



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON CROMWELL
LANCE JOHNSON
MICHAEL DEVER

April 6, 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 Vice Mayor Amyx presiding and members Cromwell, Dever, and Johnson present. Mayor Chestnut was absent.

RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Vice Mayor Amyx proclaimed the month of April as Parkinson's Disease Awareness Month and Fair Housing Month.

Patricia Sinclair removed Item 8(a) from the consent agenda, regarding 331 Johnson Avenue.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve minutes from the City Commission meeting of February 23, 2010; Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to receive minutes from the Mental Health Board meetings of December 1, 2009, January 26, 2010 and February 23, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve claims to 45 vendors in the amount of \$528,565.53. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve the drinking establishment license for 23rd Street Brewery, 3512 Clinton Parkway; Chipotle Mexican Grill, 4000 W. 6th; Chipotle Mexican Grill, 911 Massachusetts; Holiday Inn Lawrence, 200 McDonald Drive, Papa Keno's, 1035 Massachusetts, KC Smash, 4801 Bauer



Farm Drive Ste. A and the Taxi Cab License for Kyle Smith, 14258 Tennessee Street. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to concur with the recommendation of the Mayor and appoint to the Retail Task Force: Robert Chestnut, City Commission Representative, Mike Gaughan, Douglas County Commission Representative, Tom Kern, Business Community At-Large Representative, Alison Vance Moore, Commercial Real Estate Representative, Earl Reineman, Downtown Merchant Representative, Leslie Alhert, Downtown Merchant Representative, Susan Cook, Merchant Outside Downtown Area and Diane Oakes, At-Large. Motion carried unanimously.

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to set a bid opening date of May 11, 2010 for Bid No. B1024 – Wet Weather Storage for expansion for Pump Station No. 9. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell**, set a bid opening date of May 18, 2010 for Bid No. B1020 -2010 Pump and Motor Rehabilitation project. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve payment to Johnson County in the amount of \$68,750 for continuing education classes for Lawrence licensed contractors who will attend training during the 2010 program year. Motion carried unanimously. (3)

The City Commission reviewed bids for two (2) 20 yd. rear load refuse trucks for the Public Works Department. The bids were:

Vendor	Bid Total
Downing bid 3	\$190,622.00
Downing trade	66,500.00
Downing bid 6	190,722.00
Downing trade	66,500.00
Downing bid 1	192,002.00
Downing trade	66,500.00

Downing bid 8	192,102.00
Downing trade	66,500.00
Downing bid 2	199,132.00
Downing trade	66,500.00
Downing bid 4	199,232.00
Downing trade	66,500.00
American Equipment #3	209,692.00
American Equipment trade	66,000.00
American Equipment #1	211,184.00
American Equipment trade	66,000.00
American Equipment #2	211,284.00
American Equipment trade	66,000.00
McNeilus #1	237,616.00
McNeilus trade	44,000.00
McNeilus #2	237,720.00
McNeilus trade	44,000.00
Burnup Equipment	240,162.00
Burnup Equipment trade	50,000.00
Downing bid 7	253,052
Downing trade	66,500.00
Downing bid 9	254,432.00
Downing trade	66,500.00
Downing bid 5	261,562.00
Downing trade	66,500.00
Key Equipment	264,276.00
Key Equipment trade	20,760.00
Kansas City Freightliner	266,862.00
Kansas City Freightliner	No trade

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to award bid to Downing Sales and Service for \$199,232. Motion carried unanimously. **(4)**

The City Commission reviewed bids for a 25 yd. rear load refuse truck with optional radio for Public Works Department. The bids were:

VENDOR	BID TOTAL
American Equipment #3	\$113,537.00
American Equipment trade	34,000.00
Downing bid 1	135,166.00
Downing trade	34,000.00
Downing bid 4	135,646.00
Downing trade	34,000.00
American Equipment #2	136,864.00
American Equipment trade	34,000.00

Downing bid 2	137,780.00
Downing trade	34,000.00
Downing bid 3	138,964.00
Downing trade	34,000.00
Downing bid 5	138,260.00
Downing trade	34,000.00
Downing bid 6	138,890.00
Downing trade	34,000.00
American Equipment #1	139,477.00
American Equipment trade	34,000.00
Downing bid 7	141,616.00
Downing trade	34,000.00
McNeilus #1	153,269.00
McNeilus trade	24,000.00
Burnup Equipment	153,991.00
Burnup Equipment trade	25,000.00
McNeilus #2	155,992.00
McNeilus trade	24,000.00
Key Equipment	164,546.00
Key Equipment trade	15,380.00
Kansas City Freightliner	167,814.00
Kansas City Freightliner	No trade
Corbin Equipment	No bid

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to award bid to Downing Sales and Service for \$135,313. Motion carried unanimously. (5)

Ordinance No. 8497, initiating a previously authorized fifty-five percent (55%) tax abatement on machinery and equipment for Amarr Garage Doors and repealing Ordinance No. 8470, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to adopt the Ordinance. Aye: Amyx, Cromwell, Chestnut, Dever, and Johnson. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8501, establishing the Social Service Funding Advisory Board, was read a second time. As part of the consent agenda, **it was moved by Dever, seconded by**

Cromwell to adopt the Ordinance. Aye: Amyx, Cromwell, Chestnut, Dever, and Johnson. Nay: None. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to adopt Resolution No. 6881, amending the composition of the Retail Task Force to remove one City Commissioner and add one County Commissioner as members and repealing Resolution No. 6877. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to accept dedication of easements and rights of way for a Preliminary Plat, PP-1-2-10, for Lawrence Municipal Airport Addition No. 2, approximately 15.7 acres, located at 1915 Airport Rd., and variances from Sections 20-801 and 20-810 of the Subdivision Regulations regarding the portion of property to be platted and number of access points to the site. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to adopt on first reading, Ordinance No. 8498, approving rezoning, Z-1-2-10, of approximately 8.26 acres, located southeast of West 27th Street and Crossgate Drive, from PUD (Planned Unit Development) to OS (Open Space). Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to accept dedication of easements and rights of way for a 2 lot Preliminary Plat, PP-1-1-10, for Four Seasons Pump Station, containing approximately 30.894 acres, located southeast of West 27th Street and Crossgate Drive. Motion carried unanimously. (12)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve a Special Use Permit, SUP-1-2-10, for the City of Lawrence Pump Station 09 Wet Weather Storage Expansion, a minor utility, on approximately 8.18 acres, located southeast of West 27th Street and Crossgate Drive. Motion carried unanimously. (13)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve a revised Preliminary Development Plan, PDP-1-1-10, for Bauer Farm, on approximately 43.88 acres, located at 4700 W 6th St. The revised plan proposes the development of an independent living facility on the 4.24 acres located at the immediate SW corner of Overland Dr. & Folks Rd. Submitted by Landplan Engineering, for Free State Group, LLC; Free State Holdings, Inc; Bauer Farms Residential, LLC; Bauer Farm Retail Pad1, LLC; Kansas CVS Pharmacy, LLC; Lawrence Tunnel Wash, LLC; Pete G & Diana Bernal; and Lee & Karen Schmidt, property owners of record. Motion carried unanimously. (14)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve Special Event Permit, SE-3-12-10, for a Country Produce tent sale at the Sears parking lot, 2727 Iowa Street from July 10 through August 15, 2010. Motion carried unanimously. (15)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to acknowledge extension of the City/KU Land Use Agreement for another five year term. Motion carried unanimously. (16)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve temporary use of right-of-way permits allowing use of city parking lots No 8 and Number 10 for the 2010 Downtown Lawrence Farmers Market. Motion carried unanimously. (17)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve as “signs of community interest” a request from the Mid-America Chapter of the National Multiple Sclerosis Society to place signs promoting the Walk MS event to be held on April 10, 2010, at Sunflower Elementary School near various intersections contingent on adjacent property owner permission; signs will be in place through April 10, 2010. Motion carried unanimously. (18)

As part of the consent agenda, **it was moved by Dever, seconded by Cromwell** to approve as “signs of community interest” a request from the Lawrence Home Builders Association to place directional signs in various rights-of-way for the Spring Parade of Homes, April 16-26, 2010. Motion carried unanimously. **(19)**

Vice Mayor Amyx said Patricia Sinclair, 331 Johnson Avenue, asked for a deferral of this item and in the event the City Commission did not concur, rules would be set for this hearing. He asked if there was any City Commission discussion about deferring this item for a later date.

The City Commission concurred to hear this item.

Patricia Sinclair said the revised resolution was posted at 4:45 p.m.

Vice Mayor Amyx asked Brian Jimenez, Code Enforcement Manager, to summarize the changes.

Jimenez said the changes were clarifying the conditions at that property. He said the premises at 331 Johnson Avenue, Lawrence, Kansas, was being used for the storage of items other than outdoor furniture. The front door of the premises cannot be utilized because of the items stored on the porch. The porch must be clear of all stored items and the items must be stored out of public view. He said that language coincided with the violation detailed in August of 2009.

He said staff received a complaint in July 2009. A courtesy letter was sent initially with no action being taken. Code Enforcement Officer, Dan Johnson, sent a notice of violation on August 6, 2009. The code allowed for a 15 day window of opportunity to request a hearing. At that time it was the Neighborhood Resources Advisory Committee, but now was known as the Community Development Advisory Committee.

He said he and Johnson met with Sinclair at their office and discussed the request for a hearing and the guidelines. On August 19, 2010, Sinclair sent an email stating, among other things, that she wanted a hearing. Two scheduled hearing dates were cancelled by Sinclair, and in the month of November, Code Enforcement staff was out of town for a previous priority.

The second date was Thanksgiving and scheduled the new hearing date for December 10, 2010.

On December 10, 2010, at approximately 2:30 p.m., Sinclair notified City staff that she was going to cancel for the 3rd time. At that point, it was decided that staff would attend the meeting that night, present the information to the board and ask the board for direction on whether to proceed with the hearing or defer the hearing to another date. On a 7-0 vote, the board decided to proceed with the hearing in Sinclair's absence, hear the testimony, and view the pictures from City staff.

After hearing that testimony and reviewing that case on December 10, 2010, the board with a vote of 7-0, found Sinclair in violations of Section 9-601.1 (A) and (C). He said Sinclair was aware of the decision and inquired about her appeal rights. Typically, the Board heard one appeal a year or sometimes, not at all. He said it had been a long time since someone wanted to appeal the board's decision. He said he discussed the matter with legal staff to make sure they were on the right road. At that time, it was determined, based on language in the code, specifically 9-611 which stated: "Upon conclusion of the hearing, the Community Development Advisory Committee shall record its determination of the matter and recommend to the Governing Body adopting a resolution and serving there solution upon the person in the manner provided in Section 9-609 of this Article" and was sent by certified mail.

Resolution 6880 was upholding or acknowledging the board's decision. City staff interpretation of that code section was that it was not the appeal mechanism that Sinclair wanted to pursue that section referenced Kansas Statute 60-2101, it was staff's opinion to adopt Resolution 6880 to recognize the Board's decision that occurred in December.

It was important to note that since that time, staff was hoping during that time, the violation would be taken care of. He said he personally talked to Sinclair 2 or 3 times in the last month to month and a half, trying to resolve this issue so this issue would not need to be heard by the City Commission.

Vice Mayor Amyx said if the City Commission took an action in the positive on the Resolution, he asked what happened next.

Jimenez said the resolution solidified the Board's decision. Therefore, the code allowed two options: 1) an abatement process; and 2) going through the court process filing a formal complaint. There had been 24 total cases on that block in the last 7 or 8 years, had cited other properties and of those 24 cases, 4 of those cases were Sinclair's.

Vice Mayor Amyx said regarding the other cases staff responded to, he asked if those cases were taken care of.

Jimenez said 5 – 7 of those cases were recent. There was a specific complaint where staff contacted the property owner about their possible home occupation status. He said staff had done an investigation. He said he had asked staff to monitor that block as recently as the last couple of weeks to make sure staff was looking at every property within that block.

Vice Mayor Amyx said he went out and drove that neighborhood over the weekend and he saw, based on information he had on the Sinclair Property, 331 Johnson Avenue, and realized he was dealing with about 50 items on a porch and looked at other properties those properties had equally as bad problems. He said he understood there was a dispute between neighbors.

Jimenez said from what he understood, there were many issues among the neighborhood.

Vice Mayor Amyx said there was probably enough violations going on, on that particular street that a number of complaints could be filed by any one of the neighbors back and forth.

He said he appreciated Jimenez's direction to staff to keep an eye on the block, but so that no one had to turn in one another, he would take care of all of it, and with the Commission's blessing, he suggested giving everybody 30 days to get everything cleaned up so there were no violations, that way no one had to deal with this and did not need to send this to the courts to take care of. This was something that should be taken care of by the property owners at the direction of the City Commission. He said for him to sit there and tell staff that the court needed

to take care of this issue, was wrong. He said 50 items on a porch and one item was a porch swing, and suggested taking care of it the way it should be taken care of.

Jimenez said he could not agree with the Vice Mayor more. He said staff wanted to work with Sinclair and did not want to get to this point.

Vice Mayor Amyx said this was the first type of issue he had ever dealt with and there were all kinds of things going on. He said the Commission had a responsibility, as the governing body, to say it extended past this property, for everyone to take the time to clean up their property, and staff would come back in 30 days abating the entire neighborhood.

Commissioner Dever said he had a lengthy conversation with Sinclair about this situation. He said he had a question about the previous environmental code that was listed on the agenda. He asked if a copy of the current environmental code attached or could staff summarize some of the substantial changes that might have occurred. One of the items Sinclair highlighted, which he agreed with, was basically the level of care was commensurate with other neighbors and adjacent properties, would weigh what was typical in the neighborhood, and asked if that language was removed.

Jimenez said in early March that language was not entirely removed, but altered. At the time this went through, the previous code was in existence. One of the things changed was in Section 9-604.4 addressed some trash receptacle issues and the idea of commensurate with the neighborhood.

The current Section 9-605 stated:

"In determining whether a violation of this Article exists, the public officer, after a reasonable inquiry and inspection of the premises, shall consider whether conditions declared unlawful under this Article exist. Only those conditions that are readily visible from any public place or from any surrounding private property shall be considered in determining whether a violation exists. It shall be an affirmative defense to an enforcement action for a violation of Section 9-606.2, Exterior Conditions (Structure), that the conditions giving rise to the violation are of a quality and appearance commensurate with the conditions of immediately surrounding properties unless such conditions threaten the public's health, safety or welfare."

He said staff was specifically addressing the conditions of the structure itself, rather than the yard conditions.

He said when staff cited this property, they did take pictures of surrounding properties to show what surrounding properties were like at that time.

Commissioner Cromwell asked about the penalty.

Jimenez said ultimately, the way most cases worked, there was a common variable which was compliance. Staff worked with property owners to a certain point, depending on the severity of the conditions, and at some point, staff had to make a decision which was if the property owner was working on compliance, or working toward a goal, or not. If not, the code allowed for abatement of conditions, exterior yard conditions, and it could be an abatement of the structure conditions or there was an option of filing a complaint for violation of a certain section of code and that ran its course through municipal court. By the time that happened, it could be several months depending on Municipal Courts case load, continuance, trial dates, and could be several months out before the case became a trial before the Municipal Court Judge.

Commissioner Cromwell said the number of violations in this particular block were mentioned and asked why that block was in the state that it was in and why had this not been dealt with before.

Jimenez said he did not research each individual 24 cases to see if the complaint was valid. He said when staff received a case, they enter in case and go out and verify the complaint. He said staff did create an invalid complaint type within the last couple years to track those and out of all of those cases mentions one had an invalid complaint designation.

Jimenez said there was a well documented feud among neighbors within that block. He said he imagined many of those complaints were a direct result of that feud where people were calling in on each other. He said he had several neighbors call within the last few days to express their frustration.

Commissioner Cromwell said was a complaint from a neighbor a prerequisite or did staff have the ability to go out and issue a citation without a neighbor complaint

Jimenez said staff had the ability to do self-initiated enforcement and time permitting, staff tried to do that enforcement. He said he could get information on how many of those

complaints were self initiated or complaint driven. He said he imagined the vast majority of those complaints had been complaint driven from a neighbor.

Vice Mayor Amyx said if he was doing a windshield drive by, he asked if this particular address would have caught his eye.

Jimenez said yes, there were many items on that porch.

Vice Mayor Amyx said he would give Sinclair 20 minutes to present her case about the items that were on her porch.

Patricia Sinclair said this was difficult for her to address because she had whole bunch of new information to address. This was a criminal matter if this proceeded besides public humiliation and if this went to court, she would have a criminal record, but no judge would ever find her guilty, but she did not want to go to court to defend herself.

There were many things that Jimenez stated that were inaccurate. She said she would like to know about the properties Jimenez cited because she had no knowledge of those citing.

Vice Mayor Amyx said that Sinclair had 50 items on her porch and the City Commission's goal was to help take care of that problem.

Sinclair this related to the procedure, issues, and state of her porch in 2009 and the violation that was issued in that process and did not concern with the issue today which was a separate matter in which she would like the Commission's help and guidance.

There was no documentation of anything from that period of time, the notice given which was mailed and included in the City Commission's packet was vague and just referenced the general code and attached a courtesy letter that she did not get which stated: the porch must be clear of all stored items only porch furniture might remain, of course, people were allowed to have more on their porch than furniture. Just citing the location porch for both of those Section 9-601 which was the entire code "All stored items should be removed or stored out of the public view, the porch must be clear of all storage." Over the winter she attempted to build a temporary thing, and there was nothing behind that thing and was not showing any side view from the other side where it could clearly be seen that it was empty and vacant and pruned the

climbing roses. Whatever that was on her porch was a result of her being told in August 17th that she could begin the work that she needed to do in her basement where she had requested to use her porch as a staging area.

There was no documented neighborhood feud and did not appreciate those things being stated. She had brought a tape recorder to play for the City Commission. Everybody did not love her and she did not love everybody, but she tried to get along with her neighbors. There was no neighborhood feud. Now as a result of those actions and the result of the City going after her and letting those bullies go after her, her neighbor who owned the property across the street went so far with her and on May 30th another neighbor called about his illegally parked construction trailer and she had the tape of the end of her neighbors conversation for calling about her porch and the fire department. There was no fire problem, the inside door opened inside and there was plenty of room for her to get out and did that because she had an order of protection from stalking against her neighbor which the Lawrence Police Department advised her to get, in fact insisted to get, because of the neighbor's frightening and harassing acts toward her. Prior to that, her neighbor and her got along, got along with his tenants and his girlfriend. Since that time, now they harassed her. She said she did not talk back to them and she did not answer back, that's all. When she went out in her yard, there were various things done to her until she received that order on August 21st, shortly after the meeting that was not referenced.

She said Section 9606.1(a) referred to as junk, refuse, or personal property and as she said in her memo, she had not junk or refuse and anything on a front porch was personal property. She rented two carts from the City, she put her yard waste and trash, there was no trash or garbage lying around her property, she shoveled her sidewalk, she picked up trash off the street and she was not a blighted property and she resented that characterization. She said there was no lumber, wire, metal, tires, concrete, masonry product, plastic products, supplies, equipment, machinery, auto parts, junk, or refuse. She said then Jimenez cited (d) which was furniture in the yard, other than outdoor furniture and defined as stove, refrigerators, televisions,

sinks, or other such items of personal property, none of that was on her porch. Everything the citation stated was yard, she never received anything from Jimenez saying those were the specific sections of the code that she was cited and (c) did not apply to her. She included the memo from David Corliss where it stated it was only in the yard where outdoor furniture and on the porch a person could have any kind of furniture.

She said City staff had failed to cite her for anything that was real and she did not have any citations for anything other than her porch and a person was not allowed to have outdoor furniture. In her back yard she had metal furniture or plastic, all of which were manufactured for outdoor use.

She said staff changed the enforcement standard from comparing the property against other in the neighborhood to comparing to immediately surrounding properties.

She said during a City Commission meeting, David Corliss, City Manager, said one of the issues when working through this ordinance would be to try and do a better job from evidentiary standpoint of showing that staff looked at surrounding properties documenting that condition and respond to a defendant that could say within in view of their property, there was the same type of condition and if that was the case, then staff was not doing their job if they were not also trying to enforce the law on that property as well. Nevertheless, code enforcement had steadfastly refused to accept any of her complaints against the other property holders. She said she made it clear there were two categories of people on the block and was not trying to complain against because she would like to get along with her neighbors, but she would like a little give and take. She said she was not trying to start fights and there was no neighborhood feud and she actually had friends on the block, people who waved to her and kids she spoke to, but she did want Jimenez to cite the three properties. There was a possible home occupation and she spoke to City Manager Corliss about that in length and sent emails and documentation and her neighbor was operating a for real, construction company out of his home for many years, still she did not complain until her neighbor went off on her on May 30th. Another neighbor had called to complain about the trailer, and the neighbor thought it was her

by process of elimination and she had a tirade of his obscenities. She said her neighbor stated that he was going to call about her porch with the police and fire department. That was when she finally called the police and the police wanted to charge her neighbor, but she said she did not want things to escalate and the neighbors little boy was with him and wanted to do it later if she needed to. She said her neighbor had tenants who were illegal, not registered with the City and she showed photographs.

Sinclair said Jimenez also claimed that he had made numerous attempted to contact her and she did not want to have any contact with him at all. She said she had a signed statement from a friend who was with her one time when Jimenez called her on her cell phone where she stated not to call her and that her computer was down and if there was anything to say, to put in writing, but Jimenez chose not to write to her. She said when Jimenez stated that they talked 3 or 4 times in the last months, that was not true. Jimenez called her twice when she was with other people. She said Jimenez never sent her the minutes of the meeting, the legal opinion and all that was said was if she wanted to come to a meeting. She asked why would she want to come to a meeting when she went down to the City on August 17th, and they promised, in the meeting, that they would rescind all of the notices and understood she needed to do work in the basement and she requested permission to use her porch as a staging area. She said her next door neighbor had a gutter that had been pouring water onto her property and weakening that basement wall and getting it wet. She had a good sump pump, but she needed to move things away from there and she had a half wall down her basement that was crisscross with supports there was hardly any place you could walk through and the place she could walk through next to her hot water heater was not big enough to bring an old washer out and a new washer in. She had things stored on pallets and she needed to shift the stuff while that work was done because you can't move it when it was already full and she needed to move things further away from her wall.

Also she had things from her parent's home and wanted to change furniture and her house is about 800 square feet and if she already had a bed or a dining room table, you can't

have both at once and wanted to also do some interior painting. All of those things she was promised she could do at the August 17th meeting which they never referred to and was selective. It put her at a disadvantage with this man testified that she had 4 citations which was simply not true. She also did not have a conviction.

One time her neighbor who had been her neighbor for 16 years, they were upset because she was subpoenaed to testify against one of their cousins and one of the cousins tried to make her not do it and were angry with her and apparently Dan Johnson, Code Enforcement Officer, showed up and said there was something in her backyard. She said she told Johnson that you have to be able to see it from a public place or from someone's private property and she told him to go to whoever made the complaint and see what was seen in her yard. She said she told Johnson he was not allowed in her yard and that it was trespassing and asked if Johnson would cite them for what they had in their yard which was the back patio completely filled with junk and the back corner completely filled with junk and Johnson said he refused to do so. She said she was unaware of the other things she was being charged with.

When he went to the CDAC meeting, he refused to send those photos and show the committee members photos that she had emailed well in advance. She said Dan Johnson told her right off the top that he would not take any complaints from her that was after she was cited. She said Jimenez said he would take her complaints, but he never looked at any of this. She said her neighbors back yard had ladders hanging off the garage, the whole garage was remodeled to be construction, there was a bobcat, ATV's in the lawn, two construction trailers at least, sometimes a big grader parked in the street with a bobcat on top which was massive. All kinds of stuff leaning against his garage roof, scaffolding and so forth, workers coming and going. She said this was not a home occupation and none of those things were allowed. She said she thought her neighbor might finally be moving.

She said she went through hell last year, anytime she went in front of her house she was harassed and frightened. Once the meeting happened in September she was able to finally start bringing a few things in her backyard to go thorough from the basement to do this, but it

started to rain so she threw a few things on the porch and there was nothing that was trash or rubbish.

If looking at the minutes of the CDAC meeting, even though she presented an email to that committee and had previously sent the photos, they refused to show the photos of the other adjoining properties which was against the law. She said 9-605 clearly stated that at that time, they were required to look at the adjoining properties and Jimenez stated they were pictures of other people's homes and would not show those pictures. She said Jimenez said nothing in the minutes reflected anything that she said in her memo, it also stated that her email was attached, but it was not attached. She said the entire meeting took 35 minutes which would have meant reading a 3 page memo from her, should have shown photos but didn't, staff's presentation, other business they took care of, and asked how much time could have been spent on her thing. If reading the minutes it was shocking because it was as though they never had any point of view of him and the committee members were asking questions similar to some of the City Commission's questions such as the specific section of code that Sinclair was cited for and he did not give the specifics.

She showed pictures of the neighborhood.

Commissioner Cromwell said they were more worried about 331 Johnson Avenue.

Vice Mayor Amyx said tonight.

Commissioner Cromwell said they would be looking at some of those other properties and the Commission indicated their willingness to do that already.

Sinclair said if she could say something without seeming rude that because this was a serious criminal matter for her, that in 2009, when this was charge and when they proceed, they failed to follow the code which required them to consider other properties. When she submitted those photographs to CDAC, they failed to show those photographs and it was dismissed as being other houses. She said that was a defense, they failed to look at those photos. Also, she was cited for something that committee that was never sent to her, two separate items were

never documented to her and she had shown why the second item did not apply to her and it had to do with outdoor furniture.

Vice Mayor Amyx said they would not even be having this hearing if those items were put away and the other properties would be looked at and would make the comparison of the other properties to hers.

Sinclair said she was not trying to have an entertainment or provide a movie, but she had photographs of other things. She had photographs of 3 commercial properties that she showed to the City Commission in 2004 and still had not been taken care of and she told Jimenez what he did about those other properties now, she could care less because she was just concerned about just living her own life which meant that Jimenez had not fairly enforced the code and with regard to the 2nd item in the resolution, Jimenez had inaccurately portrayed the code, there was nothing that related to her in the second item, nor was there anything in the first resolution. Jimenez's duty, and if this went to court would be to prove the conditions that existed, not today, but last summer when they went through all the steps on the citation. She said if they went to court which she hoped they did not have to do, but she will not accept being found guilty of this and she meant that with respect, but this was her life and she was not running a junk shop at her house. She said this was a man who had a bad temper and had a record of drinking too much and thought she had called to complain to the police and the police told him it was another neighbor. She said the Commission could not look at what was going on today, but needed to look at all of those issues according to code and follow the process that had to do with conditions in 2009 and that was what she was trying to address.

Vice Mayor Amyx said the City Commission was going to make a decision on the claim that happened in July 2009.

Sinclair asked if Jimenez gets to slander her and say there were four violations. She said she had another folder of photos and was going to tell the City Commission the violations such as the car with the flat tires and the lumber in the yard.

Vice Mayor Amyx said Sinclair could enter those photos as additional evidence if she chose to do so.

Sinclair said she already submitted the photos, but she just wanted to show those photos to narrate. She said this was upsetting and hoping to receive a deferral since she just had a week to prepare and her computer was down and she had been presented with new information by Jimenez and a revised resolution. She asked if she could just address the issue of cancellation of meetings

Vice Mayor Amyx asked Sinclair what she meant by "cancellation of meetings."

Sinclair said she only received her memo posted at the end of the day today and could not imagine that a busy City Commission had time to read her memo that was posted just before she had a doctors appointment and she got the memo to the City Manager's office at 2:30 today and was not posted until the end of the day.

Commissioner Cromwell said the City Commission had the memo and the Commission had read the memo. He said the memo was sent by Sinclair at 2:47 pm to the City Manager's Office to post and the City Commission was used to receiving material right before their meeting and everyone was diligent about reading their material.

Sinclair said she could not imagine under any circumstance how this resolution could pass and she did not want to be involved in a court situation with the City and she had lots of recordings of Jimenez and Johnson on tape what they said and did and she did not feel like this was handled professionally. She said with regard to committee it was very clear why and she even brought the pill bottle to show the City Commission from when she was sick and had to postpone and she also brought her antibiotics as well as a letter from her friend stating what Jimenez said that she made it clear that she did not want to work with staff directed by the Code violations. She asked if anyone understood what she proposed and what she had permission to do and what she proceeded to do. Therefore, she was proceeding under their permission.

Vice Mayor Amyx said Sinclair brought up the fact that the City granted her the opportunity to use the front porch as a staging area, August of last year.

Jimenez said he and Johnson met with Sinclair in August. The purpose of that meeting was to get a game plan to solve this issue. There were many things that were discussed in that hour meeting or close to an hour. He said Sinclair did talk about staging an area and the basement, but staff was not disputing that. The problem was that Sinclair could not give staff a time period to have the items removed from the porch. Staff told Sinclair her options and clearly stated that she was coming up on her appeal date and to please provide staff something if she wished to do that. The following day at 11:49 am, Sinclair sent an email which stated that she was requesting a hearing before the Neighborhood Resource Advisory Committee regarding the matter of her porch and to please confirm of this request prior to August 21st, her deadline. He said staff had a feeling this would be a long drawn out matter and Sinclair was told that this could not just go on for eternity without a date and Sinclair could not give staff a date where it ended. He said he wanted to make sure she was aware of her appeal process which was stated in the notice of violation as well, that her deadline was coming up. He said actually, he thought, at that meeting, that they had a good conversation. He said he would like to reiterate if Sinclair could tell staff a short time period when the items would be removed, staff would be happy and would work with Sinclair as they did with other people. He still had not heard of when Sinclair could rectify the violation.

Vice Mayor Amyx said here was his recommendation to the Commission because they could not continue to have this item go on. Sinclair needed to correct the problem and staff needed to work on the other neighborhood issues and Jimenez needed direction from the City Commission. He said in Resolution No. 6880, a timeframe could be inserted and language could be drafted in 60 or 90 days or whatever, the items had to be corrected per code and if it was not, then the process would start wherever it went from that point.

Jimenez said he specifically researched staff's case history on that block to demonstrate that staff had responded to complaints as recently as 6 months ago.

Vice Mayor Amyx said staff would continue reviewing complaints anywhere throughout the community.

He said the City wanted to work with Sinclair and take care of the problems in carrying out the problems as existed. He suggested 60 to 90 days and then it would go from that point.

Commissioner Dever said they would postpone the adoption of this resolution for 60 days.

David Corliss, City Manager, said the City Commission could adopt the resolution, but direct staff not to proceed with the prosecution or abatement for 60 or 90 days.

Vice Mayor Amyx said the item would not come back to the City Commission unless the item was brought back to the City Commission.

Commissioner Dever said since this was going to be a potential conflicting oriented situation which would render additional complaints of this nature for that block, he asked what could be done.

Vice Mayor Amyx said Sinclair brought up a good point with the information that she provided. The picture that were provided and a drive by windshield snap shop of some of those violations, he could understand. Staff should be able to pick out the same type of violations because Jimenez indicated that if he was doing a drive by on Sinclair's property, it would have caught his eye. The City Commission had a responsibility to be fair in enforcement.

Corliss said Sinclair indicated staff found 4 violations at 331 Johnson or was it more accurate to say there had been 4 complaints.

Jimenez said there were 4 complaints and it did not mean this went to court, staff just opened up 4 cases.

Commissioner Cromwell said July would be one year.

Commissioner Dever said the City had way more egregious horribly conditioned properties that were blighted neighborhoods because of the City's lack of enforcement or cooperation from the owners to make the changes. A lot of time it came down to this body making changes. He said a year was a long time. He said he also looked at the pictures and was definitely an issue and it needed to be taken care of. He said he agreed with Sinclair that there was plenty of those n her neighborhood and this was going to keep going on because of

additional calls from other people now that this had happened. He said he was trying to be proactive on not having this happen again.

Jimenez said that was one of staff's most difficult problems with this block was a retaliatory type situation and was the beast staff was dealing with now, where one calls and then the other one calls. He said staff had investigated every complaint.

Jake Trybom, adjacent property owner, said his property was adjacent to Sinclair's to the east. He said he was at home when he was listening to the City Commission meeting and wanted to clarify that Johnson Avenue was not a trashy street and that was the impression he had when he was listening to the Vice Mayor's comments. He said if there were problems, come talk to the neighbors and they would take care of those problems and for Sinclair to say that she was trying to be a good neighbor and get along with everybody was wrong and a falsehood and she could sell anyone that bag and if anyone wanted, they could buy it, but that was not what was happening on Johnson Avenue. Personally, he said he was fed up with everything. He said he had the City Commission saying that Johnson Avenue was a trashy street and if someone was to pull the police records of the number times that Sinclair had called the police to Johnson Avenue, someone one think Johnson Avenue was the most dangerous street in Lawrence and it was ridiculous. There were a variety of people on Johnson Avenue, young couples, young children in which Sinclair called the police on as early as last Thursday. He said again, Johnson Avenue was not trash and not a bunch of hoodlums on this street, there were good people on Johnson Avenue. There were a lot of people on Johnson Avenue that take a great amount of pride in their property and put a lot of effort, but the neighbors could not go in their front yards to enjoy their yards because Sinclair steps out on the curb and starts snapping pictures.

Vice Mayor Amyx said in answer to Trybom's comments, it had to do with items on the porch and of like items.

Commissioner Dever said he did not think Trybom's house was trashy either, but there were items in plain view for everybody.

Trybom said he understood, but for Sinclair to say she was working on her basement, the tarp that was covering up whatever it was covering on her porch, he moved in 10 years ago and that tarp was there at that time.

Sinclair said she had a friendly relationship with her neighborhood's wife to the east, and her husband moved in later, this was the first she heard this angry thing toward her and they always spoke coming and going. Actually, they were the neighbor with the broken gutter that for years, had been dumping water into her thing and she had mentioned it a couple of times and to not have them get angry and to preserve the peace, she did not pursue it. On their back patio which was visible from Larnard and her street was a washer that just went out, a motorcycle which was very loud when he started it and that was illegal. She said she had never reported her neighbor to the City. When someone comes up and out of the blue and did this, she felt that everything was crumbling and Trybom was now making an alliance with the people from across the street. She said she did not make a fuss about their water thing because she wanted to stay peaceful and now somehow she was the dumpster and somehow they were the wonderful house who had a stack of lumber and galvanized in their back corner and she did not report them. She said she took pictures of the whole block and made it clear to Jimenez, she was not reporting those neighbors, just the neighbors directly across the street from her home.

Vice Mayor Amyx said he thought Sinclair reported those people.

Sinclair said she was trying not to alienate her neighbors and out of the blue here was this man that always spoke nicely to her came and stated his mind.

Vice Mayor Amyx said that Trybom was correcting him.

Sinclair said she thought Trybom was standing up for the drunk across the street.

Vice Mayor Amyx said again, he was correcting him and his comments were directed to him.

Sinclair asked if she could play the tape of her neighbor across the street.

Vice Mayor Amyx said Sinclair could enter it into evidence.

Sinclair said she did not have anyway to do it, she already asked about it and had brought the tape with her and she could play it for the City Commission. She said what started all this last May 30th was her neighbor cursing at her.

Vice Mayor Amyx said the City Commission had an obligation to look at the property the complaint was filed on which was 331 Johnson Avenue and the Commission was about to do that.

Sinclair said if City staff was required to tell her what they were doing about other properties and if that was public information.

Vice Mayor Amyx said for Sinclair to ask staff tomorrow and staff would provide any information Sinclair needed.

Sinclair she had asked and again, about the year 2009.

Vice Mayor Amyx asked Jimenez to provide information to Sinclair.

Sinclair said particularly, 330 Johnson Avenue.

Vice Mayor Amyx said he suggested that 60 days be the time for Sinclair to clean her yard and porch.

Commissioner Johnson said he thought that was too much time, but he could go for it.

Commissioner Dever said he agreed that 60 days would work.

Vice Mayor Amyx asked how that resolution would be written.

Corliss said the City Commission would adopt a resolution as it was, and direct staff not to proceed with enforcement action either through court or through abatement until staff came back after 60 days to provide the City Commission with a report and staff would let Sinclair know when this item would be back on the City Commission's agenda and the City Commission would direct staff to proceed with the appropriate enforcement action after 60 days. He asked if there was anything else the City Commission would like staff to proceed during the 60 days other than monitor Sinclair's property.

Vice Mayor Amyx said to just monitor Sinclair's property.

Sinclair said if she was cited for yard violation.

Vice Mayor Amyx said he thought there were trash cans and other things around. He said whatever the violations were, he asked Jimenez to make sure Sinclair had a clear cut understanding of the violations.

Corliss said staff would provide that information in writing.

Sinclair asked how could she paint the inside of her house because she did not know what she could put on her porch and people would call about anything.

As part of the consent agenda, **it was moved by Cromwell, seconded by Johnson** to adopt Resolution No 6880, ratifying the Community Development Advisory Committee's decision in finding the property at 331 Johnson Avenue to be in violation of City Code Sections 9-601-1 (A) and (C); and direct staff not to proceed with enforcement action for 60 days, at that time the case will be brought back to the City Commission for authorization to proceed. Motion carried unanimously.

Commissioner Cromwell said the City Commission was also directing staff to take a look at the block and make sure the Commission was being fair and even handed in enforcement of that block.

Corliss said staff would provide the Commission with that report.

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss reported that The Parks and Recreation Department was awarded a Waste Tire Products Grant from the Kansas Department of Health and Environment in the amount of \$13,591 which would fund half the cost of installing recycled rubber playground surfacing at South Park; Public Works Department prepared a short survey and partnered with the American Public Works Association (APWA) to find how the City's Pavement Management Program compared to similar communities throughout the United States; Parks & Recreation Department completed work to patch cracks in the surface of the skate park at Centennial; "Project Pansy 2010" was carried out on March 27, when 5 Parks and Recreation staff and 16 volunteers braved the 45 degree rainy weather to plant 1500 yellow,

orange, & blue pansies in downtown; Public Works Department recently completed street repairs; The Economic Barometer report for the fourth quarter of 2009 was released by Economic Development Coordinator/Planner Roger Zalneraitis; and, Staff received draft documents from the BNSF Railway to accomplish the transfer of the Santa Fe Station to the City of Lawrence in late March. (20)

REGULAR AGENDA

Receive public comments and recommendations for changes in the Public Transit Service

Robert Nugent, Public Transit Administrator, said a number of reports were drafted regarding public transit. A successful sales tax referendum was key to the transit system. KU and the City teamed up to create a Joint Planning Team and that Planning team in January 2009 hired Olsson Associates and Bourne Transit to assist in the coordination process along with 43 distinct groups of stakeholders that met

The groups met and discussed system characteristics and routes to get a better idea of what they were dealing with. On fixed route ridership, KU had three times the ridership, but the “T” covered 3 times of what KU provided. The para-transit on campus had a low productivity and the next lowest was the “T” lift that was the equal partner on the “T” side.

The consultants had to look at changes to the public transit system through a filter and there were definitely differences in the way service was provided. KU provided the service based off ridership and on the other side, the City was operating a service that was a coverage service and wanted to make sure there was service available to most people in the community.

In August 2009, the changes that could be accomplished within a short period of time was the Guide to Ride, shelter maps, coordination of public information which was now routed to one common call center, and created a route to provide service between Downtown, KU campus, residential and retail locations.

The second phase was putting together a set of recommendations and that information was made available to the public. He said they tried to receive all public comments in writing

and put together 7 public hearings, as a result, 100 people signed in at those meetings and they received approximately 150 comments during that time. The final recommendations were approved by the Public Transit Advisory Committee on March 9, 2010.

The proposed changes in services were the following:

Merge Route 1 and Route 2 into a single route.

Route 1 is currently interlined with Route 4, and Route 2 is currently interlined with Route 3. The proposal would end the route interlining and merge Route 1 and Route 2 into a single route.

Modify Route 3 to include peak and off-peak alignments, and an off-peak flex zone.

Ridership data indicate that Route 3 has lower ridership than many other transit routes while providing key service to Lawrence Memorial Hospital. To more efficiently match supply with demand, Route 3 will continue its current alignment during the peak morning and afternoon periods. The fixed route alignment will be limited in the off-peak periods (9 a.m. to 3 p.m., and after 6 p.m.) to the portion connecting downtown to Lawrence Memorial Hospital. The remainder of the route area will be served by demand response service.

Continue fixed route service on Route 4 while finalizing future change in service.

Ridership data indicates that Route 4 has the lightest ridership in the Lawrence transit system. The initial recommendations as presented in the public hearings called for converting the North Lawrence area into a demand response service. This demand response service would have offered curb-to-curb service in North Lawrence.

At public meetings there was general concern about implementing this type of service. Therefore, it was determined that further community discussions were needed before changes could be implemented. While the proposed or alternative changes are under further study and discussion the current fixed route service will be continued.

Split Route 5 into two separate routes.

Currently Route 5 serves as a cross town connector at 40 minute frequencies. The new routes (Route 5 and Route 9) would serve separate areas east and west of Iowa Street.

- **Route 5**

The existing eastern portion of Route 5 East would continue. The route would follow 23rd Street / K – 10 out to the east Hills Business Park. The route would be at 60 minute frequency in the off-peak hour, and 30 minutes during peak hour.

- **Route 9**

The western portion of the existing Route 5 West will become Route 9. It would serve southwest Lawrence and provide a north-south connection along Wakarusa Drive connecting 31st Street and Iowa Street to 6th Street and Wakarusa Drive through the 27th Street and Inverness Drive area. The route would be at 60 minute frequency.

Split Route 6 into two separate Routes.

Currently Route 6 is a bi-directional loop route. Creating two separate routes (Route 6 and Route 12) would allow for more direct service.

- **Route 6**

The new route would maintain the strong connection between downtown and the 6th Street and Wakarusa Drive area. This route would deviate slightly onto Iowa Street to maintain service to the 9th Street and Iowa Street vicinity, before continuing on 6th Street. The route would serve Free State High School along Overland Drive on the westbound trip before beginning the eastbound trip. The new route 6 would have a 40 minute frequency.

- **Route 12.**

A new Route 12 would assume part of the southern portion of the current Route 6, and create a connection between the 6th Street and Wakarusa Drive area with the University of Kansas Campus using Wakarusa Drive and Bob Billings Parkway, before continuing onto downtown. From downtown, the route would proceed directly north on 9th Street to Iowa where it would resume the route westward at Bob Billings and Iowa. The new Route 12 would maintain a 60 minute frequency.

Modify Route 7 to create shorter frequency and access Haskell Indian Nations University.

Currently Route 7 is at an 80 minute frequency. Making only a single loop around the 31st Street and Iowa Street area would allow Route 7 to improve the frequency from 80 minutes to 60 minutes.

Modify Route 26

Currently Route 26 serves several large apartment complexes and faces overcrowding issues. A slight route modification will decrease the pressure on Route 26. Instead of continuing from 24th Street and Ousdahl Road onto 24th Street, Naismith, and 21st Street, the route will continue from 24th Street and Ousdahl Road north on Ousdahl Road to 21st Street where it will resume its current alignment.

Commissioner Cromwell said the demand response, particularly in North Lawrence, he said he assumed if there was a large demand that would change into more of a fixed route.

Nugent said it was actually a de-evolution which was recommended with the demand response. He said the ridership in North Lawrence was low and what was done with the demand response was to create a zone and provide service in that zone. The key to the demand response was tracking where the trips were in that zone. Once finding out an area was receiving a number of trips then a fixed route could be formed.

Commissioner Cromwell asked if it would be a small bus.

Nugent said a small bus needed to be operated because the bus might get into some very difficult situations and be hard to navigate into tight areas.

Mayor Amyx said regarding Route No. 3, in looking at the productivity by route and the route as it currently existed with the 7.34 people per hour, he asked if there would be greater peak times in the north and west areas during shift changes in the industrial areas.

Nugent said most of the ridership was during the shift changes.

Mayor Amyx asked if ridership dropped to zero during the off times.

Nugent said that was fairly typical of all routes with high and low peak times.

Tom Worker Braddock, Olsson Associates, said during the off-peak times, if there were riders going out to that industrial area on Lakeview there was still the option of setting up a subscription service where workers could setup to be picked up downtown, Monday through Friday, at a certain time to be taken to that industrial area. This was just a way to not deliver busses to an area where a bus was not needed at that time.

Vice Mayor Amyx called for public comment.

Donald Southard, Lawrence, said there were no bus schedules in local businesses and quite frequently, he had to look at bus schedules.

Hubbard Collinsworth, Lawrence, said he rode the bus frequently and knew the routes would change as ridership demanded, but he was in favor of the current proposed routes and asked the City Commission to approve those routes, contingent upon those routes were not fixed in stone.

James Dunn, Lawrence, said he wanted to focus on the current Route 6, which was a two-way route and the property he owned was on west 9th Street. He said Nugent stated that route would turn into Route 10 in that area, but the Route 10 direction was going to be away from downtown. As someone who knew that section of the 1500 block of west 9th, there was a cut-out on the inbound side of the street where the busses could pull off of 9th Street to allow traffic to pass by. He said he thought it should go in the other direction, to use that cut-out area for the busses because when it went outbound, the bus currently stopped on the other side of the hill and his tenants had to get off the bus on the low side of the hill, walk over the hill, cross 9th Street at the traffic light and go over the hill to get to the property. He said he had 41 units and 23 of his tenants did not have cars. He said there was a fairly high percentage of people that were, at least, potential bus riders. He said he would like to bring that to attention and that was a very congested street.

He said he used the facilities of the jail for work release and he had a helper at the jail and found he had to pick that helper up which did not work. He said he was able to secure another helper through the jail, and that person had to walk to Harper to catch the bus in the morning when work release folks were released in the morning. He said that route that served that area being proposed would make it even further for people to go at the jail on work release, trying to be independent and secure jobs. He said he would like to see more public transportation in that area. Also, the Shelter was also considering that area for the homeless as well.

He said he read in the paper there was a major development plan downtown which would be built right next to a transfer point for the busses. He said he was wondering if that needed to be looked at too. If there was construction at that location as massive and as large as that building, there was going to be a lot of congestion in that area.

Southard said he would like to see buses for Sunday service.

Braddock said he would address public comment. He said regarding the cut out on 9th Street, that cut out would still be served by KU traffic. He said they struggled with some of those routes of how to serve everyone, everywhere, all the time. He said they looked at the directional traffic that would be served by that route and felt there was more potential for traffic looking at this from a one-way route. He said they felt there would be more potential for traffic coming from the 6th and Wakarusa area to campus, rather than 6th and Wakarusa area to downtown first and to campus. That portion of 9th Street was only 3 blocks away from the new 6th Street route and would be an option for people to access the new route that way.

In terms of Sunday service, they heard a lot of comments about the need for Sunday service through their public comment period. He said they looked at this as a revenue neutral way to deliver service. The system seen at this time was revenue neutral and would not cost the City extra money. If there was need for Sunday service that required additional monies.

In terms of the jail, the committee tried to look at that issue in several scenarios. It was known that buses did not like to make left turns off of really busy highways. Once a traffic light

was in that area there might be other options, but for right now, they did not see a way to serve that area and still serve the other areas in East Lawrence.

Mayor Amyx said regarding the Downtown Redevelopment Projects and the buses in that location, there needed to be temporary bus relocations during construction time.

Nugent said if there was new development, a change of service could not be accommodated knowing a certain block might be in development a year from now. He said the routing at Oread was changed over a couple of blocks, but now they were trying to migrate back to what was a good route after the construction.

Mayor Amyx thanked Nugent for his hard work in running the City's transportation system. He also thanked the member of PTAC (Public Transit Administrative Committee) for their hard work in putting information together to come up with those proposed routes.

David Corliss, City Manager, said at the agenda review, while it seemed like a long time those routes would take effect on August 1st, there needed to be enough lead time to get the documents to the printer and make the changes on the website. He said he would not say time was of the essence, but thought the Commission would want to get this done sooner than later. He said if the City Commission concurred, he could place this item on the consent agenda for next week for approval.

Commissioner Dever said there had been a lot of changes and the public had a lot of input. He appreciated the efforts of everyone in this matter and thought the Commission should advance this item forward and make adjustments. He said some of the revenue neutral concepts were important, especially since more money was not going to be on the horizon. He said if sales tax pick up there might be some additional service the City might want to add or demand response features to add to the southeast part of the town. He said right now, he was in favor of a motion to put this item on a future agenda.

Mayor Amyx said one of the reasons they were able to discuss routes was because of the work from former Mayor Dever in getting the sales tax passed.

Moved by Dever, seconded by Cromwell to direct staff to place the route changes on the April 13, 2010, consent agenda for approval. Motion carried unanimously.

The City Commission recessed at 8:40 p.m. and returned from recess at 8:45 p.m. (21)

Consider awarding Bid No. B1006 – Pump Station No. 25 and Force Main Upgrade to the lowest bidder, Midland Contractors, Inc., for \$2,372,596 and authorize the City Manager to execute a contract agreement for the project and consider authorizing the City Manager to execute a construction service agreement with Burns & McDonnell for Pump No. 25 and Force Main Upgrade for \$64,946.70.

David Corliss, City Manager, said the reason this item was on the regular agenda as opposed to the consent agenda was not because of any controversy or any neighborhood concerns, but it was a large and important project and this gave the opportunity to discuss the Southeast Lawrence Utilities Plans, both wastewater and water.

Dave Wagner, Director of Utilities, said Pump Station 49 was recently constructed by benefit district financing and was in operation. It then currently discharged by force main into the gravity system that eventually was served by Pump Station 25. Pump Station 25 had a force main that continued to the Wastewater Plant at East 8th Street.

The necessity of expanding the capacity of Pump Station 25 was that it served East Hills Business Park as well as Farmland Properties and was also receiving the waste streams from Pump Station 49 as well.

The plan for the future was as this area continued to develop that eventually this pump station would discharge to the new treatment facility eventually constructed south of the Wakarusa River and would open up more capacity potentially for Pump Station 25.

He said that was the current service plan for wastewater collection in those two areas and staff thought it provided some flexibility. Pump Station 49 was constructed with the ability to be expanded relatively easily.

Mike Lawless, Assistant Director of Utilities, said with this expansion, they would not only be able to take care of East Hills Business Park, but the Farmland Property. The current pump station was adjacent to the Amarr Garage Door Group facility. It was an underground station

and had a 1 million a day capacity. As part of this project, the City purchased the 4 acres and would build a submersible station with an initial capacity of 3 million gallons a day. They would also build a new 12 inch force main that went from this facility up to the wastewater plant. There would be the ability, in the future, to add in a 3rd pump to that station which would bring the capacity eventually to 6 million gallons a day, should the City need the capacity in the future for the Farmland property or expansion of the East Hills Business Park Service needs. At that time, they would also need to build a second 12 inch force main in order to serve that 6 million gallon a day capacity, but that would be in the future.

The existing pump station and the new property the City purchased for the new pump station, easement were purchased along the railroad right-of-way adjacent to the existing force main, turning north coming over to the Wastewater Treatment Facility property and bring it over where it would end at the main interceptors that came into the plant. Part of the project was to acquire easements and at the same time they were acquiring the easement for the Pump Station 25 Project, the southeast area transmission water main came under the river to the same general vicinity and came down along the east property line of the Wastewater Treatment Facility and at that time, they purchased not only the easements necessary for the Pump Station 25 project, but also the future southeast area transmission water main project. He said the 2 force mains for the pump station project as well as the future southeast area transmission water main would be housed and there was enough area for separations and still house 3 pipelines. He said there were 14,000 feet of 12 inch force main and a pump station that had 2, 3 million gallon a day pumps to handle the 3 million gallon a day capacity.

Seven bids were opened on March 16th and the prices ranged from the 2.37 million dollar low bid, to a high bid of 2.8 million. He said Burns and McDonald checked references with the lowest responsible bidder which was Midland Contractors and there were good references. Midland also had previously completed 3 projects with the City of Lawrence. He said staff believed the award to Midland Contractors was appropriate as well as the limiting

engineering services that they would have with Burns and McDonald and staff performed the day to day inspections.

Vice Mayor Amyx said regarding the southeast transmission line and the amount of separation needed for those pipes, he asked about the distance.

Lawless said KDHE requirement were a minimum of 10 foot separation from outside of pipe to outside of pipe and staff provided for that minimum separation. The first force main would be as far away from that water transmission main as possible and in the future, should the other force main be needed, staff had the ability to fit it in between the two and still maintain that separation.

Corliss said there were two force mains and there would be a lot of pressure in the 40 feet of force main.

Commissioner Dever asked about the flow of Pump Station 49.

Lawless said he did not have that information available at this time. He said when the City applied for the KDHE permit for Pump Station 49 and knew the City was going to put that into a pump station that only had a one million a gallon a day capacity and KDHE need to make sure the City followed through with the Pump Station 25 so there was no future potential of a million and a half gallon a day station going into a one million gallon a day station.

Corliss said currently Pump Station 49 was getting flow from the jail, Hillcrest Wrecker, duplexes on the east side of O'Connell, the future Tractor Plus, and a few residences on the west side of O'Connell Road.

Lawless said to get KDHE records straight, staff needed to make sure they were following through.

Vice Mayor Amyx called for public comment.

After receiving no public comment, Vice Mayor Amyx said this was a long on-going group of projects for water and wastewater and as the economy picked up again and the City was experiencing development again, the Wastewater Reclamation Facility would be back on the City Commission's agenda.

Corliss said later this year staff would be briefing the City Commission on where the City was in the Wastewater Master Plan process. He said the Southeast Water Transmission Line design would be finalized this year, but there were no budgeted funds, this year, to proceed with construction. He said the City Commission needed to discuss this issue while setting priorities because while the City had additional sewer capacity on the east side of town, the City would need additional water transmission on the east side of town as well, eventually.

Commissioner Johnson said a person could always question when the best time was to do something like this. The City had been accused over the past several years of sometimes not being ready and behind growth sometimes. He said this was a good example of putting this City ahead and ready for Farmland or the southeast area to develop. He said regarding the construction prices, he was not sure how much was plugged in the City's Capital Improvement Budget.

Lawless said the City had a total project budget of 3.4 million.

Moved by Johnson, seconded by Dever, to award Bid No. B1006 – Pump Station No. 25 and Force Main Upgrade to the lowest bidder, Midland Contractors, Inc., for \$2,372,596 and authorize the City manager to execute a contract agreement and authorize the City manager to execute a construction service agreement with Burns & McDonnell for Pump Station No. 25 and Force Main Upgrade for \$64,946.70. Motion carried unanimously. (22)

Consider approving temporary use of right-of-way permit to BFG Communications for the 2010 Spring College Carnival on 8th Street between Massachusetts Street and New Hampshire Street from 9:00 a.m. to midnight on Monday, April 19, 2010, contingent on departmental approval of specific site layout, receipt of proper proof of insurance, and negotiation of a service agreement to compensate the city for service costs

Jonathan Douglass, Assistant to the City Manager/City Clerk, said this event was planned for a Monday evening, April 19th, and the street would be closed from 9:00 a.m. until midnight. The actual event would run from 6:30 p.m. to 10:30 p.m.

The event would be comprised of carnival type games, live music and no alcohol would be allowed on the public right-of-way during the event.

Staff recommended that any approval of this event be conditioned on negotiation of a Service Agreement, whereby the event organizers would compensate the City for any cost the City incurred to serve that event. The costs were estimated from \$1,000 to \$2,000, for police, fire/medical, barricades, and trash.

Vice Mayor Amyx asked when the application was received.

Douglass said Tuesday of last week.

Mike Churchill, BFG Communications, said all of the materials that were submitted, were accurate.

Vice Mayor Amyx said the applicant received written approval from adjoining property owners. He asked if the applicant discussed the event with Downtown Lawrence Inc., or anyone from East Lawrence.

Churchill said he talked to some of the business owners on 8th Street who was members of Downtown Lawrence, Inc. and those business owners did not see any problems with the event. He said they encouraged local businesses to profit as much as possible with this event to divert everyone to that area. He said it was not only a win/win for their free event, but for all of the local businesses as well

Vice Mayor Amyx asked what this event would provide.

Churchill said they were touring around 9 different college universities and for Turner Cartoon Network, specifically Adult Swim which was targeted to the college crowds. He said it was a promotional event for Adult Swim. He said there would be 10 carnival tents, 10 carnival games which had prizes and a stage that would feature a band called "The Whips" from Athens, Georgia.

He said originally, they were going to locate at the Phoggy Dog, 2228 Iowa, but for some reason those negotiations fell through. He said at that time, he was contracted by BFG Communications, to find a new location. He said he had attended a street event on 8th Street a year ago for the Sandbar, and the venue itself seemed great with all of the different markets around, it seemed to keep their demographic they targeted. Ideally, Massachusetts Street,

would be a great target, but that created a huge nightmare logistically. He said they wanted to be closer to KU campus, but for their footprint, they needed a large and flat area and was harder to find closer to campus.

Vice Mayor Amyx asked BFG Communications had any problem meeting the insurance requirements.

Churchill said BFG was fully insured.

Corliss said it was good to reiterate that alcohol would not be on the public right-of-way, but it was allowed on some of the sidewalk dining locations, but that was not a problem because those establishments knew those rules. He said this was appropriately distinguished between some of the situations where the City donated City services and this was a promotion for a commercial venue and was opened to the public. He said it would be appropriate for BFG Communications to pay for City costs. He said the City had any number of City departments that were involved and were not trying to balance the budget on the estimated \$2,000 costs of reimbursing the City, but thought that was an appropriate thing to do in this situation as well. He said staff never knew what would be big sellers for downtown, but the City Commission had expressed trying different events and ways to get people downtown and this was another way. Hopefully it would be very successful if the weather cooperated and it would be a hit. He said staff wanted to support this event.

Commissioner Dever said this was a commercial enterprise and they were comfortable helping the City fund the necessary City services that were required to keep this event in check. He asked if there would be signs and advertisements and age appropriate. He said it was stated that the demographics were college, but clearly that skewed younger as well. He said he wanted to make sure this event was okay for everyone in the community because there would be carry over in the community.

Churchill said that was a concern he addressed with his boss. This event did not start until the end of the week. Otherwise, he would have provided actual photos from the event. He said anytime planning an outdoor event similar to this event.

Corliss asked if it was a family event.

Churchill said it was an all age event and all the games were suitable for all ages. He said his boss could provide specifics of each game.

Vice Mayor Amyx asked if BFG Communications could include the City Commission's concerns in the Service Agreement that the event was for the entire community.

Churchills said that would not be a problem.

Commissioner Dever said he said he had seen some of this before and liked to make sure it was not all alcohol sponsors and giving away samples of stuff. He said they might not be selling materials, but there was also that whole promotional thing that goes along with those types of events.

Churchill said as far as he was aware, they were not doing any type of promotional things and the only signage was on the tents promoting that carnival game itself and some other signage and Adult Swim stuff on the stage itself. As far as he knew, they were not selling anything other than that, or any deal with promotional stuff.

Vice Mayor Amyx said the City Commission seemed to cover everything to protect the public and the use of the right-of-way. He said if there was anything else to include in the service agreement, the Commission needed to give direction now.

Corliss said one of the key things was not only just the issue of whether they were selling alcohol, because alcohol was prohibited in the public right-of-way.

Moved by Johnson, seconded by Cromwell, to authorize use of right-of-way permit and to negotiate service agreement to compensate City for service costs and include the information the Commission requested on age and family appropriateness. Motion carried unanimously. (23)

Receive audit recommendation follow-up report from the City Auditor.

Michael Eglinski, City Auditor, said this report covered recommendations that were 6 months or older and gave the City Commission and update on the status. This report covered

recommendations from two audits, one of which was the Pavement Management System and the Street Light Audit and the short answer was almost everything was either in progress or implemented. He said he wanted to touch on the ones he recommended closing which meant 6 months from now he would not follow up on those recommendations.

He said there were two recommendations implemented and one recommendation had to do with devoting resources to updating the pavement data which was completed in September right after the last audit follow-up. The other was a backup policy for computer data which was completed in early September. He said both would improve the data the City Commission had available.

One recommendation that he was labeling as not implemented had to do with a process to either issue the existing excavation permits or revise and create a new right-of-way management process. He said staff made some progress in how to do that, but the decision at this point was to not go forward.

He said regarding street lights, one of the positive changes was that Westar Energy, who was responsible for maintaining the lights, based on the sample, had done a much better job of getting the lights that were out, replaced. He said in an earlier report, over 7% of the lights were not lit and under the tariff, the City paid for a light unit even if it was not lit. He said in early March, he looked at 200 light and only found 1 that was out which was a substantial improvement.

He said he wanted to note that the rates had gone up again. The last two years, in February the rates had gone up. He said going back to 2007, the City was paying approximately \$10.00 a light on average and was up to about \$14.00 presently which was a steep increase particularly because the increases had been fairly level prior.

He said as another follow-up, in the original audit, he looked at other cities purchasing the street light systems and reported substantial savings. One of those cities in that report was Lenexa and Lenexa purchased 2400 street lights from KPL and forecasted some savings in

which he followed up to see if Lenexa's experiences seemed consistent with what was expected and Lenexa said they were seeing savings and happy with the purchase.

The document had a great more detail about the status of each recommendation.

Commissioner Dever asked if Eglinski received an explanation from Westar Energy why the rates seemed to spike dramatically, subsequent to the City hiring an auditor.

Eglinski said no and hoped it was bad luck.

Commissioner Dever asked if it was payback for making Westar turn the City's light on.

Eglinski said certainly, Westar had done better at fixing the lights.

Commissioner Dever said Westar's tariff did not change much between 2001 and 2007 and went down in 2007.

Eglinski said one part of that increase was the surcharges which was the energy surcharge which was increasing faster than other cost. The other issue was when the rates were increased, it was a process that went through the Corporation Commission and cities had not done much to argue their position in street lights. Right now, both Lawrence and Wichita had put in the paperwork to intervene and would help protect the City's interest. He said if a City did not go to protect their interest, then there was no good chance to protect the City rates. He said those increases were quite substantial for street lights.

Commissioner Dever said the other issue was the abandonment or not moving forward with the excavation in the right-of-way process and asked if it was something the City was not prepared to do.

Corliss said staff was working extensively in preparing a draft right-of-way management ordinance. One of the things staff saw as key in being able to present that was the staffing to manage that additional process. He said the Commission might want to look at that when looking at the 2011 Budget, but he was not optimistic that that was where the City should place its resources into staff to manage that process. If trying to do something more comprehensively, staff was needed to help manage that because there would be more process. Every time someone was cutting into the right-of-way, they needed a process to handle that

issue. He said it was clearly and identified issue, but the question was if the city wanted to put resources into that or resources in pavement.

He the City was down to one inspector in Public Works and did not know if he wanted to hire a clerk as opposed to hiring somebody to shovel asphalt for patching.

Commissioner Dever said there needed to be a benefit and the Commission could talk about what the City was gaining from the investment for the community.

Corliss said when going through the budget process, they could look and see what the City was gaining. Clearly, what the City was gaining from Eglinski's report was the ability to institutionalize that right-of-way management. It was a little bit more difficult to translate and say it had a greater benefit to the public as opposed to putting in resources for fixing streets. He said he was not dismissing the recommendation, but did not know if it had higher priority in putting the resources into pavement.

Vice Mayor Amyx said it was about priorities right now on every dime being spent.

Eglinski said he could include it as an open recommendation and follow-up again. The reason it was there was because it was on the books and the City had the excavation permit on the code, but was not doing it. He said it might be reasonable to take that section out of the code.

Commissioner Dever suggested leaving it open.

Vice Mayor Amyx concurred. He said regarding the tariff language for the street light, Eglinski stated that Lawrence and Wichita were the two communities that were intervening on the tariff language that dealt with street lights and where was the City in that process.

Corliss said the City had filed the necessary paperwork to intervene in that case, but he did not know where the City was, but would get information to the City Commission. He said the City intervened in an earlier case, but that case did not get into the issue of street lights and intervened in another case and try to continue discussions. Staff would also continue discussions with Westar. He said Westar had been responsive when he asked questions and asked for data. He said it was clear if wanting something codified with the electric company, it

would eventually need to be in the contract and that contract was the tariff. He said while getting good information from Westar, they had been much more responsive on the street light outage and put additional resources as far as being able to respond to street light outages. As staff worked with Westar about costs of the street light, it would eventually need to be part of the tariff language and protected the City's ability by intervening. He said it was a multi-month process.

Eglinski said Westar increased the rates twice in the last 15 months or so.

Commissioner Cromwell asked if staff was continuing to work on the exploring the concepts of acquiring street lights for cost savings.

Corliss said yes, but wanted to try to exhaust some of those other avenue first as far as seeing if the tariff could be changed to be more favorable and if Westar could change some of their billing practices to be more favorable and continue to look at that acquisition option and would be a considerable undertaking. He said he probably would need to hire an expert as far as evaluating the system and look at some of the models of other communities. He said they had been working on a lot of thing in the Pubic Works Department such as pavement management and sanitation and was not at the point of recommending acquisition of street lights in the Public Works Department.

Moved by Johnson, seconded by Dever, to direct the City auditor to close audit recommendations A and B. Motion carried unanimously. (24)

PUBLIC COMMENT:

Donald Southard, Lawrence, said he provided the Commission with his bank statements and would be in court tomorrow.

FUTURE AGENDA ITEMS:

- 04/13/10 · State of the City Address and Mayoral Elections.
- Consider approving a Special Use Permit, SUP-1-3-10, for the establishment of a Temporary Shelter for the Lawrence Community Shelter, approximately 4.15 acres, located at 3701 Franklin Park Circle. Submitted by Lawrence Community Shelter, for Franklin Business Center LLC, property owner of record. Adopt on first reading, Ordinance No. 8500, for Special Use Permit (SUP-1-3-10) for the establishment of a Temporary Shelter for the Lawrence Community Shelter, approximately 4.15 acres,

located at 3701 Franklin Park Circle. (PC Item 4; approved 5-2 on 3/22/10)

ACTION: Approve Special Use Permit (SUP-1-3-10) for Lawrence Community Shelter located at 3701 Franklin Park Circle, and adopt on first reading, Ordinance No. 8500, if appropriate.

- 04/20/10 · Conduct a public hearing on a request by the Lawrence Convention & Visitors Bureau, for a waiver of the restriction of the sale and serving of alcoholic liquor within 400 feet of a school or church, pursuant to section 4-113(a) of the Code of the City of Lawrence, Kansas regarding the temporary sale of alcoholic beverages related to the Tour of Lawrence, on July 2nd between the hours of 6:00 pm until midnight and July 4th, between the hours of noon until 9:00 pm.; consider adopting on first reading, Ordinance No. 8502, authorizing the temporary sale, possession, and consumption of alcoholic beverages at certain specified downtown public property related to the event.
- May/June · Upon conclusion of 2010 Kansas Legislature, review and consider possible changes to City primary election law.
- November · Receive status report on LCS relocation efforts.
- TBD · 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.
- Receive Lawrence Human Relations Commission gender identity report.
- Receive economic development policy updates and forward to PIRC for review and comment:
 - New language that would provide tax abatement bonuses for firms that provide high-wage jobs (staff memo);
 - Update to IRB policy to account for changes to state law and guidelines for retail and multifamily use (IRB memo and draft IRB policy);
 - A new CID policy establishing the criteria, financing, processes and fees for these districts in Lawrence (CID memo, draft CID policy, and state CID legislation)
- Receive staff report on 15 minute parking meters downtown.
- Receive staff report on habitual parking violator ordinance.

COMMISSION ITEMS:

Moved by Dever, seconded by Cromwell. to adjourn at 9:35 p.m. Motion carried unanimously.

APPROVED:

Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF April 6, 2010

1. Bid Date Set - Weather Storage expansion-Pump Station No. 9 on May 11th.
2. Bid Date Set - Motor Rehab project on May 18th.
3. Licensed Contractors continuing education – Johnson County for \$68,750 2010
4. Bid – Rear load refuse trucks to Downing Sales & Service-two 20 yd. for PW Dept. \$199,232
5. Bid – Rear load refuse trucks to Downing Sales & Service-25 yd. for PW Dept. \$135,313
6. Ordinance 8497 – 1st Read, 55 Tax Abatement, -Amarr Garage Doors-repeal Ord. 8470
7. Ordinance 8501-establishing the Social Service Funding Advisory Board
8. Resolution 6880- 331 Johnson Ave-violation of City Code Sections 9-601-1 (A) and (C).
9. Resolution 6881, Retail Task Force -remove 1 City Commissioner, add 1 County Commissioner & repeal Res. 6877
10. Preliminary Plat (PP-1-2-10) Lawrence Municipal Airport Addition No. 2, 15.7 acres, 1915 Airport.
11. Ordinance 8498 – Rezone (Z-1-2-10) 8.26 acres, located SE of W. 27th St. & Crossgate Dr. from PUD to OS.
12. Easements & ROW for a 2 lot Preliminary Plat, PP-1-1-10, Four Seasons Pump Station, 30.894 acres, SE of W 27th St. & Crossgate Dr.
13. Special Use Permit - City Pump Station 09-Wet Weather Storage Expansion, 8.18 acres, located SE of W 27th St. & Crossgate Dr.
14. Preliminary Revised PDP-1-1-10, Bauer Farm, 43.88 acres, 4700 W 6th St.- SW corner of Overland Dr.& Folks Rd
15. Special Event Permit – (SE-3-12-10) - Produce tent sale-Sears parking lot, 2727 Iowa Street from 7/10/10-8/15/10.
16. Extension City/KU Land Use Agreement for another five year term
17. City/KU Land Use Agreement – 5 year term.
18. Signs of Community Interest - Walk MS event on April 10, Sunflower Elementary
19. Signs of Community Interest - Spring Parade of Homes, April 16-26,
20. City Managers Report
21. Public Transit Service recommendations.
22. Bid - Pump Station 25 & Force Main Upgrade, Midland Contractors, \$2,372,596 & Burns & McDonnell Station 25 & Force Main Upgrade for \$64,946.70
23. ROW permit and Service Agreement to BFG Communications for 2010 Spring College Carnival 8th St. between Mass.& New Hampshire - 9:00 a.m. to midnight, April 19, 2010
24. City Auditor - Report