



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

January 26, 2010

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Chestnut presiding and members Amyx, Cromwell, Dever, and Johnson present.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Chestnut proclaimed the month of February as “Career and Technical Education Month.”

Hubbard Collinsworth, Lawrence, removed for separate discussion, amendment of the contract with Bert Nash Community Mental Health Center.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve minutes from the City Commission meetings of December 15, 2009 and December 29, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to receive minutes from the Sustainability Advisory Board meeting of 12/09/09; The Bicycle Advisory Committee meeting of 11/17/09 and The Lawrence Cultural Arts Commission meeting of 12/09/09. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve claims to 149 vendors in the amount of \$4,276,466.52. Motion carried unanimously.

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve the Drinking Establishment License for Henry’s on Henry Street, 11 East 8th St. Motion carried unanimously.



As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to concur with the Mayor's recommendation and reappoint Gary Calton to the Bicycle Advisory Committee to a term that would expire 12/31/12. Motion carried unanimously.

The City Commission reviewed bids for the HVAC Maintenance contract at the Community Health Department Building, 200 Maine Street, for the Public Works Department. The bids were:

VENDOR	Total	2nd Year Increase	3rd Year Increase
Chaney, Inc.	\$18,000	3%	3%
P1 Group	18,000	4%	4%
Trane	19,568	3%	4%
Lippert Mechanical	20,566	3%	3%
McElroy's	30,921	3%	3%

As part of the consent agenda **it was moved by Johnson, seconded by Amyx**, to award the bid to Chaney, Inc., in the amount of \$18,000. Motion carried unanimously. (1)

As part of the consent agenda **it was moved by Johnson, seconded by Amyx**, to adopt on first reading, Ordinance No. 8487, authorizing the possession and consumption of alcoholic beverages at the Lawrence Public Library on Wednesday, February 17, 2010, from 5:00 p.m. to 7:00 p.m. as part of the Lawrence Chamber of Commerce Mixer. Motion carried unanimously. (2)

Ordinance No. 8484, for text amendment TA-11-23-09 to Article 12- Floodplain Regulations to review General and Additional Standards for Residential and Non-Residential Construction, was read a second time. As part of the consent agenda, **it was moved by** to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to adopt Resolution No. 6874, establishing the Lawrence-Douglas County Bicycle Advisory Committee and repealing Resolution No. 5763. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve and adopt on first reading, Ordinance No. 8407, a request for a Landmark Designation (L-2-1-08), placing the structure on the Lawrence Register of Historic Places for 1515 University Drive, known as the Fernand Strong House. Motion carried unanimously. (5)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve and adopt on first reading, Ordinance No. 8408, a request for Landmark Designation (L-12-3-08), placing the structure on the Lawrence Register of Historic Places for 1204 Oread Avenue, known as the Ecumenical Christian Ministries Building. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to approve and adopt on first reading, Ordinance No. 8409, a request for Landmark Designation (L-2-1-09), placing the structure on the Lawrence Register of Historic Places for 714 Mississippi Street, known as the John Robert Greenlees House. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to authorize distribution of request for proposals for a revised Airport Master Plan with the FAA funding 95% of project costs. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to authorize the Mayor to sign a three-party agreement with KDOT and BNSF Railway Company for the installation of warning lights and automatic gates at the 11th Street railroad crossing. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Johnson, seconded by Amyx**, to authorize the Mayor to sign the construction Administration Force Account Agreement for

(Project No. PW0913), New York Street, 9th Street to 12th Street, Brick Street Reconstruction, (KDOT Project No. 23 TE-0339-01). Motion carried unanimously. **(10)**

Hubbard Collinworth requested the removal of consent agenda item No. 16 for separate discussion. He said he would like additional information, for the public, on the amendment to the contract.

David Corliss, City Manager, said as part of the City Commission's 2010 budget process, \$164,000 was allocated to the general fund for a contract with Bert Nash Mental Health Center to provide outreach service to individuals who were homeless in the community based on a continuation of a contract and selection of Bert Nash as the vendor for the past few years.

In 2009, Bert Nash employed 4 outreach workers. He said Bert Nash indicated because of a number of financial challenges they were experiencing, particularly because of State funding. Bert Nash was not able to provide the support they had provided to this program in the past and were not going to employ 4 outreach workers, but instead, employ three workers. He said he felt it was enough of a change in the program that the City Commission needed to be aware and review. He said he did not have any funding that he could recommend replacing that money. He said the City was tenuous in their 2010 budget challenges as well and there were other agencies in a similar situation.

He said he understood the Community Commission on Homelessness was going to look at this issue in their February meeting. He said the City Commission received a letter from Salvation Army, Community Shelter and Eckan requesting 30 days to continue discussions.

Mayor Chestnut said the City Commission had not received a recommendation from staff to reduce that grant amount of \$164,000.

Corliss said no, staff was not making that recommendation.

Mayor Chestnut said the position of City staff was to maintain that level of funding.

Mayor Chestnut called for public comment.

Loring Henderson, Director, Lawrence Community Shelter, said he was speaking on behalf of Salvation Army, ECKAN and the Community Shelter. The letter he submitted was already referenced and the Commission had seen the letter. He said as the agencies that used the outreach workers, reducing from 4 to 3 was significant and it was appropriate to be more involved in those discussions to work this issue out. He said they were asking for 30 days to work with Bert Nash, City staff, and whoever else was involved to come back with suggestions.

Mayor Chestnut said Bert Nash was requesting the City maintain that level of funding and from the City's standpoint, he did not know if the City Commission had any other involvement.

Henderson said the language in the consent agenda stated: "authorize amendment on the contract to reflect 3 outreach workers."

Mayor Chestnut said the City Commission was only amending from a technical standpoint that this funding was going toward 3 and not 4, but it was not, in any way, impacting the level of funding that was going to Bert Nash.

Corliss said correct. He said the dollar amount was not being changed, but there would only be 3 outreach workers as opposed to 4 workers.

Mayor Chestnut said this item could be deferred.

Vice Mayor Amyx said the City did not have any other monies, other than \$164,000 that was already committed. He said it was going to take more money to fund the additional outreach worker and the City did not have that money. He said he was not sure what an additional 3 to 4 weeks would do in this process. He said he did not mind having people look at this issue, but there was no end that would come out positive.

Henderson said he was not asking for an increase in the money, but to have time to see if there was another way of using the money. He said the wording of the item on the agenda was brought to their attention and they elected to ask for more time because they were the agencies that had to deal with the reductions in staff.

Commissioner Cromwell said Lawrence had some great organizations and it was prudent to give them the opportunity and did not have a problem with deferring.

Commissioner Johnson said he concurred.

Commissioner Dever said if the wording was an issue, he would like guidance on that issue.

Mayor Chestnut said he had no problem if the agencies wanted to get together and discuss issues. He said the City was not changing their funding level, but to allow agencies to work together to see if they could rearrange resources to best allocate this money. Any modification to the agreement would incorporate their comment.

Moved by Amyx, seconded by Cromwell, to defer receiving a letter from Bert Nash Community Mental Health Center regarding program cuts and to authorize amendment on contract to reflect three homeless outreach workers for the last meeting in February. Motion carried unanimously. (11)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said per City Commission request, staff developed a table of Assessed Valuation, Mill Levy, and Local Sales Tax Comparison Information for the 2010 Budget Year.

He said while services provided by municipalities vary, it was possible to compare the City of Lawrence to the nine other largest cities, in this state, in a number of areas. In conclusion the City's assessed valuation, per capita, was higher than the median; the city mill levy for 2010 was 1.29 mills below the average; and, the City's sales tax rate was among the highest in the top ten largest cities in the state, although most area communities had sales taxes in the upper 7% to lower 8% range. (12)

REGULAR AGENDA

Receive report from Westar representative concerning planned tree trimming activity along Kentucky and 7th Streets.

Chad Luce, Westar Energy, presented the report. He said he wrote a letter that indicated they were tasked with providing people with safe and reliable electric service and tree trimming was a big part of that service. He said they met with City Officials prior to the work and agreed on the scope of the work.

Vice Mayor Amyx said every time Westar did its tree trimming, the City Commission received calls and emails from the public. He asked how many times those trees had knocked out service in east and west Lawrence.

Luce said he could not answer on that circuit, but he could find out that number, but he did not know if he could find that those 5 trees that were removed were the actual trees that caused service to go out. He said his letter had stated they had over 100,000 customer outages last year because of trees throughout their system which was Salina and east this direction. Lawrence, last year, there were 7,300 customer outages for 6 minutes or greater for $\frac{3}{4}$ of a million minutes caused by trees that were non-storm related.

Vice Mayor Amyx asked what type of program needed to be put in place with Westar, City of Lawrence, and the tree trimmers.

Luce said as far as their notification they place a door hanger on the door for tree removal. He said they made every effort to contact the folks, not just a knock on the door, but if they had a viable good phone number for that residence. Any tree that was on the right-of-way, they get with Parks and Recreation Staff to discuss that specific tree. The bigger point was to planning into the future and going forward with the right tree in the right place. It had helped as the City grew west and other directions with underground ordinance for feeder lines into homes. That was part of the issue with Watson Park and was the main distribution line and the cost of burying a distribution line was very high. He said they estimated from Watson Park, west down 7th Street, would be in high six figures. He said it was going to be painful in a lot of instances until they could catch up with the problem and get everyone in the mindset when a tree was

planted, especially in the City's right-of-way because those were generally the trees that had to be removed.

Vice Mayor Amyx said there were times notifications were not getting to the correct persons.

Luce said Westar was certainly open to suggestions. Each door hanger had a phone number on the hanger and in the case of tree removal, they made another attempt with a call back and if the tree was in the right-of-way, Westar contacted the City before the tree was cut.

Mayor Chestnut said they realized the work that had been done, after the fact. He said Westar had been meeting with Parks and Recreation staff with the first meeting in December. He said a lot of times it was not the written process, but neighborhood associations and City staff on a number of land use issues decided to go beyond and know the people to connect to and try to get a group of people together to discuss the issues. If there was a way to get those groups together for a presentation by Westar, people respond. Staff might need to help Westar connecting with the right people as far as neighborhood association presidents and other organizations.

Luce said they had a new facility on the east side that Westar would be happy to host those types of events.

Luce said the City Manager asked Westar to cease the trimming. He said they were not cutting any more trees down in Watson Park, but had 3 more prunings to do in Watson Park. He said in going west on 7th Street there were three more trees that were scheduled to be removed that had not been done yet along with trimming. He asked if Westar should continue or discuss this further.

Mayor Chestnut said they would take public and City Commission comment, and receive a status update from staff on where this project was headed.

Mayor Chestnut called for public comment.

Corliss said he appreciated Westar halting their work. He said staff met with Westar and residents from the Old West Lawrence area, but it was not a formal meeting and there was no additional notice regarding that meeting. He said staff knew what would happen in the park, but asked Luce if they could renew the notice to the property owners along 7th Street and confirm the property owners where the trees were going to be removed, had been contracted.

He said Westar had a level of service they were expecting regarding trees and their desire to provide electric service, but the City had a different level where the City presumed the trees should stay. He said he suggested staff work with Luce to formalize something a little better on the notice process and do it in a way that would not require Westar to have a rate adjustment, but take additional steps to notify property owners and neighborhood associations, place this type of issue on an agenda for the City Commission to review and generate discussions.

He said other communities had struggled with this issue and the City of Wichita had an ordinance that was preempted by State Legislation regarding what electric utilities could do with tree trimming. There was a basically a different level of expectations on what could happen with trees with power lines and those that want to keep the trees.

Commissioner Cromwell said he appreciated the efforts for additional notification. He said he suggested clarification from Parks and Recreation when planting trees under power lines, to think about the height of those and to plant appropriate trees.

Mark Hecker, Superintendent of Parks & Maintenance, said when staff needed to clear power lines, the type of tree was taken into consideration if another tree was needed. He said the tree trimmers were doing a good job in communicating when trees were needed to be cut.

He said staff planted 600 to 800 trees annually per year and the removed of 200 to 300 trees annually. He said the trees in Watson Park that were removed would have been removed by staff anyway in the future.

Commissioner Cromwell said his question was about the replanting and whether the trees were appropriate.

Hecker said if a tree was planted under a power line the tree was planted at the proper height and species.

Commissioner Cromwell said there were a lot of cases in his neighborhood where people were planting their own trees between the sidewalk and street, underneath the power lines which were usually silver maples.

Hecker said a lot of times the trees were not planted on the right-of-way or easement and as those trees grew into the power lines.

Mayor Chestnut said the direction was for additional notification of property owners on 7th Street and cleanup of trees in Watson Park.

Corliss said the trees in Watson Park had been removed. He said the additional direction was to work with Westar to come up with a more formal notification process.

Mayor Chestnut said the City should help facilitate the notification process because they faced those issues. Secondly, he would be interested in anyone else's comments about other communities that had discussed different ordinance or how they would manage this item for their Parks and Recreation Department. (13)

Consider approving a temporary use of right-of-way permit for various city streets and sidewalks from 6:00a.m. to 3:00 p.m. on Sunday, April 18, 2010, for the Kansas Marathon, and donation of city services in support of the event.

Jonathan Douglass, Assistant to the City Manager/City Clerk, said the City received a request for approval and support of the Kansas Marathon which would be ran on Sunday, April 18, 2010, beginning at 7:30 am. The event would feature a full and half marathon, 5k, and kids races and race proceeds would benefit Health Care Access Clinic. The race routes were depicted on the maps included the agenda packets.

Postcards were mailed, to selected properties along the first half of the route notifying about this meeting and the upcoming race and beyond that point, runners were spaced out enough that it was not necessary to notify the properties on the remainder of that route. He said personal letters were mailed to the store director at Hy-Vee because the route went behind Hy-Vee on 23rd Street and also to the leaders of the Clinton Parkway Assembly of God and the St. Lawrence Catholic Center, two institutions that would be active that morning. To date, he had received comments from two people regarding the event.

Last year, the cost to the City was approximately \$9,500 and the cost was approximately the same this year, but might be slightly more because a full marathon was added but it was along recreational paths and did not greatly increase costs for traffic control.

Organizers were requesting approval of the temporary use of right-of-way permit for use of the streets and sidewalks.

Mayor Chestnut called for public comment.

Mayor Amyx said other than the route changing the notification process had gone out and was the same program that was very successful in the past.

Commissioner Cromwell said he received a lot of questions regarding this particular issue, coming on the heels of Bert Nash issue and asked if this event was budgeted.

David Corliss, City Manager, said this event was not budgeted, but the last couple of years, information was gathered and money was taken from the guest tax fund to reimburse the City for those expenses. He said the City felt comfortable in making this level of commitment. He said the City would also receive a request for a cycling event in the summer which involved public safety staffing.

Commissioner Cromwell said those events were fantastic opportunities, but asked if staff was analyzing the participation in those events and seeing if the City was receiving their value back with people coming from out of town.

Commissioner Cromwell said he responded to the inquiries about this event that this was an opportunity for additional revenue to come back into the City and not just a pure donation from the City toward a group and it would be helpful to have some type of data for the public.

Corliss said he thought information was being tracked, but could not say if this specific event had an economic analysis performed. He said the Convention and Visitors Bureau or others had analyzed this event and thought there was a good return. Corliss said he could ask for additional information for the City Commission.

Bob Sanner, Lawrence Convention and Visitors Bureau, said with major events, the CVB tracks through registration and categorized the participants as either day trippers or overnight participants. He said he was not prepared to comment about any event at this time, but he could report to the City Commission later this week or next. He said this type of event had a positive impact on the City of Lawrence.

Vice Mayor Amyx said last year a report was received by the City Commission regarding this event which showed whether the participant was local or out of town. He said it was amazing the number of people from out of town, but he did not know if those participants stayed over night in Lawrence.

Ryan Robertson, organizer of the event, last year there were 1400 athletes that raced, approximately 60% of those athletes were from outside the City of Lawrence. He said they were looking at 1500 to 1600 athletes this year and adding the full marathon would pull in a greater demographic from further away and were looking at 60 to 70% outside the City of Lawrence and 25% outside the state.

Mayor Chestnut said the Economics Development Coordinator was good at figuring out those types of analysis and might want to take those assumptions and look at the sales and guess tax generated for this event. He asked the City Manager to direct the Economic Development Coordinator to look at this event.

Moved by Johnson, seconded by Cromwell, to approve a temporary use of right-of-way permit for various city streets and sidewalks from 6:00 a.m. to 3:00 p.m. on Sunday, April 18, 2010 for the Kansas Marathon, and donation of city services in support of the event. Motion carried unanimously. (14)

Conduct public hearing to consider the vacation of two easements (pedestrian, access and utility easement) located in Briarwood Addition as requested by Pamela Mayfield, Mike Polk and Nancy L. Borer, and Steven J. Freeman and Stephanie S. Freeman.

Mayor Chestnut called a public hearing to consider the vacation of two easements (pedestrian, access and utility easement) located in Briarwood Addition.

Chuck Soules, Director of Public Works, presented the staff report. He said the applicants were requesting a pedestrian, access and utility easement for full public access because of safety and security reasons.

In the Briarwood Addition, the streets and rights-of-way were dedicated to the City, but the alleyways were all access easements. A traffic analysis was performed and with or without the access easement, there were no significant changes to the Briarwood and Folks Road intersection. The utilization of that intersection was 30 to 35%.

All residents in Briarwood Addition were notified as well as Utilities and the Fire Department. Several residents had a concern about a secondary emergency access; however, that access would be available through the dedication of a new easement.

Mayor Chestnut called a public comment.

Vice Mayor Amyx asked about the maintenance of the easement and who was responsible.

Soules said it was up to the development.

David Corliss, City Manager, said the City did not maintain the access easement.

Vice Mayor Amyx said he thought Soules said the responsibility rested not with the three property owners, not the adjoining property owners, but the entire subdivision.

Soules said from the plat, it was platted as an access easement as well as the alleys. It was not the City's responsibility to maintain.

Vice Mayor Amyx asked if those were private properties.

Soules said those were private properties that the City had easements on.

Brad Finkeldei, speaking on behalf of the applicants, said two of those properties were owned by two of three people he was speaking on behalf, were not in the homeowners association. He said when this subdivision was originally created this area was a maintenance shop and was basically gravel.

In 1996, it was designated as an access easement and in the staff report, the development plan proposed one primary access located at Folks Road and Briarwood Drive and a secondary access, via easement, located to the north where Catalina Drive would extend to Folks Road. The secondary access way was being designed to discourage daily use by local vehicles. By not building a structure on the empty lot while the vast majority of the lots were developed, the neighborhood contested the effectiveness of one primary road and used the secondary maintenance as an access way. If found that the secondary access was being over utilized, the development could be redesigned so that Catalina was extended to Folks Road. If a structure was built on this lot from the onset of the development, this option would be eliminated. He said that information came from the staff report in 1996.

There was a replat of this neighborhood and two additional houses were built and the maintenance lot, the lot that was empty, was now built on. He said Mayfield's entire property was outside the homeowners association as well as Polk's and Borer's property, but Freeman's was inside the homeowners association. The issue was that Mayfield's house, built two years ago, with the City issuing a building permit, and an access easement was few feet built from the house. He said now there was serious daily use of that access easement. He said this access should not be a public through street and were asking that access be restricted by vacating the current easement and replaced it with a new easement and immediately thereafter that would

allow pedestrians, emergency vehicles, and utilities, the only thing limited would be the daily public access to increase the safety and quality of life for those particular residents.

He said he knew there was an issue with the homeowners association about the perceived maintenance of that access. He said it was true the City did not maintain that access, but it was their position, that it was not an alley that was maintained by the homeowners association. He said the homeowners association and his clients did not have any obligation to maintain the access. He said the City had never maintained that road and if it was a through public access, was driven through daily, not built to street standards, designed not to take everyday traffic and his client, Mayfield, was responsible for the maintenance at that location, that access would be a safety issue for the City as time went by.

Vice Mayor Amyx said regarding the 1996 staff report, he asked if that was in reference to platting the two new properties.

Finkeldei said that was plat of the entire Briarwood neighborhood.

Vice Mayor Amyx said one of the recommendations from the staff report was if those two properties were to develop, everything else became null and void.

Finkeldei said the report indicated Catalina could not be extended later because there was not enough right-of-way at that location and it would be null and void if allowing someone to build on it.

Jonathan Becker, Secretary of Briarwood Homeowners Association, said they opposed the vacation of easement. He said they received January 15th notice of vacation of easement for removing the public, pedestrian, vehicular, and utility easement to this property. This intersection where Overland Drive and Briarwood needed a traffic study because this intersection of Overland, Folks Road, and Briarwood, between 8:00 am and 3:00 pm, the "Free State, Dale Ernhart Jr. Fan Club", practiced left turns getting in and out of school with 5 to 6 hundred cars going through that intersection.

The public safety departments in 1996 were correct in establishing a need for 2 access points to Briarwood because a car collision could cause access off of Briarwood and a second medical emergency providing them with no way to get in and out of Briarwood, while that was uncommon it was not unique. Over the last 8 years there were 2 incidences where a collision at the corner of Briarwood and Folks had shut down the main arterial access into that area, but because of vehicular access, the Medical emergency people were not have been able to assist that required immediate reaction. The idea of removing emergency vehicular access was very bothersome to everyone in Briarwood and to the 36 apartments.

Mayor Chestnut the recommendation was along with the removal of this particular easement, to reestablish easement for pedestrian and emergency access.

Becker said that was not what the notice read.

Mayor Chestnut said he understood.

Becker said the notice their neighborhood was given was that the access would be completely cut-off and it was only subsequently they found out that this was an emergency access. The pedestrian access through this alleyway was important because the school bus company had realized that this intersection was not the point where any parent would want to pick up their kids or dropping the kids off at 8:00 am or 3:00 pm.

He said they knew there were utilities through that easement for cable and sewer and needed to be maintained. He said their position was that the Order of Vacation was not strong enough because while vacation stated "was hereby vacated conditioned upon the rededication of a new easement allowing utility pedestrian, emergency access, they thought it did not go far enough and needed to be amended to include after the word "rededication" the phrase "and recorded with the Register of Deeds of Douglas County, Kansas" so that it was clear that easement remained in effect. He said it would be easy for the applicants and the City Commission to enter into a new easement, and for that easement not to be recorded. He said he did not want to explain 4 or 40 years from now why it was not.

David Corliss, City Manager, said Finkeldei would not record the easement, but the City of Lawrence would record the easement.

Becker said to address Vice Mayor Amyx's concern, the Briarwood covenant was not a model of clarity.

Corliss said when this development came in, it was an attempt to have traditional neighborhood development in Lawrence and just about every development rule was altered that was in the zoning code.

Becker said in the covenant, it provided they were responsible for the private allies and common area maintenance. He said if the applicants wanted this to be an emergency access, with pedestrian and utility access too, and wanted to be responsible for the maintenance, that was fine, but wanted something in writing and had not seen what Finkeldei had proposed; therefore, he was asking the City Commission to defer this matter and allow their association to get the written agreement in place between the private parties and that get that recorded before the easement was recorded.

Mayor Chestnut said the document from Finkeldei was to waive the responsibility of the maintenance for the neighborhood association and the association wanted the vacation recorded.

Corliss said the City would record the necessary instruments anyway, but if it helped to move the process along, staff could add that language as a condition and also make it conditioned upon successful execution of an agreement between the property owners and the homeowners association regarding the maintenance of that access easement and could be recorded.

Michael Clover, resident of Briarwood, said the neighborhood felt they wanted their voices heard and because there was no proper 30 day notice posted and received a letter in the mail 14 days before the hearing, the neighbors wished the vacation would be postponed and their voices could be heard.

Mayor Chestnut said the code had comments concerning notification.

Soules said a notice for Vacation of Easement and Rights-of-Way needed to be published 20 days before the hearing. He said typically staff sent out letters two weeks in advance, but it was not a requirement.

Corliss said State law only required a notice to be published in the newspaper, but the City also sent out letters, usually to the adjacent property owners. In this case, staff sent letters to everyone in the Briarwood neighborhood.

Ken Ferris, Briarwood neighborhood, said he had a lot of compassion for the property owners impacted by the traffic. He said he had not been in that area since asked not to go in that area. He said he had concern for the additional development off of 6th Street, turning on to Folks Road, and the potential problems created by traffic. He said the emergency access was needed at that location.

Bobbi Strayer, President of Briarwood Homeowners Association, said they had a problem with traffic and safety.

She said if putting up a gate, she asked if that would impact the value of their homes in that area. She said changing the easement, changed the entire aspect of that neighborhood.

Mayor Chestnut said if there was an easement with emergency and pedestrian access, the City's Fire/Medical Chief tended to be very particular about what happened and the emergency access would not be hindered by a gate.

He said if a gate was installed, he asked what the process was.

Corliss said the Fire/Medical Department needed to be contacted and the City had specifications for gates where the system could quickly open the gate. He said staff periodically tested those gates too.

Mayor Chestnut asked about the public process.

Corliss said there was no public process. If it was a private easement, the City would work with the property owners to get something in place and could in this situation.

Mayor Chestnut asked if a gate could hinder pedestrian access.

Corliss said the gate could be constructed where it could keep vehicles out, but pedestrians could walk through that path. If there was a pedestrian easement, staff would not recommend or allow anything that would stop pedestrian traffic.

A resident of the neighborhood said one of the residents in that neighborhood was coming down Catalina at a very high speed and it looked as though that vehicle was coming straight toward Mayfield's house.

Finkeldei said it was not the intent or hope of the applicants to put a gate up. It was a possibility, but the plan was to put private drive signs up. He said there had been other discussion with City staff and the Fire/Medical Department. He said if a gate was erected, his clients would be paying for the gate, but it was not his client's intent.

Nancy Borne, applicant, said directly across the street from her driveway, across Folks Road was Freedom Creek Drive and there was no stop sign, but a yield sign. She said getting out of their driveway was a recipe for disaster.

Clover said the applicants posted private drive signs and no trespassing signs years ago. Residence in the area felt harassed by Mayfield. He said even putting up a gate that coordinated with fire regulations might not keep in status with all the other covenants in Briarwood.

Vice Mayor Amyx suggested continuing the public hearing, giving members of the Briarwood Homeowners Association the opportunity to visit with the applicant's attorney about the new easement, which would be recorded with the Register of the Deeds, and place this item on the consent agenda.

Mayor Chestnut agreed, but there were concerns because that section would not be maintained by the homeowners association and there were options those 3 property owners would have, but it would be helpful for the Development Services Director, to go through the

process and the City's requirements, regardless of the homeowners association. He said he thought there would be some rules established.

Scott McCullough, Development Services Director, said the City Manager covered the fact that this item was a little bit of a grey area in terms of process, its development on an access easement that through recording the easement, gave the City the authority to have some control over what went in that easement. The easement had to remain clear and free for emergency access.

In discussions with Chief Barr of the Fire Department, there were options and those options would occur mainly in talking with the applicants if the residents of the neighborhood did not abide by the easement.

The lowest cost option was to post "Private" or "No Vehicular Access" and have the easement as the authority to prosecute if appropriate on moving through the easement with a vehicle. It stepped through a series of options to put up physical barriers on the easement which might be crash away bollards which the Fire Department would be involved with in design and review, all the way to a opticom gate which was probably out of the price range for 3 people, but were seen on large apartment complexes where there was site planning, design and landscaping, and architectural detail. If it reached that level, the City would give it a much higher level of review than if talking about a sign or bollards.

He said the subdivision had very unique design guidelines and left it up to the association to whether or not they would have architectural review for things like fences and gates, structures in their neighborhood and whether this came under the scope of covenants and restrictions.

If getting to the point of physical barriers on the access easement, at the very least staff would be involved with the Fire Department in understanding what would go up to maintain pedestrian clearance and work with the fire apparatus.

Commissioner Cromwell said it was clear everyone agreed there was a problem. He said it seemed like with a couple of hours of face to face discussion, all of this issue could be worked out.

Corliss said he suggested continuing the hearing for two weeks with direction to applicants and concerned parties to see if they could work out their issues. Staff could modify the vacation order to make it clear recording was a condition along with a recording of the document regarding the emergency access easement and other easement that were required. He said there needed to also be an agreement that did not involve the City regarding the maintenance responsibilities. He said the City Commission could condition that if there was going to be a physical gate structure, that it not be placed in the access easement unless it was approved by the City Commission and staff could make sure there was sufficient notice to the association.

Commissioner Dever said it was clear that there was an issue that needed to be settled by discussions between the homeowners and the applicant.

Commissioner Johnson said he agreed with the direction and was okay with placing conditions and moving forward.

Mayor Chestnut said it would be helpful for the steps McCullough articulated with emergency staff being involved. He said he thought it might be the kids to the west of Briarwood that might be the most difficult challenge. He said if there were some significant issues, place law enforcement in strategic locations during the day to regulate the kids' activities.

Moved by Amyx, seconded by Cromwell, to continue the public hearing for two weeks with direction to applicants to report back on results between the discussions between the applicants and the neighborhood. Motion carried unanimously. (15)

Consider authorizing the Mayor to execute the lease agreement, with no option to purchase provisions, with the Lawrence-Douglas County Bioscience Authority for the West Lawrence Labs building, 4950 Research Parkway.

Diane Stoddard, Assistant City Manager said this item was previously discussed by the City Commission and as a result to the direction the Commission provided regarding removal of the option to purchase provisions that were included in the lease, they did take the lease back to the County Commission last week and the County Commission unanimously supported the current lease that excluded the option to purchase provision. Additionally, the LDCBA had also executed the version of the current lease. Staff recommended the City Commission authorize the Mayor to execute this lease.

Mayor Chestnut called for public comment.

After receiving no public comment, **it was moved by Amyx, seconded by Johnson**, to authorize the Mayor to execute the lease agreement, with no option to purchase provisions, with the Lawrence-Douglas County Bioscience Authority for the West Lawrence Labs building, 4950 Research Parkway. Motion carried unanimously.

Corliss said the City successfully closed on the bonds and acquisition and the City and County now owned that building and had a master tenant of the Bioscience Authority.

(16)

Consider awarding bid for the Carnegie renovation to AB Bradley for \$1,436,000 and authorize the City Manager to execute a contract for the project. Authorize the Mayor to execute a conservation easement for the façade

David Corliss, City Manager, said back this summer, the City Commission included in their Capital Budget, the renovation of the Carnegie Library at 9th and Vermont. Among the budget items, the Commission adopted a Charter Ordinance that increased the transient guest tax from 5% to 6% and the ordinance was adopted after adopting the 2010 Budget and that transient guest tax was now being collected at the 6% level. That funding provided partial funding for the renovation and in the past the Commission issued debt for the design and construction of the project. They also had a Save America Treasures Grant slightly less than

\$100,000 that was administered through the national park service to help with this project and had capital improvement reserve funds that would be part of this construction project.

One of the major items was an addition to the north of the Carnegie to provide a new entrance into the facility elevators and new restrooms that would take some of that City parking lot that existed between the Carnegie and the Vermont Street Station. During construction that entire parking lot would be used for construction staging and would reconstruct the parking lot as part of this project.

In November 2009, the City Commission authorized staff to proceed with the bidding of the project and David Dunfield with Treanor Architects was the project architect and Dunfield facilitated the bidding process on January 12th. He said this was the largest number of bidders he had ever seen on a public facility construction project. Clearly, there was interest in the project and also the grouping of the bids indicated they were seeing pretty much of the same project which was very valuable to confirm possible large change orders for this project.

He said there were 12 bidders and the low bidder was A.B. Bradley from Shawnee, Kansas. Significantly, this company was composed of staff people that had done a lot of projects in Lawrence and had performed historic preservation work which was one of the qualifications for staff to determine a responsible low bidder.

He said Lynn Zollner, Historic Resource Administrator/City Planner, had confirmed with the National Park Service that the City had followed all of the appropriate procedures to date to stay in line with that grant from the Federal Government which included the use of those contractors. The low bid was within the project estimate.

He said staff was not recommending proceeding with the landscape irrigation because he wanted to get a handle on if the City wanted to proceed or if it was an expense the City wanted to incur.

He said regarding the parking lot disruption, he needed to work with those current users or area businesses to respond to that issue when proceeding with this project.

He said he thought this project responded to a number of the City Commission's goals and did it with financing that did not severely challenge the City. The City raised the guest tax and had resources put together from a number of different sources to allow the City to proceed and saw a very competitive construction climate which was also favorable for the project.

He said this community had talked about trying to step forward as far as heritage tourism and making Lawrence a destination and people that had devoted a considerable part of their time in recent years.

The City wanted a new home for the Convention and Visitors Bureau and was currently in City leased space at 947 New Hampshire and would like to try and move out of that space. Parks and Recreation Staff was also at that location and would like to see that savings.

The City had few opportunities to enhance the attractiveness of downtown and paying appropriate attention to this over 100 year old building was a positive step and in looking at City Commission goals, it discussed celebrating the community and this project was another example to do that.

The Contractor was estimating that substantial completion could be accomplish approximately 180 days after issuance of a building permit and if proceeding this evening that would happen in about 30 days and would see completion about late summer or early fall.

Staff had received a lot of positive comments regarding this project and the City Commission had a chance to see the design. Essentially, the lower level of the Carnegie was going to be the office area for the Convention and Visitors Bureau and they had a contract to serve as the Executive Director of Freedoms Frontier National Heritage Area. The upper level would then be used by Parks and Recreation and the Convention and Visitors Bureau would have an exhibit area, but also have classes for Parks and Recreation. He said the classes would be more oriented along the lines of knitting as opposed to kick ball and would not have a lot physical activity. He said he saw a lot of use for receptions and reunions very similar to their

successful rehabilitation of the Union Pacific Depot and the City had a partnership with the CVB as well.

Vice Mayor Amyx said he continued to support this project, but the only question regarding the Capital Improvement Reserve Funds and the \$350,000 was that everything was a challenge for dollars. He asked what the City would not be doing by not having those reserve funds somewhere else.

Corliss said right now those reserve funds were not earning a lot of interest for the City, unfortunately and had an unencumbered balance over 2 million dollars and it could be absorbed. It was a parking lot that needed attention and stormwater work which was a good source. He said there was nothing the City was deferring in order to use those resources.

Commissioner Dever said in the projected budget, \$50,000 was itemized per year for the next ten years for a total of \$500,000. He asked how the City would cover those expenses.

Corliss said the City would borrow internally from the City, from the sales tax reserve fund, but not the sales tax reserve fund created with the new sales tax, but the sales tax that funded the Parks and Recreation maintenance activities and their debt service. It was an unencumbered balance of 1.5 million and it could work easily.

Vice Mayor Amyx said if the City borrowed from the Sales Tax Reserve Fund for another project.

Corliss said the City had a balance and was actually allocated the City also had about 1.5 million that was not allocated at all. The City had a million dollars set aside for major maintenance project in Parks and Recreation. It was a very good idea brought forward by the former City Manager, Mike Wildgen which while the City was building up their parks programs in the 1990's, the City needed money set aside to maintain those park programs. The City was very fortunate last year because of a major challenge with the roof at the Indoor Aquatic Center, but was able to get the contractor to give the City a new roof. He said the money the City

borrowed from the Sales Tax Reserve Fund for this \$500,000 would be fed back with the Guest Tax Fund.

Mayor Chestnut called for public comment.

Hank Booth, Lawrence Chamber of Commerce, said the Chamber supported this project. He said with the action of the City Commission and the LCVB, 100 years from now, people would be thankful the building was preserved.

Judy Billings, Lawrence Convention and Visitors Bureau, said Judge Tacha would very enthusiastically say "thank you." She said this dream of creating a National Heritage Area was coming true and Judge Tacha was the biggest cheerleader. She said she was excited to have Lawrence the focal point and hub for the National Heritage Area.

Corliss said part of the National Parks Service Grant was a requirement for the City to execute a conservation easement for the façade.

Commissioner Cromwell said this was a great project and could not be happier because he was a big proponent of historical tourism in this area and was a wonderful step toward Lawrence, as a focal point.

Commissioner Johnson said it was a great project and the timing was right. He said he was glad he could be a part of this event.

Commissioner Dever said the building was starting to suffer from being vacant and it was time for that building to be rejuvenated. He said the City found the funds and allocated the resources.

Vice Mayor Amyx said it was a big deal to be part of the renovation of this building. The City Manager had figured out a way that was affordable. He said former Mayor Dunfield's persistence and help with this building was tremendous and the work done by the City Manager, putting together the financing.

Mayor Chestnut said he was sensitive to budget issues, particularly in this type of time with as many challenges as all the governing bodies were having with finances. He said if this

investment paid off the way the first one did, the initial \$25,000 invested in 1902, if that money was spread over 100 years, it was a good return. He said as a governing body, they had tried to look to the future even though of difficult times. He said it was a great investment and one of the iconic buildings in the City that everyone would agree was a center of activity for a long time. He said he appreciated the work in finding the funding for this project and also appreciated Judge Tacha because the heritage area was a bid opportunity for this community and needed to couple that with the right facility to house this hub of the National Heritage Area. He said the City had a high use for this facility going forward and it was an economic development opportunity. He said when housing a National Heritage Area which was rare, a facility was needed to show as a historical structure that had some history. He said he was appreciative toward staff and everyone associated with this project.

Moved by Cromwell, seconded by Johnson, to award bid for the Carnegie renovation to AB Bradley for \$1,436,000 and to authorize the City Manager to execute a contract for the project; and authorize the Mayor to execute a conservation easement for the façade.

PUBLIC COMMENT: None

FUTURE AGENDA ITEMS:

- | | |
|----------|---|
| 02/02/10 | <ul style="list-style-type: none">● Receive Solid Waste performance audit report.● Consider approving Text Amendment TA-6-17-09 to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House." Adopt on first reading, Ordinance No. 8482, for text amendment TA-6-17-09 various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House." (PC Item 4; approved 6-2 on 12/16/09) |
| | <p><u>ACTION:</u> Approve Text Amendment (TA-6-17-09) to various sections of the City of Lawrence Land Development Code to review standards related to "Boarding House" and adopt on first reading, Ordinance No. 8482, if appropriate.</p> |
| 02/16/10 | <ul style="list-style-type: none">● Anticipated date to receive Planning Commission recommendation on Lawrence Community Shelter SUP extension at 944 Kentucky. |
| 04/06/10 | <ul style="list-style-type: none">● Anticipated date to receive Planning Commission recommendation on Lawrence Community Shelter SUP to relocate the shelter to 3701 Franklin |

Park Circle.

TBD

- Receive staff memo regarding possible annexation of Westar Energy Center and adjacent properties.
- Receive city auditor's comparison of accumulated infrastructure depreciation ratio for Lawrence and similar communities.
- Recycling report with comments from SAB

COMMISSION ITEMS:

Moved by Amyx, seconded by Johnson to adjourn at 8:45 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF JANUARY 26, 2010

1. Bid - HVAC Maintenance - Community Health Ctr. to Chaney, Inc. for \$18,000.
2. Ordinance 8487 – 1st Read – Temporary Alcohol at Lawrence Chamber of Commerce on Feb 17, 5 to 7 pm.
3. Ordinance 8484 – 2nd Read (TA-11-23-09) Standards for Residential & Non-Residential Construction.
4. Resolution 6874 – Lawrence Douglas County Bicycle Advisory Committee, repeal Res 5763.
5. Ordinance 8407 – 1st Read (L-2-1-08) Historic Register, 1515 University, Fernand Strong House.
6. Ordinance 8408 – 1st Read (L-12-3-08) Historic Register, 1204 Oread Ave, Ecumenical Christian Ministries Bldg.
7. Ordinance 8409 – 1st Read (L-2-1-09) Historic Register, 714 Mississippi, John Robert Greenlees House.
8. RFP – Airport Master Plan.
9. 3 Party Agreement – KDOT/BNSF/City, warning lights & automatic gate, 11th St.
10. Administration Force Account Agreement – New York, 9th to 12th, Brick Reconstruction.
11. Bert Nash – Program cuts to three homeless outreach workers.
12. City Manager's Report.
13. Westar Report – Tree trimming activity Kentucky & 7th.
14. Temp Use of ROW for KS Marathon and City support.
15. Vacation – 2 easements, Briarwood Add.
16. Lease Agreement – Lawrence-Douglas County Bioscience Authority – no option to purchase.
17. Carnegie renovation – AB Bradley for \$1,436,000.