



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

February 16, 2010

The Board of Commissioners of the City of Lawrence, Douglas County, and USD 497 School District, met in a study session at 5:00 p.m., in the City Commission Chambers in City Hall with Mayor Chestnut presiding and members Amyx, Cromwell, Dever, and Johnson present.

The City Commission recessed at 6:00 p.m.

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

CONSENT AGENDA

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to approve minutes from the City Commission meeting of January 26, 2009. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to receive minutes from the Aviation Advisory Board meeting of January 11, 2010; and, the Lawrence Cultural Arts Commission meetings of January 16 and February 4, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to approve claims to 208 vendors in the amount of \$3,040,676.42 and payroll from January 31, 2010 to February 13, 2010, in the amount of \$1,772,767.88. Motion carried unanimously.



As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to approve the Drinking Establishment License for Free State Brewing Co., 636 Massachusetts; Allstars, 913 North 2nd ; and, Willie's Bar, 2919 West 6th. Motion carried unanimously.

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to set a bid date of March 2, 2010 for (City Bid No. B1007 Project No. PW1005) 2010 Overlay Program, Phase 1. Motion carried unanimously. (1)

As part of the consent agenda **it was moved by Amyx, seconded by Cromwell**, to set a bid date of March 16, 2010 for the Comprehensive Rehabilitation Program at 1132 Rhode Island. Motion carried unanimously. (2)

As part of the consent agenda **it was moved by Amyx, seconded by Cromwell**, to set a bid date of March 16, 2010 for (Bid No. B1006 Project CS0707) Pump Station No. 25 and Force Main Upgrade. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to authorize the purchase of one farm tractor and loader for the Public Works Department from Heritage Tractor Co. at the State of Kansas Cooperative Contract price of \$56,354.40. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to adopt on first reading, Ordinance No. 8491, regulating the licensing and operation of pedicabs within the City of Lawrence. Motion carried unanimously. (5)

Ordinance No. 8488, for a Special Use Permit (SUP-12-11-09) to expand Research Services in portions of existing buildings located at 645-647 Massachusetts Street was read a second time. As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to approve and adopt on first reading, Ordinance No. 8489, for rezoning (Z-12-30-09) of approximately 8.71 acres from RS7 (Single-Dwelling Residential) to RMO (Multi-Dwelling Residential-Office), located at 3312 Calvin Drive. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to approve and adopt on first reading, Ordinance No. 8490, for rezoning (Z-11-20-09) of approximately 2.98 acres from U (Urban Reserve) to CO (Office Commercial), located at 525 Wakarusa Drive. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to initiate Text Amendments to the Land Development Code, Chapter 20, Article 8 – Code of the City of Lawrence, Kansas to revise requirements and standards related to the processing of Minor and Major Subdivisions. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to approve submittal of the Douglas County Community Foundation grant application to host a one-day Complete Streets workshop. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to authorize the Mayor to execute a proposed agreement with Rural Water District No. 2 for the treatment and transmission of water and the sale of water. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to authorize the Mayor to sign a Release of Mortgage for Debra Fattaahi, 2721 Harrison Place. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Amyx, seconded by Cromwell**, to receive proposal from the Advanced Alternative Energy Corporation and refer to the Sustainability Advisory Board for review and comment. (13)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said Planning and Development Services provided a summary of site plan data for 2009; 23rd Street Access Management Improvements status update for the area adjacent to Orscheln Farm Home Store; East 23rd Street Resurfacing Project update; a Weatherization Program update that targeted low and moderate income homeowners; and, an update on the Bowersock Dam Maintenance Project.

(13)

REGULAR AGENDA

Consider approving the Memorandum of Understanding with the University of Kansas to partner on a Joint Transit Maintenance Facility.

Bob Nugent, Public Transit Administrator, presented the staff report which said, "At the City Commission meeting on February 9, 2010, City staff and KU staff provided an update to the City Commission regarding a joint transit maintenance facility. With that update, staff provided a comprehensive history of collaborative efforts between the City and the University regarding transit activities, including the facility. Additionally, the City Commission was provided information concerning the University's process to issue an RFP for a transit maintenance facility, the analysis of the RFPs received, and the selected vendor and site.

The Transit Planning Team is recommending that the City Commission proceed with entering into a Memorandum of Understanding with the University of Kansas. The MOU envisions the City entering into a lease with the University of Kansas for a joint transit maintenance facility on the Timberedge site. Additionally, the MOU indicates that the City would provide \$2 million in ARRA funding toward the procurement of buses for the University. These buses would be used on coordinated public transit routes. The purchase of the buses for the University frees up funding for the University to front the necessary capital costs for the financing of the facility. The provisions of the MOU which address the proposed lease and the bus provisions are discussed in more detail below:

Facility Construction:

KU will construct a transit maintenance facility to be completed by approximately December 15, 2010. The facility will be built pursuant to the RFP issued by KU.

Lease Term:

The term of the City-KU lease will begin January 1, 2011 and extend for ten years. The lease may be extended up to an additional 15 years upon mutual agreement between the City and KU.

Lease Rates:

Base Rent: Base rent will be set at \$125,495 for the first five years. For years 6-10, the base will increase 4% per year. Should the lease be extended beyond year 10, the rate will adjust annually based upon the consumer price index.

Allocated Costs: The City and the University will share in certain allocated costs, such as utilities, grounds maintenance, snow removal, etc. based upon the average monthly mechanics hours and administrative hours spent on transit service delivery. Currently, that formula requires the City to pay 48.38% of the allocated costs.

Procurement of Buses for KU: Utilizing \$2 million in ARRA funds, the City will procure six (6) buses for the University's use for public transit, in line with federal regulations. This bus procurement will enable the University to free up funds otherwise designated for bus replacement to the maintenance facility construction. This arrangement also avoids any federal funds in the facility construction, which would not have been allowed by FTA regulations since the University performs charter service. If the buses are not procured for KU, the MOU includes an alternate base rent schedule that adds \$250,000 annually to the base rent to compensation for the reduced initial contribution toward the project and in recognition that KU is taking full risk with the project. It is also important to note that the City has plans to replace its fixed-route vehicles and paratransit fleet without relying upon the \$2 million in ARRA funding proposed to purchase KU buses. Also, KU plans to utilize the procured buses on some of the joint routes operated with the City.

The current facility is provided through the contractual arrangement with MV Transportation to operate the transit system. The current MV agreement commenced in 2009. This current arrangement requires the term of any facility lease to be concurrent with the transit system operational contract, which is currently a five year term. In anticipation of some possible change regarding the transit facility, the agreement with MV Transportation includes a provision that requires MV to reduce its expenses in the contract that relate to facilities, with those changes in expenses becoming effective upon and after the date of relocation to the facility, should the City decide to no longer have the facility provided by MV. Other provisions include formal notice to MV of any such change. Such notice cannot occur unless the City Commission authorizes the MOU with KU.

The City has received formal indication from MV quantifying the amount of reduced expenses should the City proceed with another facility alternative. In order to illustrate projected savings that the City would enjoy under a lease arrangement with the University, staff has prepared a spreadsheet that annually compares what the City would have been paying to MV Transportation, versus what the City is projected to pay under a lease with KU. This demonstrates an overall projected savings of \$806,588 over the ten year period.

It is important to note that the projections of costs to the University assume that the facility will be exempt from property tax due to its function of providing a governmental service. While City and KU staff are fairly confident the exemption will be granted based upon prior exemptions, the final disposition of the property tax exemption will not be known until the property tax exemption is authorized by the Kansas Court of Tax Appeals.

Should the City Commission authorize the MOU with KU, City staff would request authorization of the City Manager to sign a formal amendment to the contract with MV Transportation, reducing associated facility costs in the City's service contract. Additionally, the City would need to provide formal notice to MV regarding its intent about the facility. However, this formal notice could wait until such time the City considers the lease with KU.

The current costs that both the City and KU are paying MV for the Haskell Street facility envisioned improvements to that facility, which were not realized. In recognition of this, MV Transportation will be providing the City a credit of \$105,543 dating back to January 1, 2009. Additionally, it is likely that there will be a credit for 2010. This credit will be only modestly offset by moving expenses that MV will incur as a result of the move to a new facility, which the City and KU are required to pay.

The KU-City Transit Planning Team recommends that the City Commission authorize the MOU with KU. Should this MOU be authorized, staff will proceed on working with the University on a formal lease with the University, which will return to the City Commission for formal action. Additionally, City staff would work on arranging the procurement of the buses for the University. The University will continue to administer its contract with the vendor for the construction of the facility, to include the involvement and input of City staff, which is expected to be completed in December 2010.

Recommendation and Requested Action:

Authorize the Mayor to execute a Memorandum of Understanding with the University of Kansas indicating the City's commitment to a formal lease arrangement with KU on a joint transit maintenance facility, and authorize City staff to proceed with the purchase of buses for the University with unallocated ARRA funds, and authorize the City Manager to sign a formal amendment to the contract with MV Transportation, reducing associated facility costs in the City's service contract."

Mayor Chestnut said there was about \$5,000 of property taxes being paid currently on the recommended location, of which the City received approximately \$1,200 and the County approximately \$1,400, but would be foregone by the City by claiming exemption.

He said he would take exception to the comment that 31st and Haskell location stayed in place because it was assessed based on an income method and when that income went away, they would get reassessed and the property tax being paid on that location would probably go down precipitously in the next two or three years as they go through appeal, unless they had another tenant. He said in looking at the financial analysis and the \$42,000 in property tax now paid, the City would forego a portion of that amount too because that \$42,000 might only be \$10,000 in two or three years when they went back and made an appeal because they were not generating any income on that property.

Dave Corliss, City Manager, said it was a likelihood, that if they did not get a tenant or not sold and redeveloped after the City and KU vacated, it was likely that the owners would appeal to the County appraisers office saying that their assessed valuation had been based on the revenue stream that was generated by tenants who were no longer there and would therefore ask for adjustments accordingly. He said that it was also possible that the property could redevelop and the value could go up in the future.

Mayor Chestnut said the proposed MOU was about \$165,000 in year one for the City's cost for the facility lease, maintenance and utilities, which was predicated on the tax exemption. He asked what would be the increase if the tax exemption did not happen.

Diane Stoddard, Assistant City Manager, said that the MOU indicated that the University would make an attempt to apply for the exemption and she believed that the MOU indicated that if for some reason the tax exemption was not allowed then those taxes would be an allocated cost.

Mayor Chestnut said any idea on what that would be?

Stoddard said that it would probably be dependant on the total value of the structure and perhaps the reason why the exemption was not applied for until after construction was completed was to know that value. She said she did not have the figure.

Mayor Chestnut said that the agreement from the City's standpoint would be binding without the knowledge of that exemption and he said they could not be sure until they were sure. The City would have whatever portion of that property tax if it turned out that they did not grant that exemption.

Corliss said the City was going to work with KU and MV to do everything the City could to receive that exemption. MV would be a user of that facility but under no circumstance did MV own the facility under the MOU. The City and KU own all of the busses and the employees that worked at that location were essentially contracted employees of MV that the City had an arrangement with. The purpose for which the facility existed was to provide transit for the community which was a public purpose. In the first run, if the County did not exempt some of that, the City would make changes. One of the arguments would be that we would like to have the property tax exemption treated on an income basis, but the City did not make money in the transit business, but lose money in the transit business and always would. That might be something we would argue with the County Appraisers office. The value of the building was not valuable to anyone but to people in the transit business. The market value of that property was

not based on how much was being put into that property, because it could not be sold to someone else. It was a limited universe of people that wanted those types of uses. He said the value of the building would be considerably less than the money put into it for property tax purposes.

Diane Stoddard said in looking at the \$800,000 in projected savings over a ten year period, annualized at \$80,000 per year, the City had a comfort level that if for some reason the exemption did not occur, the City's share of the tax amount would be less than \$80,000 per year. The City would still be in a position of anticipating a savings over the current arrangement.

Commissioner Dever said the City was probably paying property taxes through user fees with MV anyway.

Mayor Chestnut said the argument could be made at 31st and Haskell because it was a specified use, and it was likely that redevelopment would take some time. The analysis made an assumption that property tax did not go away. In other words, they were not paying for it, but the assessed valuation would stay there. He said he thought it was very clear that the assessed valuation would not stay there so the City would lose some revenue as a result of vacating that property and now it was worth much less, so some portion of those taxes would go away.

Corliss said he agreed, but hoped a new property owner might not keep it as a bus facility but redevelop it for some other use that would add value. He said that was a possibility and that given the market and other things, in the long term, it would eventually be valuable.

Mayor Chestnut said he was testing the assumption of the analysis as it stood. He said there were some costs that were not accounted for.

He said the ARRA funds were designated for the 40 foot buses and could not go anywhere else. He said essentially there were three of the busses the City would buy using those funds. In the memo where it stated going from the three, 30 foot heavy duty and three, 25

foot medium duty buses and so on, and the City would have local matching funds and could not use the ARRA funds for those now anyway.

Nugent said correct.

Mayor Chestnut said the City did not have any other need for a 40 foot bus.

Nugent said recommendations coming back from the consultants, three 40 footers and currently had one coordinated route and that was eleven and that justified two to three forty footers that could be put in line with the KU big busses. He said other than that, the City would have a much smaller fleet it might even be smaller than the 30 footers he proposed earlier on.

Mayor Chestnut called for public comment.

After receiving no public comment Vice Mayor Amyx said on the first page of the staff report it stated City staff was informally involved in the screening and interviewing process of two of the respondents. He said there were five respondents and seven locations, and asked why the City was not involved in all of those interviewing processes.

Stoddard said the City was involved in the initial screening of the RFP's along with the Transit Administrator and KU. She said the City was invited to attend the interviews of two of the finalists.

Vice Mayor Amyx said when the RFP was distributed, it was specifically clear about a purchase arrangement.

Stoddard said the RFP had three different options which was a lease, a lease purchase or a straight purchase option. She said part of the RFP indicated the purchase option would be the preferred option, if it were financially feasible. The RFP left open the ability to compare those options to see what might be the best and most financially advantageous.

Vice Mayor Amyx said he wanted everyone to understand that was the preferred method and it was advertised as such in the RFP.

Stoddard said correct.

Mayor Chestnut said that there were seven respondents to the RFP. He said if there was ever a desire to try to go back and look at this RFP. If looking at trying to level the playing field and the lease option at twenty years, which everyone responded, there obviously were respondents that had much lower twenty year numbers than the chosen option. He asked had there ever been any discussion regarding going back to discuss with those who did not respond with the purchase option to possibly entertain that. He said he was looking at the numbers that came out of the lease options and all those numbers were based on some assumptions such as maintenance. He said to try to get to a purchase option, especially those respondents that were lower on the twenty year, he asked if staff tried to get those respondents to consider submitting a bi-proposal.

Danny Kaiser, KU Parking and Transit, said once that deadline had passed, procurement procedures would not allow late submissions.

Commissioner Dever asked if it could be highlighted why the University wanted to own the structure rather than leasing the structure. He said it had a net benefit or some impact on the cost, and of course, the taxable status of the property, if it were owned by a private company and leased for a period of time, it might still be taxable. He asked why it decided to ultimately purchase instead of lease a piece of property.

Kaiser said that after it was stated that purchase was the preferred method, if comparing the amount of dollars expended to acquire the property versus leasing the property, and paying all the extra tenant costs that go with the lease, it would cost more over the 15 or 20 years to lease and at the end of the lease period, they would walk away with nothing. He said it made it clear that once there was an economically feasible purchase proposal that that was the way to go. He said they did look at the lease proposals and presented all the comparisons as best they could.

Commissioner Dever said it was plain as day that the long term best benefit would be to own the property.

Kaiser said yes.

Vice Mayor Amyx said if this facility had to go through the entire planning process.

Scott McCullough, Planning and Development Services Director, said yes it did and there was some road extension on Timberedge Lane and staff had already begun setting up meetings to discuss those issues in the site planning.

Vice Mayor Amyx asked if the building permit costs were included too.

McCullough said yes.

Commissioner Dever asked if a traffic study be required.

McCullough said yes.

Commissioner Dever asked what happened in the event this partnership went through the process and there was some impact.

McCullough said staff would be looking for impact to the main road where Timberedge, the farmers turnpike road mainly and did not foresee any impacts.

Corliss said the State of Kansas had a statutory exemption from city building permits so that when the property was titled to the State, that property did not need to comply with the City's building permit procedures or pay for building permits. He said the City had a Cooperation Agreement with KU that spoke to land use issues. He said this property was outside of that realm and had to comply with the site plan and those types of reviews. He said he was not so sure KU would not point to that statutory exemption and indicate they did not need a building permit.

Vice Mayor Amyx said if inspections would be conducted by staff.

Corliss said absolutely. Staff wanted to be sure that it was built toward the requirements that were set out in the RFP.

Vice Mayor Amyx said in the spirit of cooperation there was an associated cost.

Mayor Chestnut asked if KU needed to comply with setbacks.

Corliss said KU had to meet setbacks and zoning requirements.

Vice Mayor Amyx said everything had to meet the standards.

Corliss said Advanco was building it and once they turned it over to the City, they would have to pull building permits. He said that once it was titled to the State, the building permit requirements did not need to be followed. He said property outside of the main campus had to follow the City land use requirement.

Vice Mayor Amyx said the University actually controlled the property when the turnkey happened.

Corliss said correct.

Mayor Chestnut said the cost to build was somewhere around \$4.5 million dollars. That would be about \$133,000 in real property tax dollars. If for some reason the property exemption was not granted, the bill needed to be split.

Corliss said given the way the building was being constructed, a tax exemption could not be applied for. Advanco, the successor and titles to the current property owners had the property under contract. He said Advanco was going to build it, own the property and then deed it to the University of Kansas once the construction had been accepted. It was at that time that it would be owned by the government and there could be a request for property tax exemption.

Vice Mayor Amyx said this process had gone on a long time and the City Commission had been involved in the evaluations of those sites. He said he appreciated the questions that were being asked and thought that it was important for everyone to understand that there was going to be loss of revenue from the current site.

Staff and the University worked out a Memorandum of Understanding and the safeguards were present for the City to enter into the agreement. At the same time, this was something the Commission tried to make happen since the sales tax election for the transit system a year and a half ago.

Commissioner Cromwell said the City of Lawrence was too small to support two bus systems and he fully supported the integration with KU and thought the MOU went further in unifying the two bus systems into one.

Commissioner Dever said he agreed and appreciated the Mayor shining the light on the net impact on the City's tax roles. He said he thought something bigger and better would be built at the current bus location. He said he thought this was a great step in the right direction, and worked hard to legitimize the City's transit system and had done a lot to legitimize the relationship between the University and the City and wanted to continue to strive to build a partnership; we both co-exists in the same streets and he thought it was important to coordinate the routes, this was a coordination of more than just busses, it was a coordination of people and place and maintenance and he thought it would create a better and more fertile ground for further coordination and communication between the two systems and he was excited to move forward with it. He said that although he thought that a lot of them had shied away from it by the rapid pace at which it had gone, he thought they understood that they were working with governmental agency and bureaucracies that need to be attended to. He said he was okay with moving quickly as long as they had done their homework, which he believed they had. He said he thanked the transit coordinator, the KU folks and everyone for trying to continue the relationship.

Commissioner Johnson said he agreed with what had been said and had nothing to add.

Mayor Chestnut said he confessed that this was a tough issue, not because he did not believe that a lot of great work was done by a number of people, but because he did not like to have nine days to make this kind of decision. He said with a \$2 million dollar commitment he wished he had time to understand more about tax exemption because, honestly with the condition of the state budget, he had some concerns that the exemption might or might not happen. He said he thought it was the right thing to do, but he did have some concerns about the MOU. He said he was not completely comfortable with the terms and conditions and thought

the \$800,000 was a pretty squishy number. He said there had been a lot of comments about the synergy and was told that it was really hard to get tangibly what was going to be benefitted out of the MOU. He said he believed it was the right thing to do and, that over all, in the long term he thought the city would be better off, but he wanted to challenge the staff to look at what impacts this would really have. He said that his expectation going forward was that they would see some real tangible savings in integration that came down to either facilities, staffing, maintenance, phone systems or something and wanted to put the challenge to the staff that he wanted to see that. He said that he thought it was talked about and mentioned in the memos but he had not seen anything. He said he realized that the plans were evolving but didn't want to lose focus on what they said they were going to do and try to put some real hard numbers around that benefit. He said the numbers did not tell him this was a good deal, but his intuition did. He said he really wrestled with it, but thought that it was the right thing to do and that his intuition told him that there were savings that had not been quantified.

Vice Mayor Amyx said he appreciated the Mayor's comments and concurred this was the right thing to do. He said regarding the staff memo, where it discussed that the University continuing to administer its contract with the vendor for the construction of the facility and also to include the involvement and input of the City staff, could be made stronger to realize the potential savings and get the numbers they would be more comfortable with.

Mayor Chestnut said that every time someone paid sales tax there was an expectation of an audit committee and he would like to show the community the benefits. He said he agreed that the operating costs made no sense; he said consolidation made sense, but could not see it in black and white yet.

Commissioner Dever said the community would see value from this coordination and hopefully help with streets, environment and money. He said if the City did not start taking steps there would always be a separation in this community.

Moved by Dever, seconded by Cromwell, to approve the Memorandum of Understanding with the University of Kansas to partner on a Joint Transit Maintenance Facility. Motion carried unanimously. (14)

Receive staff memoranda on possible uses of the City owned building at 1920 Moodie Road.

David Corliss, City Manager, said that the memo outlined how the City had come to own the property, largely through federal funds. He said with federal funds there were strings attached and the city needed to keep the building in its low to moderate income use support or reimburse the federal government for its fair market value.

He said staff took a look at the building and reviewed some of the things that needed to happen on the property and the price tag did not seem too considerable. Staff also looked at that building to see if it made sense to use it for City purposes. He said he looked at the City expenditures rigorously to see if there were opportunities to reduce those expenditures.

He said he did not see the building fitting into any large city use. He said Municipal Court was too big and enjoyed the proximity to the District Court. The Development Services Division, regarding building inspectors and federal funding support CDBG home federal operations, was in the basement of the riverfront building which was a good location for that department. He said staff was looking for the Convention & Visitors Bureau to relocate into the renovated Carnegie building by the end of the year and would find a good space for Parks & Recreation before the lease expired at 947 New Hampshire, which was a more expensive rental.

He said staff looked at the Moodie Road building location for storage, but were going to explore renovating the Investigations & Training Center on Bob Billings Parkway. Staff looked at the Moodie Road facility for City uses and decided that given its size and location, as well as having to purchase the building if it was used for City use, was not a good idea. He said it was best to continue the not for profit type use that had been successful.

He said staff received a letter from Big Brothers & Big Sisters and an email from Lawrence Community Radio that were both interested in the building, but he was not sure Community Radio would comply with the low to moderate income requirements of the CDBG program but would be reviewed through the process. Big Brothers & Big Sisters was a great service for the community and would likely comply, but other groups would comply as well.

Staff suggested developing a Request for Proposal with appropriate criteria. He said staff would work with agencies that were currently funded and ask for feedback.

Mayor Chestnut called for public comment.

After receiving no public comment, Vice Mayor Amyx said he concurred with the City Manager. A similar discussion took place regarding the Carnegie Library building several years ago where there was competition between City departments and outside agencies. He said there was probably a greater need from social service agencies.

Mayor Chestnut said the physical address made it conducive because it was contiguous to a lot of other support agencies. He said proximity was important and fit with the application.

Corliss said unless it differed from what the City Commission was looking for it would be social service agencies that served the City.

Moved by Cromwell, seconded by Amyx, to direct staff to distribute Request for Proposals for qualifying uses of the building at 1920 Moodie Road, Motion carried unanimously.

(15)

Receive memoranda on the acquisition of the Santa Fe Station (BNSF Depot)

Diane Stoddard, Assistant City Manager, said that she wanted to provide some follow up on the discussion regarding the submittal of the transportation enhancement grant for the Santa Fe Station and seek City Commission direction related to issues that were brought up.

Stoddard said the City Commission had questions about ADA responsibility when the grant submission was discussed at the December meeting and based on that meeting staff did

more extensive research into the ADA issue. Staff came across a very comprehensive report that Amtrak had prepared for Congress a year ago. The report indicated the passenger rail stations received an exemption from the ADA that expired at the end of July 2010.

Also, according to Amtrak's report, the current responsibility for the improvements on ADA to the platform, to the parking lot, and to the facility, rested with Amtrak.

Another key aspect of the report indicated the responsibility for ADA improvements for facilities that were owned at least 50% or more by a public entity required the public entity to be 100% responsible for the ADA improvements. There were no additional extensions of the ADA issue and would be in effect this summer. Staff also confirmed that Amtrak was currently the responsible party and if the City were to acquire the Depot, the City would become the responsible party.

The conversations with the Vice President of Amtrak also indicated continued interest in the City pursuing the depot and thought it would be beneficial for passenger rail. Staff talked about the possibility of partnering with Amtrak, if for some reason the City did not receive the transportation enhancement grant. The grant that was submitted included the highest priority ADA items, about \$160,000 of ADA improvements. If the City did not receive the grant, the Vice President of Amtrak indicated willingness to partner with the City regarding ADA improvements and/or Amtrak's version and scope of Station Good Repair Improvements. The issue was the availability of funds for those improvements. Also, the Amtrak official indicated that they had funds that were scheduled in 2014 for the Amtrak improvements at this station, and also some of the Good Repair Improvements.

Based on discussions, the Vice President of Amtrak was of the opinion that it might be wise to amend the negotiations with BNSF to include a contingency about the receipt of the grant which would enable the City Commission to make a decision at the time if knowing whether the City was going to be receiving the grant or not to decide to go forward with the transfer of ownership of the station.

She said the purpose of this report was to update the City Commission regarding these issues and to receive direction on the negotiations with BNSF as to whether or not to include a contingency regarding the transfer of ownership if the City did not receive the grant.

Vice Mayor Amyx asked how close the City was in having a contract with BNSF.

Stoddard said she was supposed to receive something last week but wanted to get the commission direction on the issue before contacting BNSF again as she was certain the City had work to do reviewing the documents and providing input.

Mayor Chestnut said on the TE grant submitted, he asked about the dollar amount and what it covered.

Stoddard said the grant was about \$600,000. The Hernly report indicated a project of about \$1.3 million that was split into at least two phases, with the first phase to include the highest priority items and that was the \$600,000, which included \$160,000 of ADA issues; the restrooms, the sidewalks, the drinking fountain, all the ADA high priority issues were covered in that grant.

Mayor Chestnut said that the TE grant that we asked for would cover all the federally mandated ADA requirements that would be required in the structure.

Stoddard said yes.

Commissioner Cromwell asked about the status of the TE grant, timeline, and when would staff know.

Stoddard said staff had not heard anything more, but the grant application was received. She said it was their understanding they should hear in May or June about the disposition of the application. Typically, they received a number of applications in the historic category but did not know how many were received.

Mayor Chestnut called for public comment.

Gretchen Hasty, representative of the Depot Redux, said the Depot Redux board appreciated the Commission's concern about accepting ownership of the Santa Fe Station in

light of the accompanying responsibility for ADA upgrades. They supported any direction to City Staff to explore an option with BNSF of an ownership transfer contingent on receipt of transportation enhancement funds. The Board felt confident the Lawrence station would be awarded a transportation enhancement grant and that this award afforded the timeliest solution for needed upgrades.

Depot Redux volunteers were a committed group of concerned citizens and were in this for the long haul. They were active in the state legislative session and were encouraged by recent federal and state emphasis on rail travel.

The senate transportation committee unanimously passed Senate Bill 409 last week, which allowed the Kansas Department of Transportation to develop a passenger rail program. They were also encouraged by a recent federal award of \$250,000 to the Kansas Department of Transportation to pay for a service development plan of a proposed expansion of rail transportation between Oklahoma City and Kansas City through Lawrence.

She said her interest in Depot Redux began when her mother, sister and she arrived at the Lawrence Depot at 6:00 am to ride the Southwest Chief to Chicago. They were greeted by Depot Redux volunteer, Marty Kennedy, who opened the Depot for us and numerous other people waiting to take the train.

In 2008 her family comprised 3 of the 4500 passengers who boarded in Lawrence that year. With recent federal and state emphasis on rail travel they expected those numbers to significantly increase over the next few years. Preservation of the Depot, a historic building in our community, was critical to the board and the passengers who used the depot.

Jim Budde, member of the Depot Dedux group, said he had an opportunity to go to North Carolina to visit his daughter, and while he was in that state he had an opportunity to read the newspaper to find out what was going on with their transportation. It was pretty obvious that a lot of cities in the north area where his daughter lived; Cornelius, Concord, Morrisville, and so forth had taken the bulls by the horn and were preparing along the same lines that Lawrence

was preparing to get the transportation, but it was more for commuter service, but he was interested to see how much spirit their cities had and their far sightedness to come up with making changes in laws and regulations that would facilitate that process.

They had been on a process that they had been on many times, there are a lot of twists and turns, and this is a new one that has to do with the accessibility. He said Diane Stoddard, Assistant City Manager, had done a great job in ferreting out what needed to be done. He said his concern was that the City did not take a hit on this, but continued to have long term vision of making the Santa Fe Depot a transportation center that was a model. North Carolina was looking very heavily to use that stimulus money and suspected that if this community did not use the stimulus money, others would get that money and was a matter of using that escape clause, which he endorsed, but doing it in such a way that they did not lose the interest of Burlington Northern Santa Fe.

KT Walsh, Vice President, East Lawrence Neighborhood Association, said they supported the memo asking the city to purchase the station, hoping that the grant would come through in receiving the ADA upgrades.

She said on a personal note, she and her sister took Amtrak to Albuquerque for Christmas. She said her sister had a movement disability which made it difficult for her to fly or to ride in a car. The Amtrack staff were wonderful about getting people on the train and making people comfortable. She said there was a whole car devoted to people who had movement disabilities and might have trouble traveling and was especially excited that Lawrence received the ADA upgrade trains. There were lots of people with disabilities on the train and it was a way to see the country and was cheaper than driving or flying.

Marty Kennedy, Lawrence, said this was a very important issue for this community and appreciated the City Commission taking the time to address this issue. The economics at this time, throughout the nation, much less our community, was very critical to their existence. This station was also very critical to our attachment and direct contact with our traveler that came

through this community. It was a very important part of this community and it seemed to be small, but 4500 people came through the depot every year. It was a really nice gesture for this community to know that the City of Lawrence was in tune with what was happening throughout the United States. This country was achieving more transportation for people with needs and could move a whole lot of people with a lot less money on a train than could be moved down the highway. It was one of those issues that were important nationally if not internationally to this world.

He said staff had done a superb job by keeping Depot Redux informed with the communications with the BNSF and working with the railroad. Sometimes there was a step by step issue that had to babysit them through and dictated the timing on this issue. They had applied for all of the grants, and I felt confident they would achieve those TE grants from the state so they could improve specifically the ADA. He said if 2014 was when Amtrak was going to improve the platform, he asked people to come down and see the poles that are holding up the roof that are semi sinking and rotting away. Depot Redux was going to fix those poles, but without getting in trouble by the railroad.

He said they were continually working to enhance the building. It was a very integral part of East Lawrence and also five blocks east of Massachusetts, right off of 7th Street, by close to downtown. He said they wanted to keep this communication and contact with the railroad.

He appreciated the City Commission's time on this issue and knew how difficult it was during these economic times and appreciated the City helping Depot Redux continue their efforts to rebuild the station back to its grandeur.

Vice Mayor Amyx said the idea of having the transfer agreement with the contingency, the City did not know whether it would receive 100% of the TE grant or any portion thereof. If they were thinking about having any type of negotiations with Burlington Northern this contingency needed to be received. That was the only way the City would get control of that

building and property and have the time and the flexibility to talk with Amtrak as potentially a partner.

Mayor Chestnut said if the City received the TE grant, that grant would take care of the ADA requirements.

Vice Mayor Amyx asked if the City would receive 100% or a portion.

Stoddard said they could grant us an amount less.

Vice Mayor Amyx asked if Amtrak stated that they would partner with the City for the remaining amount.

Stoddard said yes, but their scope would be the same regarding the ADA improvements, but might not be the same regarding the state of good repair.

Vice Mayor Chestnut said Amtrak was partnering with the City on obligations that were now their obligations.

Commissioner Cromwell said Amtrak could get away without complying with ADA and the City did not have the ability to slide.

David Corliss, City Manager, said the hope was to use federal funds through KDOT, through the TE grant to do work that Amtrak should do now.

Mayor Chestnut said the recommendation was to make the transfer contingent on the TE grant, but thought the City should specify an amount on the TE grant, such as a half a million which would be the bulk. If it was said that the City received the grant for \$40,000, he did not know if that would be something that would pay for the upgrades.

Commissioner Dever said he thought they could shift funds around if the City received an amount that could make the critical repairs for the ADA upgrades and compliance and then if costing more than anticipated, shift some of the other funds around for building maintenance and other types of work that was needed, to bring it up to speed. He said he believed the City should get something in writing from Amtrak that stated Amtrak would participate in the ADA

upgrades. He asked if Amtrak would be willing to assist with the necessary upgrades for ADA compliance.

Stoddard said Amtrak was hopeful that the City received the grant money, but if for some reason, the City did not, Amtrak would be willing to work with the City on some type of an arrangement. Amtrak currently had, in their future capital improvement plans in 2014, plans for ADA improvements at this station.

Mayor Chestnut said the memo stated that one recommendation was to move forward with Burlington Northern on those agreements, but have a contingency that the transfer agreement only became binding if the TE grant money was available, and then some suggestion of what level that funding would be. At that point, the partnership with Amtrak would be moot because it would be funded in another vehicle.

Stoddard said correct and suggested the amount be the same amount of the TE Grant that was submitted because it gave flexibility to decide to proceed with BNSF, even if the amount was less. It also gave the ability to not proceed if the grant was not sufficient to meet the needs and suggested that threshold.

Mayor Chestnut said the Commission could direct staff to continue toward the acquisition of the building, but make contingent in the negotiations with the railroad that there was no transfer of deed unless the TE grant was fully funded at \$600,000. It would not necessarily mean that if it did not happen, that at some point in the future revisit and renegotiate, bringing Amtrak into the picture and find out what Amtrak was willing to do. He said Amtrak was probably not willing to negotiate anything now because they were waiting for the TE money to arrive. Amtrak probably was not come up with a firm number until they find out what the ultimate result of the TE funding.

Stoddard said that in that language, the City could envision the ability to either accept the building if the TE grant were less, or approach Amtrak. The goal was to provide the City Commission with that flexibility, but the City needed to proceed with discussions with BNSF to

enable the ownership transfer to occur because if the City received the grant, in order to accept the grant, the City needed to own the station.

Mayor Chestnut said what constituted ownership. If the City owned the depot and the TE grant was not awarded, he asked if the City could give the depot back.

Corliss said the City would have a contract, but the closing would not occur unless the City was awarded the grant and the sufficient amount of money.

Chestnut said the demonstration of having a contract, demonstrated ownership.

Commissioner Cromwell said the City could receive the grant, but not the money until the City had ownership of the depot.

Stoddard said the City could set it up so that everything could be dove tailed together which was the City being awarded the grant and the final ownership transfer of the property.

Corliss said the City could enter into a contract with BNSF, but would not close unless the City received the grant and the right amount occurred.

Commissioner Dever said he it would be good to at least negotiate with Amtrak as to to the realistic expectations so the City could be ready to move forward.

Mayor Chestnut said the City was negotiating with the railroad and had contingency with the transfer of ownership in that the City received the TE grant in full and along the side, talking to Amtrak about their expectation if the City was not awarded the TE grant.

Commissioner Dever said there was a rule BNSF had to adhere to in 2014. He said if they could get off the hook for less, there would be money they might be willing to contribute to help upgrade. He said if he was in their shoes he would think how he could save money while still providing the service, and use the leftover funds at another station.

Mayor Chestnut said if the TE grant did not happen to the City's satisfaction and the City decided not to execute any agreement, Amtrak was still at that location.

Corliss said the City Commission would see any final document the City wanted for formally submit to BNSF, but staff needed direction from the Commission.

Commissioner Johnson said since Amtrak was already committing those funds in 2014, could the City still get Amtrak to commit those funds for the project and not move forward contingent upon that scenario. He said that would be a \$160,000 bonus in 2014 that could be used for other improvements. He suggested leading Amtrak to the table, letting Amtrak know that the City was willing to move forward with this contingency, but if Amtrak already committed that money for this purpose, the City could receive that money in 2014.

Stoddard said discussion took place with Amtrak regarding their participation in the next phase. The only issue would be what Amtrak's scope was versus the scope that Hernly wrote, but she was certain there was a lot of overlap.

Commissioner Johnson said the City was doing Amtrak's improvements, and could use the \$160,000 for something else. He said he did not want to forget about Amtrak's commitment to spend the \$160,000 on the improvements in 2014.

Mayor Chestnut said Commissioner Johnson had a good idea to be in active negotiation with Amtrak, even as the City was pursuing the railroads.

Commissioner Cromwell said there was plenty of work to be done and the Commission had seen what a great project it could be and they needed additional funding. He said he suggested getting any money wherever the City could.

Mayor Chestnut said the City would want to continue to pursue this acquisition with BNSF, but with the contingency that any ownership transfer would be contingent upon receiving the full TE Grant that was submitted. Also, to continue dialogue with Amtrak about what they might be willing to do which would be based on the different scenario's that occurred. (16)

PUBLIC COMMENT:

Jo Scannel, Lawrence, said she was totally in favor of taking care of the depot, but wondered why the City wanted ownership. She said if the City took ownership, the City would be taking responsibility for years and would be letting Amtrak off the hook.

Mayor Chestnut said that Amtrak's responsibilities for ADA compliance were there, and Amtrak was not going to comply this year, but now stated they would in the year 2014. The City was willing to assume ownership as long as those ADA requirements were taken care of. Whether those ADA requirements were taken care of through the grant submitted through another part of the federal government or whether it came from Amtrak, the City Commission did not really care as long as they were fully required. Over time, the City would be taking over the maintenance, but the City had to negotiate a lease agreement with the railroad because they wanted to continue to maintain some space in that building. The desire was for the use of this public building, much like the station that was north of the river. He said that Commissioner Dever articulated it well, that the City would take care of that space better than the railroad or Amtrak would. He said Amtrak and the railroad did not have money to take care of the facility, but he did not think there would be on-going significant cost, but it was getting the building restored to some kind of reasonable level and the City Commission's direction was to do that with all federal money. He said the City hoped that would occur, but if it did not occur, then the City did have a deal.

Scannel said her experience with buildings was that if taking one thing off the top of the list, two more things would need to be added. She said this was a short-term fix, without a long term view. (17)

FUTURE AGENDA ITEMS:

- 02/23/10 · Receive letter from Bert Nash Community Mental Health Center regarding program cuts. Authorize amendment on contract with Bert Nash Community Mental Health Center to reflect three homeless outreach workers. ***This item was deferred from 01/26/10.***

REGULAR

- Consider extending the time period for a Special Use Permit SUP-10-10-09 for Lawrence Community Shelter, located at 214 W 10th St/944 Kentucky St. Submitted by Lawrence Community Shelter, for James Dunn, property owner of record. (PC Item 11; approved 8-0 on 1/27/10)

ACTION: Approve Special Use Permit (SUP-10-10-09) for Lawrence Community Shelter, located at 214 W 10th St/944

Kentucky St, if appropriate.

- 03/09/10 · Consider approving Comprehensive Plan Amendment CPA-2-1-09 to Chapter 14 – Specific Plans to approve and incorporate by reference the Oread Neighborhood Plan. (PC Item 10; approved 7-0 on 1/27/10)

ACTION: Approve Comprehensive Plan Amendment (CPA-2-1-09) to Chapter 14, if appropriate.
- 04/06/10 · Anticipated date to receive Planning Commission recommendation on Lawrence Community Shelter SUP to relocate the shelter to 3701 Franklin Park Circle.
- 04/13/10 · State of the City Address and Mayoral Elections.
- May/June · Upon conclusion of 2010 Kansas Legislature, review and consider possible changes to City primary election law.
- TBD · Approve request from the Public Health Board to amend Resolution No. 4957 and increase the Board membership from five to seven people.
· Receive staff memo regarding possible annexation of Westar Energy Center and adjacent properties. Additionally, staff is working on a memorandum discussing possible annexation of the Miller/Wells acres area.

COMMISSION ITEMS:

Vice Mayor Amyx said several weeks ago the City received a letter from the organization of Save Our Schools and a letter from the Lawrence Association of Neighborhoods (LAN) asking for a response from the City Commission about the possibility of closing some of the neighborhood schools. He said the City Commission had talked about having a meeting with the school district and county commission and wanted to know if it would be possible to have this body consider such a letter to the Board of Education.

Chestnut asked when Commissioner Amyx would like this issue placed on the agenda.

Vice Mayor Amyx said fairly quickly.

Commissioner Cromwell said the first Monday in March was one of the dates that came up.

David Corliss, City Manager, said the City Commission could provide general comments about the importance of neighborhood schools to the vitality of the community because everyone agreed and provided comments on the investments made in this community. Staff could work on that and the Commission could come up with some editorial suggestions or City staff could take good notes and come back with a draft. He said it sounded like the City Commission wanted to move sooner, rather than later.

Vice Mayor Amyx said he suggested staff putting together general comments about the importance of neighborhood schools and the vitality on the community.

Mayor Chestnut asked if the comments should come from the City Commission.

Commissioner Diver said it was customary to come from the Mayor, at the urging of the other Commissioners, unless the Mayor was opposed to signing such a letter.

Mayor Chestnut said if the majority spoke, he would execute, however, he would not support it.

Moved by Amyx, seconded by Johnson to adjourn at 8:17 p.m. Motion carried unanimously.

APPROVED:

Robert Chestnut, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF February 16, 2010

1. Bid date - 2010 Overlay Program, Phase 1, March 2nd.
2. Bid date - Comprehensive Rehabilitation Program - 1132 Rhode Island, March 16th.
3. Bid date - 2010 Pump Station No. 25 and Force Main Upgrade, March 16th.
4. Purchase - farm tractor & loader - Public Works - Heritage Tractor Co. - \$56,354.40
5. Ordinance No. 8491, 1st Read, regulating the licensing and operation of pedicabs within the City of Lawrence.
6. Ordinance No. 8488, 2nd read, Special Use Permit (SUP-12-11-09) to expand Research Services at 645-647 Massachusetts Street
7. Ordinance No. 8489, 1st read, rezone (Z-12-30-09) of 8.71 acres from RS7 to RMO - 3312 Calvin Drive.
8. Ordinance No. 8490, 1st read, rezone (Z-11-20-09) of 2.98 acres from U to CO - 525 Wakarusa Drive.
9. Douglas County Community Foundation grant application - one-day Complete Streets workshop.
10. Agreement - Rural Water District #2 for the treatment and transmission of water & sale of water.
11. Mortgage Release - Debra Fattaahi, 2721 Harrison Place
12. Proposal - Advanced Alternative Energy Corporation
13. City Manager's Report
14. Memorandum of Understanding with KU - partner on Joint Transit Maintenance Facility
15. City owned building uses at 1920 Moodie Road.
16. Acquisition of the Santa Fe Station (BNSF Depot)
17. Public Comment – BNSF purchase.