the country. The subsidization being asked to approve, was less than 1% and she submitted to the City Commission that was a great deal in any market. She hoped the City Commission supported this project.

Jim Mullins said he was present to voice his objections to using taxpayer dollars to purchase a building for economic development. He said in an article he found, the State of Michigan spent over 3.3 billion dollars for economic development and very little to show for this investment. A short quote from an article stated:

"A central belief in Washington and most state capitals nowadays is that government should "invest" in certain businesses—"clean tech," say, or manufacturing—to drive job creation. We hope it all turns out better than it has in Michigan."

He said it had been a disaster, but their motivation was the same in Lawrence. The preferred way of creating jobs was to change the atmosphere at City Hall and change the attitude of the bureaucrats. Lawrence and Douglas County was known throughout the region as a very difficult place for any company or developer to conduct business. This should be the very first step in economic development by proving themselves to the development community and that Lawrence had turned over a new leaf and how the community would welcome their inquiries and do everything in Lawrence's power to help other businesses in the development process. He said he talked to developer after developer that every time they go down to City Hall they get their heads handed to them and that was the attitude of City Hall, but it was also the bureaucrats that do it.

In his job, he was now working with Cities, Counties, and School Districts and was looking how those entities conducted business and found that Commissioners, often times were given erroneous information. The bureaucrats were not giving them the straight and skinny. He said he was not accusing Lawrence of that because he did not know, but he was just sharing what their experience had been.

It was not by buying a building for only a certain segment of the business community, but needed a change in attitude from being obstructionist to becoming facilitators. He said in East Hills Business Park, where Douglas County Development owned, at one time, a spec building and asked why Douglas County Development did not step up to the plate for this building. He asked why the people that owned that building today, stepping up to do this economic development project. If it was good enough for Lawrence, he asked why it was not good enough for them. He said he was totally against this project.

Tom Kern, President and CEO of the Lawrence Chamber of Commerce, said he wanted to remind the community about the longer view of this project. In 2003 a group of citizens in this community began the development of a long range planning process for the bioscience industries in this community. That process included grassroots efforts by people and ended in

a strategic planning process that created the first part of the Lawrence/Douglas County Bioscience Authority. In looking chronologically that group got its feet on the ground and developed its relationship with KU, learned the bioscience languages and created and funded a collaborative effort of 7.4 million dollars for a bioscience incubator. The next logical step was the graduation facility and he guaranteed there would be other steps along the way that would require both public and private investment, if it really and truly Lawrence's vision to become the bioscience industry of the great planes area.

He said from the best information he could find from talking to KU and LRTC, there had been 17 companies that had spun out of KU in their research bioscience, biomass, biochemical, divisions in the last 10 years and of those companies, 4 remained in Lawrence. All of those other companies left either for capitalization reasons or lack of locations. He said that could not continue if Lawrence wanted to be successful in this market place. That was the most critical reason for this graduation facility so that did not continue to be repetitive.

The other interesting thing about this process was that about two weeks ago, many citizens in Lawrence participated in a community forum on job growth. He said 115 residents participated in that process and the number one sited positive job growth that was made in that session was the commercialization of KU's bioscience capabilities as the community's highest positive attribute when it came to job growth. It was not just the Chamber of Commerce, Kansas University, City of Lawrence, and Douglas County, but 115 people in which 98 voted for commercialization of KU's bioscience capabilities as the number one priority. He said he encouraged the City Commission to approve this request.

Commissioner Dever said he was the City's designated member of the Lawrence/Douglas County Bioscience Authority and he had sat in a number of meetings and asked a lot of the questions for the community. He said he had been asked to answer questions publically on this issue in the past and wanted to touch on a couple of issue that came up and needed an answered publically.

The question that loomed over everyone's head was the government's role in this type of activity and what it had to do with a single bioscience company.

He said the question about if this request was such a great deal, why a private entity was not interested in doing the exact same thing. He said from the City's perspective, they needed to touch upon the appropriateness of their involvement. He said just like many of the Commissioners prior to this Commission made the decision to invest in the biosciences, they needed to make a decision on whether they wanted to continue to make the investment in the biosciences. He said Lawrence had one of the best untapped natural resources in the area. He said he did not work for the University and was not involved in bioscience in any way, shape or form, but he saw a tremendous scientist that work and live in our community and leave our community to further their development and intellectual property. He said they had this natural resource to mine and get reinvested in this community. He said this was just one example. CritiTech aside, the bioscience field was one of the most appropriate investments in this community. There were other examples as well, but they were present to talk about biosciences.

He said he was uncomfortable with the governments getting bigger and/or owning more because it was not his nature. As the community continued to grow its tax base, they needed to look after the future of this community. The fact that CritiTech would make a five year commitment to this building was remarkable because the company was younger than the commitment made by CritiTech. Most companies fail in the first couple of years.

He said they had a substantial opportunity and would be in favor of considering this request and for the City to engage council in seeking the opportunities for funding.

Commissioner Johnson said regarding the question about this request for acquisition of the West Lawrence Lab Building being good for the City and why a private individual was not stepping up was because cities measure their investments and look at this type of request differently. He said the City had different motivations and asked why the City gave money to a

library or to transit and what was the return. He said the City had different ways in the community of measuring investments which was the biggest difference. If trying to convince an entrepreneur to take a risk and spend money on their business and hoped to receive a return on their tax dollars with additional jobs created and exterior benefits was tough to ask a private individual to do because they look at the rate of return on their capital invested.

A community gained a lot more benefit from not just the capital invested, but from the jobs that were created, people moving to this community and raising their families, the money those families gave to charities and social services, eating in restaurants, and shop in local stores was called "economic development." He said the City could take a passive approach or take a proactive approach. He said he personally thinks the community had taken a passive approach for too long and it was time for the community to step up and get aggressive about economic development. He said the rewards of this venture would happen many years down the road, but those were seeds that needed planting. He said he was lucky to have input on this issue because economic development in this community was over due.

Commissioner Cromwell said he agreed that when looking at government's role, it was difficult and needed public dialogue. The government could take a longer term look at a project than a private industry. He said when a private company looked at investing in a particular project a ten year payout was long. One of the luxuries that government had was that it was unlikely a City would go out of business soon which allowed a City to take a longer view of projects than what a private company might not. He said the Commission was looking at the entire community to improve.

He said this project might be small, but it was part of a long term strategy the City had that would create good jobs. He said the Commission made a commitment to bioscience and this was one little piece of the puzzle and the community would see more pieces in the future.

He said regarding the energy efficiency upgrades, \$600,000 was going toward making this building 40% more energy efficient. He said this was a unique opportunity for the City and

County to own a bioscience incubator and accelerator. He said it would put the City in a unique position as far as attracting new jobs and keeping those jobs in this community that spin off from Kansas University. He said he was in favor of this request and sending the request to the Public Incentive Review Committee.

Vice Mayor Amyx said he apologized for the term “bailout” used earlier in discussions and he felt fortunate to have a company like CritiTech in Lawrence.

He said in the last couple of years there was discussion about CritiTech’s building as a potential site for incubator space and wanted to thank CritiTech for their commitment to this community.

He said in 1988 and 1989, he had the opportunity to be involved in putting together job opportunities at East Hills Business Park. As a County Commissioner, at that time, he participated in the financial end, making sure the purchase came together. The request was made from Douglas Development Inc., to extend utilities, but it was taxpayer money that purchased that property. He said there were commitments made annually by the City and County that were in the job creation arena.

Also, there was a statement about City Hall being a bad place to do business, but he disagreed. He said there was a new attitude in City Hall and the City Commission would make sure that every aspect of an issue was addressed and that City staff was taking care of the community. He said responsibilities included diversification of jobs and past, present, and future Commissions would be involved in East Hills Business Park; development of the Lawrence Municipal Airport; the new industrial development of the Farmland site; and, life sciences.

There was a comment about processes and whether the City was going to fast. He said over the next few weeks the City Commission would review materials making sure this decision was the best for this community. He said he was in favor of referring this request to PIRC, review additional information, and make the best decision for the community.

Mayor Chestnut said regarding the comments made about KU stepping up, at one time West Campus was a big empty field, now there was the pharmacy building, the construction of an addition to that pharmacy building, as well as construction of the incubator across the street. If asking where KU had been the last four years, KU was placing brick and mortar in the ground on West Campus that was contributing to the benefit of the community, significantly. He said KU was continuing investment with research dollars and attracting more dollars to the community.

He said Professor McClure brought up good points, as far as questions, because other states were competing for this chance, but the fact was that Kansas was winning. If looking at the latest press release of Business Facilities Magazine, Kansas was ranked number 9 in the nation for biotechnical strength. Lawrence was leveraging what everyone in the state was doing in which KBA had spent \$177 million dollars in bioscience investment in the last 12 months and was one of the largest economic development opportunities. He said Lawrence was in one of the richest bioscience corridors, between the animal health sciences in Kansas City and what was happening in Manhattan, Kansas and for Lawrence not to leverage the bioscience industry in a game that he thought Lawrence could win, would be very foolish on Lawrence's part. There were risks involved, but any economic development project were a risk, but Lawrence was betting on what two Commission's ago committed to, to start the bioscience initiative which was supported several times by the former Commission he served on and hoped they could continue to invest in that commitment.

He said the Commission decided in the early 2000's that this was a winning proposition. The employment base in biosciences from 2001 to 2007 grew at 6% while the national average in employment grew 3%. In 2006, 60% of all US academic RND was invested in bioscience. He said Lawrence was basically putting itself in the sweetest spot to be in the best spot to win in economic development because of the investment in the State of Kansas, general economic conditions, macro economically at a national level, and it also brought jobs to the community

that leverage this City's intellectual talent at the University and were the highest paying jobs right now in the U.S. He said it was speculative to some extent, but it was also a calculated risk that needed to be taken as a community.

The private sector definitely had a short-term view of things and had limited access to capital in this type of market. Economic times were also challenging for the private sector to step up. The City of Lawrence had invested a lot with the incubator and should not forget the Lawrence Regional Technology Corporation and the City helped fund to help incubator companies go to commercialization. He said it seemed kind of foolish to invest in that and not have the facilities for those people to leverage. Essentially, what was being done was teaching people to move other places. He said it was time to step up.

He said he talked to KU Student Senate and one of the important issues was where the jobs were in Lawrence for those intellectual students and the fact was there were no jobs in Lawrence. He said there was opportunity to leverage and create jobs for those students that were working on that research that was being commercialized. No matter what economic development opportunity there was for this City, there would be risks, but in looking at all the factors in this particular project, it was in the most ideal spot.

Mayor Chestnut said he supported referring the request from the Lawrence/Douglas County Bioscience Authority to the Public Incentive Review Committee for acquisition of the West Lawrence Laboratory Building, 4950 Research Parkway. He said he appreciated staff's work on this matter and Roger Zalneraitis, Economics Development Coordinator, continued to prove himself as a very valuable asset to the City of Lawrence by helping the City Commission make an informed decision on an investment in the community. He said there would be long-term benefits to this bioscience endeavor.

Moved by Johnson, seconded by Dever, to receive the request from Lawrence Douglas County Bioscience Authority; refer the request to the Public Incentives Review Committee; direct staff to prepare necessary documents and agreements; approve engagement

with Gilmore and Bell, City and Douglas County bond counsel; and, approve conflict waiver.
Motion carried unanimously. (11)

Consider setting bid date of December 15, 2009 for Project No. PW0913 (City Bid No. B09068), New York Street, 9th Street to 12th Street, Brick Street Reconstruction, KDOT Project No. 23 TE-0339-01 (ARRA- T033(901)).

David Cronin, Project Engineer Public Works Department, presented the staff report. He said the project scope and location was the reconstruction of New York Street, between 9th and 12th Street and incorporated 4 intersections and 3 blocks, located in the historic East Lawrence Neighborhood.

The project funding was part of the KDOT Transportation Enhancement Program. It was eligible under the category of historic preservation and rehabilitation facilities because the project was located in East Lawrence.

In the spring, the City submitted an application to KDOT to restore this section back to brick on 9th and 12th Streets and it was selected to be funded under the American Recovery and Reinvestment Act.

He said 101 applications were submitted to KDOT for Transportation Enhancement Program Projects, 14 projects were selected and this project was one of the 14 projects as was the next item on the agenda, the Clinton Parkway Recreation Path. The project was funded 100% by KDOT in the amount of \$946,827.75.

Commissioner Cromwell said he heard the brick streets had a longer life span than asphalt.

Cronin said he did not know, but a lot of problems with the brick streets were the base failures. He said with the properly treated base, 7 inches of concrete, and the layer of brick, that street would need very little maintenance and would be around for a long time.

David Corliss, City Manager, said they did the 800 Block of Mississippi over ten years ago and he asked a similar to Tom Orzulak, Street Division Manager, and it was indicated that the maintenance needs on that street were minimal and its Pavement Condition Index had

remained fairly strong. He said that did not answer Commissioner Cromwell's question globally on the City's history for streets, but with the project on Ohio Street, staff had a lot better specification for putting in brick streets than what the City had historically elsewhere in the community. He said a well constructed brick street could be beneficial from a life cycle cost standpoint.

Mayor Chestnut called for public comment.

Hubbard Collingsworth, Lawrence, asked how many brick streets were in Lawrence.

Chuck Soules, Public Works Director, said he thought there were 23 or 24 miles of brick streets, a little less than 10% of the total streets in Lawrence.

Moved by Cromwell, seconded by Dever, to set a bid date of December 15, 2009 for the Brick Street Reconstruction Project for New York Street, 9th to 12th Streets (Project No. PW0913 – KDOT 23-TE-0339-01). Motion carried unanimously. (12)

Consider setting bid date of December 15, 2009 for Project No. PW0914 (City Bid No. B09069), Clinton Parkway Shared-Use Path, from Clinton Dam Road (E. 900 Road) to just East of Adam Avenue, KDOT Project No. 23 TE-0347-01 (ARRA- T034(701)).

David Cronin, Project Engineer Public Works Department, presented the staff report. He said this project was 100% federally funded, the base project went from removing and replacing the existing 8 foot wide path that was deteriorated, on the south side of Clinton Parkway from Inverness to K-10 and then on the north side of Clinton Parkway from east 900 Road which was the Clinton Dam Road to Lake Pointe Drive. Staff thought initially, the project would be \$800,000. KDOT approved alternate bids and if the bids came under the award amount of \$800,000 staff could look at two more sections to add into the project. The sections were on the north side of Clinton Parkway from Inverness Drive to Hartford which would be alternate A and then on the north side of Clinton Parkway from Kasold to Lawrence Avenue which would be alternate B. Those were the two remaining asphalt paths between Iowa and Wakarusa. If the City received good bids, those paths could be done all at once.

Mayor Chestnut called for public comment.

After receiving no public comment, **moved by Cromwell, seconded by Amyx**, to set a bid date of December 15, 2009 for Clinton Parkway Shared-Use Path, from Clinton Dam Road (East 900 Road) to just East of Adam Avenue (Project No. PW914 – KDOT 23-TE-0347-01). Motion carried unanimously. (13)

Consider the following items for Wesleyan Church, located southeast of 31st and Kasold Drive. Submitted by Dean Grob, for Chester B. Spray Trust, property owner of record and Wesleyan Church, Contract Purchaser:(A-8-3-09), (Z-8-14-09), (Z-8-15-09) (Z-8-16-09)

Mary Miller, Planner, presented the staff report. She said this item was a request for annexation and rezoning of approximately 37.14 acres, located at the southwest corner of the 31st Street/East 1200 Road intersection, in the area commonly known as Kasold on the Curve. The applications were submitted in preparation for the development of a church and a residential sub-division.

The property was located within Service Area 1 of the UGA and was therefore required to annex prior to development. City Services, water and sanitary sewer, are available and could be extended to serve this development.

The applicant provided a concept plan with the annexation and rezoning requests which showed the west portion planned for church development and the eastern area planned as residential. There was floodplain in the area and the majority of that was planned as open space (ball fields and other recreational uses).

An annexation agreement was drafted to identify the amount of infrastructure and road improvements which would be the applicant's responsibility. Typically, the property owner was responsible for all road improvements on roads adjacent to their property; however, this property was challenged by being located along two arterials. She said 31st Street was a "major" arterial and East 1200 Road was a "minor" arterial which connected with the K10 Bypass. In addition East 1200 Road was located within the floodplain, including the floodway. Those factors required a higher level of construction than most adjacent roadways.

The annexation request conformed to the Comprehensive Plan and therefore, staff recommended approval of the annexation request. The Planning Commission voted 9 to 0 at their October 26 meeting to forward the annexation request to the City Commission with a recommendation for approval.

There were 3 rezoning requests being submitted for the subject property. One rezoning was a request to the RM12 District for the development of a residential subdivision and a church. The Revised Southern Development Plan recommended 'low density residential' and open space for this area—with the open space district being the property within the floodplain. The text of the development plan indicated that various housing types were acceptable, within this density limitation. She said RM12 was one housing type that was recommended. Low density was defined in the plan as 6 dwelling units or less per acre. The rezoning to the RM12 district conformed to the recommendations in the plan if the density did not exceed 6 dwelling units per acre; therefore, a condition was recommended to the zoning limiting the maximum density to no more than 6 dwelling units per acre.

The zoning request (Z-8-15-09) was for approximately 4.36 acres from County 'A' and 'V-C' to the OS District. This area was encumbered with the floodplain. The Revised Southern Development Plan recommended open space as a land use for this area. The Comprehensive plan recommended that floodplain be protected by incorporating it into the open space system. The rezoning to the OS District would protect the floodplain, as the OS District had very limited uses and would maintain open space in this area.

The zoning request (Z-08-16-09) was a request to rezone approximately 11.35 acres from RM12 and OS to the RM12-FP and the OS-FP Districts. Section 20-1201(c) required that an additional 2 foot of freeboard be included within the floodplain overlay district for lands being annexed. This was meant to accommodate future development within the watershed. Therefore, the area being rezoned to the FP overlay district was greater than the amount of floodplain which was located on the property.

Based on the findings in the staff reports, staff recommended approval of the rezoning requests. The Planning Commission voted 9 to 0 at their October 26 meeting to forward the rezoning requests to the City Commission with a recommendation for approval.

Vice Mayor Amyx said in the Planning Commission minutes there was discussion by Planning Commissioner Harris regarding the League of Women Voters and the people buying those properties that went to a private driveway. He said if the road north was a private driveway.

Miller said if it was a planned development, it could be a private or public street. She said if it was one lot, multi-dwelling, it could be a driveway. The way it was shown was right-of-way and the concept was a public street.

Vice Mayor Amyx said in the Planning Commission minutes, Commissioner Finkeldei stated this was the type of development needed at that location. He said he found that comment interesting because it left a lot of open space, took into consideration flood issues, and planned for housing away from the curve, but still have access in and out.

Commissioner Johnson said it might be early for this application or plan, but asked if the intersection was addressed with the improvements of the Kasold design and any type of curb cuts or access to 31st Street.

Miller said where they were proposing 31st Street, staff had not looked at that idea and would be something done with a plat or site plan and required a traffic impact study. She said at that time, it indicated more about that location such as needed improvements to 31st Street.

Mayor Chestnut called for public comment

Dean Grob, Grob Engineering Services, said regarding Commissioner Johnson's question, he said the church understood their agreement that while there intended to be a turn lane, eastbound to turn north on Atchison Way, there was not a turn lane planned south. If this conceptual plan was carried out, there might be some other improvements on 31st Street in order for the Phase 2 portion of this project to happen.

Nate Rovenstine, Lead Pastor, Wesleyan Church, said he was excited about this property and for the growth of their church and had been a vital part of the community since 1936. This would be their fourth location as a congregation and it was a good opportunity for something on that curve as stated in the plans, long term.

Mayor Chestnut said the City was still working with the County and would need to dovetail, if this item went forward, the plans on the improvement on the road because the County was still under advisement.

David Corliss, City Manager, said the County received the City's request and the County indicated they might be able to talk substantively next week, but staff was proceeding with the design and staff would see if the County was going to be able to financial participate.

Mayor Chestnut said in phasing this project, from the Kasold curve up to the entrance of the proposed corner development that was where the road improvements were going to end until the rest would come into fruition. He said when that church was built, how far would the road improvements go.

Chuck Soules, Public Works Director, said just to their entrance.

Corliss said there was an annexation agreement that the prospective property owners and City staff had been reviewing. He said there was recognition that there was community responsibility for that road. It was a challenging road to finance because of the floodplain/floodway area where development was not allowed. There was a reason why this was an in-fill project development. He said he thought they reached a good compromise on who paid for what. At some point, the City and County needed to talk about that road and how it was appropriately reconstructed to K-10 (South Lawrence Trafficway) which might be years away. He said there might be a concern about making that Kasold on the curve a safer location for turning movements and it might encourage more traffic on that road. He said that might be the case, but it also made it safer. He said staff would see how that played out in discussion with the County. When moving south from that area, it was difficult to say the adjoining property

owners were going to have the financial ability to recover from investment or sales on their property because development was not allowed.

Moved by Amyx, seconded by Dever, to approve the annexation (A-8-3-09) request of approximately 34.38 acres and adjacent right-of-way for Wesleyan Church Development. Motion carried unanimously. (14)

Moved by Amyx, seconded by Cromwell, to approve rezoning (Z-8-14-09) request of approximately 30.14 acres from A (Agricultural) to RM12 (Multi-Dwelling Residential) for Wesleyan Church Development. Motion carried unanimously. (15)

Moved by Amyx, seconded by Dever, to approve rezoning (Z-8-15-09) request of approximately 4.24 acres from A (Agricultural) and V-C (Valley Channel) to OS (Open Space) for Wesleyan Church Development. Motion carried unanimously. (16)

Moved by Johnson, seconded by Cromwell to approve rezoning (Z-8-16-09) request of approximately 10.24 acres from RM12 (Multi-Dwelling Residential) and OS (Open Space) to the Floodplain Overlay District for Wesleyan Church Development. Motion carried unanimously. (17)

PUBLIC COMMENT: None.

FUTURE AGENDA ITEMS:

- | | | |
|----------|---|--|
| 11/17/09 | · | ICS Training. DGCO Emergency Management Memo |
| 12/08/09 | · | Resolution establishing the Lawrence-Douglas County Joint 2010 Census Complete Count Committee |
| TBD | · | Receive request from Mark Andersen, on behalf of Inverness Park, LP, property owner of record, to reconsider the denial of the rezoning request (Z-7-11-09) to rezone approximately 10.97 acres, located on the SE corner of Inverness and Clinton Parkway, 4300 W. 24 th Street, from RSO (Single-Dwelling Residential Office) to RM15 (Multi-Dwelling Residential). This item was originally heard by the City Commission on 10/06/09. Staff Memo & Attachments |
| | · | Receive staff report regarding the Pavement Maintenance Program Update (Cycle Two Status Report) and 2010 Street Maintenance Program. |
| | · | 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.
- Follow-up to 10/27/09 Commission discussion of Downtown issues, including regulations for panhandling, downtown planning and redevelopment, marketing and incentives for retail establishments and related issues.
- 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. Staff Report Staff Memo Site Plan Site Plan Elevations

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: None.

Moved by Amyx, seconded by Cromwell, to adjourn at 9:36 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF NOVEMBER 10, 2009

1. Bid Waived - Print Svcs- the Parks & Rec 2010 Winter/Spring Activities Guide - LJW for \$17,000.
2. Prelim Plat - PP-6-3-09, for Park Place Add, 510-544 Fireside Dr.
3. Ordinance No. 8475 - 1st Read, Rezone (Z-8-13-09) .189 acres, 504 Locust from IG to CS.
4. Ordinance No. 8476 – 1st Read, Rezone (Z-8-13-09) .063 acres, 500-500 ½ Locust from IG to CS.
5. Donation - Tract D, Blk 2, Hanscom-Tappan Add, Burroughs Creek Trail Linear Park from Parnell Investors, LLC
6. RFP (R09020) - Engineering Svcs, Concrete Watermain Assess (UT0909DS).
7. RFP (R09021) - Engineering Design Svcs, N Final Electrical and KAW Well Field Electrical Improvements (UT0915KW)
8. 2010 CDBG – Department Applications.
9. Appoint- Dennis “Boog” Highberger, PIRC expires 01/31/13.
10. City Manager’s Report
11. Acquisition - W Lawrence Lab Bldg, 4950 Research Parkway.
12. Bid Date - Dec 15, 2009, NY St, 9th to 12th Brick Street Reconstruction.
13. Bid Date – Dec 15, 2009 Clinton Parkway Shared-Use Paths.
14. Annex – (A-8-3-09) 34.38 acres, ROW - Wesleyan Church Dev.
15. Rezone - (Z-8-14-09) 30.14 acres, A to RM12, for Wesleyan Church Development.
16. Rezone - (Z-8-15-09) 4.24 acres, A & V-C to OS for Wesleyan Church Development.
17. Rezone - (Z-8-16-09) 10.24 acres, RM12 & OS to the Floodplain Overlay District for Wesleyan Church Development.