



# City of Lawrence

## CITY MANAGER'S OFFICE

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### CITY COMMISSION

**MAYOR**  
MIKE AMYX

**COMMISSIONERS**  
ARON E. CROMWELL  
LANCE M. JOHNSON  
MICHAEL DEVER  
ROBERT CHESTNUT

June 1, 2010

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

### RECOGNITION/PROCLAMATION

With Commission approval Mayor Amyx recognized "Contributions of the Free Staters, led by John Brown, exemplified by their heroic efforts in the Battle of Black Jack, to uphold the principles that all men are created free, and furthermore, acknowledge that the Battle of Black Jack was the Dawn of the Civil War."

Greg Seibel, property owner at 1313 Haskell Avenue, asked for Resolution No. 6885, regarding 1313 Haskell Avenue, to be removed from the consent agenda for separate discussion.

### CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve the City Commission meeting minutes of April 13, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive minutes from the Aviation Advisory Board meeting of April 22, 2010; the Planning Commission meetings of April 26 through April 28, and the Human Relations Commission meeting of February 18, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve claims to 144 vendors in the amount of \$970,653.50. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve the Drinking Establishment license for 23<sup>rd</sup> Street Roadhouse, 1003 East 23<sup>rd</sup> Street; Scarlet Orchid, 2223 Louisiana; and, the Retail Liquor License for Texas Jack's Liquor, 3020 Iowa Ste: B. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to concur with the recommendation of the Mayor and appoint Ryan Devlin to the Traffic Safety Commission to a position that expires April 30, 2013. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to set a bid opening date of June 15, 2010 for Bid No. B1035 – Project No. PW1006, 2010 Overlay Program, Phase 2. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to waive bidding requirements and authorize sole source purchase of seven (7) mobile computers and related equipment and maintenance services from APS for use by the City's parking control officers for the sum of \$19,175.30. Motion carried unanimously. (2)

Ordinance No. 8515, amending City Code provisions establishing procedures for allowing alcohol on City Property, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt the ordinance. Aye: Amyx, Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to authorize the Mayor to sign a Subordination Agreement for Walter Ewert, 1808 Atherton Court. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to authorize the City Manager to enter into an agreement with Blue Goose Golf, LLC for provision of scorecards and yardage booklets at no charge. Motion carried unanimously. (5)

Greg Seibel, property owner at 1313 Haskell Avenue, Resolution No. 6885, said the first issue he had with the resolution was that Section 3 ordered the commencement of a list of repairs and simultaneously Section 4 orders the commencement of the removal of the structures. He said Section 5 stated that if one or the other was not completed, the City would commence certain actions. The way the resolution was written, both ordered repairs and ordered removal to begin immediately.

He said regarding the list of repairs ordered he met with Dan Johnson, City Inspector, and they seemed to be in agreement of repairs required. He said at that point, Johnson said he would submit the list and he would be contacted in case there were any issues to discuss, but he had not been contacted at any point. He said there were a few minor repairs on the list that were different than what Johnson discussed with him.

He said item 8 on that list required closing a chimney chase that went through the roof, and required a licensed contractor to perform that work. There was nothing structural involved, needed guttering on top and some type of board on the bottom; Item 2, required filling in open trenches; Item 9 required windows to be operational, but he was not clear what that meant; and, finally, the front porch being written into the resolution that a licensed contractor was required to perform that work, but he did not understand that either.

Last fall, he applied for a permit, but was denied that permit because the City did not believe he could complete the work in a timely manner. The entire repair order by the City required the improvements be done in a timely manner. City code did not require a licensed contractor to perform that work and allowed the building inspection department to make the decision. If he completed the repairs for the next four months showing everything that did not require a permit that showed work was done in a timely manner, he did not see the Commission's interest in not allowing the building inspection department to look at the work he had been doing and why the City Commission would not allow staff to make the decision of whether he could complete work in a timely manner at that point.

Mayor Amyx said regarding the discussion several weeks ago, the Commission asked about completion of all necessary outside work and the completion date of October 15<sup>th</sup> and Seibel agreed.

Seibel said right.

Mayor Amyx said Seibel met with a City inspector and was given a list of repairs by October 15 and specifically list items where a contractor needed to be hired in order to finish those items and that was stated in the resolution. If those items were not completed, the City Commission did not need to see this item again. He said Seibel had the right to appeal, but the Commission was going on Seibel's word that the outside would be completed.

Seibold said yes, but the City Commission was forcing unnecessary expense to him, for example, requiring a contractor for the chimney chase, which there was no structural work involved and was not something that required a permit. He said it was minor details that did not get a chance to be worked out because he was not approached with a proposed finalized list like he was told would happen at the time was with Johnson.

Again, he said Section 3 required commencing repairs while at the same time, Section 4 required to commence removal of the structures and it was not written in the resolution as alternatives, but required him to do both.

Brian Jimenez, Code Enforcement Manager, said Inspector Johnson visited the house with Seibold and submitted the list. The Commission directed staff to be specific and he added a few items to the list to specifically address structural concerns that he did not think were appropriate to wait for possibly another year. The repairs were listed, not substantial and the listed needed to be verified by staff.

He said the time period was kept at October 15<sup>th</sup>, with added structural items. Johnson was not present to give a complete list, but to discuss past issues. All issues in the resolution were discussed with Seibold for the last one to two years. It was clearly directed that certain

items needed a building permit and a licensed contractor. Two documents were signed by Seibold acknowledging that requirement.

Past inspection history indicated failed inspections, non-compliance and not following of the code. He said staff found out two weeks ago that Seibold lived in another residence and staff was well within their rights to request a contractor. He said staff did not know if Seibold would ever live in the property again. The intent of the city code was to allow the homeowner to do the work themselves if living in that structure and not a person who bought another house taking up residency, and staff not knowing what would happen in the future.

Scott McCullough, Planning and Development Services Director, said Section 3 did not require the structure to be corrected, but required the correction or the removal of the structures, giving the owner the ability to choose whichever action most suited. He said to be very clear, Section 4 did require the structure be removed by that date, when getting to that point in the proceedings, what the order was.

Jimenez said he tried to encompass everything possible. If Seibold could prove to staff that the roof did not need a licensed contractor, staff would listen. He said staff wanted to make it perfectly clear, beyond a reasonable doubt, that there was no confusion about what might need to happen. For example, regarding number 12, a retaining wall was needed because currently it was a walk down basement that was collecting water and there no way for the basement to drain. He said staff did not know the height or design of the wall, so to be specific, staff indicated a licensed contractor might be required and thought that was reasonable. He said staff was not sure about needing a license contractor because no drawings had been seen yet. He said staff was covering every grey area to be sure that Siebold clearly understood what was required.

Mayor Amyx said several weeks ago when this issue was discussed by the City Commission, the Commission wanted to make sure the exterior was completed, by code

standards, which was the reason for the agreement and the completion date of October 15<sup>th</sup>. He said the interior of the structure would be addressed once the exterior was completed.

Seibold said he did not have objection to the language of staff regarding the retaining wall and that a licensed contractor might or might not be required or that statement on any of those items, but had an objected to writing into the resolution, that a licensed contractor was required, especially on items that did not have structural work involved.

He said regarding the point made about Section 3 and Section 4, he did not recall that section 4, regarding removal of the structures, referenced the date of October 15<sup>th</sup>. The way the resolution was written, simply ordered him to commence the removal of the structures which did not make sense with Section 3.

Mayor Amyx said Section 4 regarding the accessory garage, orders that the premises be made safe and secure within the time period stated in Section 3.

Seibold said okay, but asked if it stated, begin the commenced removal of the structures and those things be made safe. He said should the “and” in that sentence state “or”.

John Miller, Staff Attorney, said the purpose of Section 4 was to respond to Seibold’s comment. The premises was to be made safe and secure during and up to that October 15<sup>th</sup> period and was not an “or”. He said while it did state that Seibold needed to take action to start removing that structure, it also stated and ordered the structure to be made safe and secure. That was one of the things required by Seibold now, in addition to those requirements in Section 3 in order to make the facility safe for habitability. The purpose of the resolution was to make the structure safe and not unsafe or dangerous. The purpose of Section 4 was to indicate the City Commission could request the building be removed and ordered that the building be made safe and secure during the pendency of the timeframe the City Commission had given Seibold to correct and make the facility safe.

Mayor Amyx said in prior discussion, an agreement of October 15<sup>th</sup> was the timeframe of completion of the exterior. He said staff had tried to give every indication as to what items were needed specifically. He said staff indicated they would work with Seibold on those items.

Commissioner Dever said if the City was involved in this process and if another person was living on this property other than the person making those repairs, it was the City Commission's responsibility to make sure the work was done properly and safely and that was staff intentions by requiring the use of a contractor. He said the City was protecting its liability, since the City was demanding this work be done.

**Moved by Cromwell, seconded by Chestnut,** to adopt Resolution No. 6885, declaring structures located at 1313 Haskell Avenue to be unsafe or dangerous, directing that said structures be repaired or removed by October 15, 2010 within which action shall commence, all in accordance with K.S.A. 12-1750 Et Seq., as amended and Chapter 5, Article 11 of the Code of the City of Lawrence, Kansas, 2009 Edition and amendments there to. Motion carried unanimously. (8)

#### **CITY MANAGER'S REPORT:**

During the City Manager's Report, Diane Stoddard, Assistant City Manager, gave an update to the New York brick street reconstruction; an update on Burroughs Creek Trail; City staff member, Tammy Bennett, Assistant Public Works Director, was honored at the Spring Conference of the Kansas Chapter of APWA (American Public Works Association) for being an outstanding public leader in the public works field; searchable cemetery records were available on-line at <http://www.lawrenceks.org/lprd/parks>; and, Steve Bennett, Facilities Manager and Mark Thiel, Assistant Public Works Director completed and received their Building Operator Certifications. (7)

#### **REGULAR AGENDA**

**Receive recommendation for use of city owned building at 1920 Moodie Road.**

Margene Swarts, Assistant Director, Development Services, said the following:

"In 1987, the metal building at 1920 Moodie Road was constructed with CDBG funds as office space to house the Lawrence Indian Center. The original size of the structure was 1600 square feet and the structure was subsequently doubled in size to 3200 square feet. In 1991, the Lawrence Indian Center vacated the structure and the City leased the facility to Health Care Access (HCA). Since HCA has vacated the structure, the City has chosen to lease the structure to another private, non-profit entity.

A Request for Proposal (RFP) was conducted to entertain proposals by private, non-profit entities whose client base is primarily low and/or moderate income individuals/families to lease the City structure at 1920 Moodie Road. The proposals were due to the Planning and Development Services offices on April 30, 2010 by 5:00 pm. Three agencies submitted applications: Big Brothers Big Sisters of Douglas County (BBBS), Recovery and Hope Network, Inc. (RAHN), and Willow Domestic Violence Center (WDVC). All three applications met the initial criteria set forth in their scope of services and ability to serve low and/or moderate income clientele.

A Committee consisting of Scott McCullough, Director, Margene Swarts, Assistant Director, and Danelle Dresslar, Management Analyst of Planning and Development Services, and Jonathan Douglass, City Clerk and Assistant to the City Manager, met on May 14, 2010 to review the proposals that were received. The proposals were judged on five basic criteria:

1. Ability to meet or exceed all requirements listed in the scope of services (financial management and anticipated resources).
2. Staff Qualifications and Experience, Organizational Capacity (evidence of professional staff and organization history).
3. Nature of the entity's operations (documentation of operational need/fit with the 1920 Moodie Road facility).
4. Evidence that clientele meet low and /or moderate income guidelines.
5. References.

In addition to discussion, the Committee determined a ranking system for each of the five criteria elements to decide the recommended use for the facility. Each applicant demonstrated provision of a critical need in the Lawrence community and each provided a qualified proposal for occupation of the 1920 Moodie Road location.

Based on the criteria and information provided in the application, the Committee unanimously determined that Willow Domestic Violence Center best exemplifies the desired use of the 1920 Moodie Road facility. Reasoning for the recommendation of WDVC by the Committee, included:

1. WDVC showed a high level of fiscal responsibility in their budgetary activities.
2. WDVC has a proven track record in the community, having served Lawrence and Douglas County since 1976. Current paid staff of 15 includes the Executive Director, Bookkeeper, Director of Survivor Services, Court Advocate, and various program coordinators. The volunteer base is approximately 40 persons.
3. The current administrative offices for WDVC lack a privacy component for one-on-one meetings between clients and case managers. A primary component of the organization and noted in the proposal is the safety, security, and privacy of those suffering from instances of domestic violence.



4. The use of the Moodie Road building is compatible with the demonstrated need of the organization for their currently inadequate administrative offices.
5. WDVC provides a basic need of shelter for those in dangerous situations of domestic violence.
6. WDVC demonstrates serving a low and/or moderate income population with their sheltering component and also, by HUD regulation and definition, the domestic violence population is presumed eligible.
7. Since 1997, the Community Development Advisory Committee (CDAC) and City Commission have utilized the *Step Up to Better Housing* strategy in CDBG and HOME funding decisions and this application includes a housing component that has been identified as a large community need. Additionally, the City Commission adopted the Housing Vision in 2007 as proposed by the Community Commission on Homelessness (CCH), in which sheltering is a basic component.

As noted previously, it is the unanimous recommendation of the Committee to lease 1920 Moodie Road to the Willow Domestic Violence Center. Staff would recommend an initial two year lease of \$1 per year, with the ability to renew annually at the rate of \$1. The lease could be terminated by either party with at 30 day notice prior to the annual lease expiration. WDVC has indicated they have the funding available to complete the minor modifications that would be necessary to prepare the office space to meet their initial needs and is willing to provide funding for additional minor building related expenses that might arise in the future. Existing parking is adequate for their operation in the space.”

Mayor Amyx called for public comment.

Sarah Terwelp, Executive Director, Willow Domestic Violence Center (WDVC), said she wanted to thank the City Commission for the opportunity to use the space at 1920 Moodie Road to enhance and strengthen their services to survivors of domestic violence.

Mayor Amyx said there were several service agencies that provided good service and looked forward with continued partnership with Willow Domestic Violence Center. He said by looking at the criteria and the reason for this recommendation, it was a very tough decision, but a very good decision in the end.

Vice Mayor Cromwell said he had the opportunity to attend a breakfast for WDVC, and it was eye opening on how many people were served. It was a little disappointing the number of people that center had to serve, but it was wonderful this service was available because the need was definitely present.

**Moved by Cromwell, seconded by Johnson,** to concur with the recommendation by the Committee to lease 1920 Moodie Road to Willow Domestic Violence Center (WDVC) for an

initial two year lease of \$1 per year, with the ability to renew annually at the rate of \$1 and the terms outlined by the Committee. Motion carried unanimously (8)

**Receive City Auditor follow-up report on Solid Waste.**

Michael Eglinski, City Auditor, said on May 4, 2010, the City Commission requested an update on the status report for Solid Waste and a follow up would be provided in September.

In summary, there were a total of 9 recommendations which were:

1. Refining and better documenting the recycling estimates;
2. Measuring and reporting on hours worked;
3. Strengthening controls over overtime;
4. Equipment depreciation;
5. Free Services;
6. Providing more performance and bench marking data;
7. Further analysis of some of the good practices that were common in other communities that were increasing automated collection;
8. The use of technology for routing and vehicle and driver performance monitoring;  
and,
9. Offering volume based priced options for residential customers.

He said he provided a memo that assessed the progress of each recommendation and out of the 9 recommendations he categorized 8 of the recommendations as being in progress. He said the report came out roughly 4 months from this date and in his experience, he did not have hard measures, but thought solid waste had made quite a bit of progress, more than what would be common in this short period of time.

The memo also included a memo from Tammy Bennett, Assistant Public Works Director, summarized recommendation by recommendation what solid waste was doing.

Commissioner Chestnut said regarding the response from the City Manager's Office, he wanted to focus on the tracking and reporting of actual hours. There was a comment about

implementation of time and attendance system, but did not understand why, with the existing systems, that hours could not be tracked or was it a matter of not being able to track hours very easily.

Diane Stoddard, Assistant to the City Manager, said while the solid waste division had a time card system, it was not automated, but simply a “punch in” and “punch out”, for the purpose of keeping track of time, although there was no way, in an automated fashion, to come up with those actual hours. She said it was a hand system which the City Auditor used in the original audit to work on comments related to that issue. She said from staff’s perspective, they had been talking about implementing an automated time and attendance system in which the City Manager was very interested in doing and public works was waiting for that implementation which would solve the automation issue. If for some reason, staff thought they might be delayed with that system, other alternatives could be looked at regarding the automation. She said staff certainly was tracking the actual hours it was a matter of data not being very easily retrievable because it was not automated.

Bennett said the employees clocked “in” and “out” each day and there were manual time cards, but because it was an incentive system when it was transferred to the City’s payroll system, it was transferred as 8 hours. She said for staff to go back and audit it was pulling time cards. She said they had talked about tracking their system several years ago. She said there were several ways to solve the tracking problem, but did not want to duplicate work or buy equipment that would be invalidated by the new system.

Commissioner Chestnut said a system could be obtained cheaply. He said he realized there was an overarching study by Human Resources about a more comprehensive time and attendance system, but something could be provided for a small amount of money that tracked clocking in and clocking out electronically, compiling those hours. He said he would follow-up with recommendations to staff.

Stoddard said that idea could be explored. The desire of the time and attendance system that the City was looking at was the full integration of the payroll system.

Commissioner Chestnut said the over engineering of this system was that the timeline would go off into a long period of time and there would not be the desired implementation of this recommendation which was if the city could do this very cost effectively, in the interim, it would seem like a good idea.

He said on the overtime policy, he understood the written response on changing some of the accruing and different things with the workday schedule to minimize, but he also wanted to make clear, that a more comprehensive compilation of the City's overtime policies across all departments was looked at and move toward uniformity across all non-exempt populations and asked if that was on-going.

Stoddard said yes. Staff planned on having a report to the City Commission within the month related to that topic and it would be comprehensive as far as documenting policies and practices, comparative overtime information with other cities, and staff recommendations in looking at coordinating the City's approach to overtime Citywide.

Commissioner Chestnut said the reason he was persistent on the hours tracking was because as far as doing additional performance measurements, analysis of cost benefit feasibility for automated collection, that baseline labor information was needed in an electronic format. He said hopefully staff could implement something quickly and cost effectively to collect that data because it was crucial.

Mayor Amyx said one real plus of the overtime cost was a 14% decrease in overtime this year compared to last year, even if the hour tracking was being done manually at this time. He said he would be interested to see the vendor information from Commissioner Chestnut.

Mayor Amyx called for public comment.

After receiving no public comment, the City Commission received the report. (9)

#### **FUTURE AGENDA ITEMS:**

- June
- Upon conclusion of 2010 Kansas Legislature, review and consider possible changes to City primary election law.
  - Receive the staff report concerning the impact of the State's Indoor Clean Air Act on the City's smoking regulations.
- ACTION:** Direct staff, as appropriate.
- 06/08/10
- Consider approving Management Plan for Lawrence Community Shelter, located at 214 W. 10th Street. Per conditions of SUP-10-10-09, the Management Plan must be approved by a supermajority vote.
- ACTION:** Approve Management Plan for Lawrence Community Shelter, located at 214 W. 10<sup>th</sup> Street, if appropriate.
- Receive 2009 Annual Report for SUP-01-02-07, Lawrence Community Shelter at 944 Kentucky Street.
- 06/15/10
- Receive status update on the property at 331 Johnson Avenue on violation of City Code Sections 9-6011 (A) and (C). Receive additional code enforcement information as directed by the City Commission. Authorize staff to proceed with enforcement actions if appropriate.
  - Consider approving Text Amendments, TA-1-1-10, to the City of Lawrence Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment district. *Initiated by City Commission on 2/2/10.* Adopt on first reading, Ordinance No. 8530, for Text Amendment (TA-1-1-10) to the City of Lawrence Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment district. (PC Item 5; approved 6-2 on 5/24/10)
- ACTION:** Approve Text Amendment (TA-1-1-10) to the City of Lawrence Land Development Code, Chapter 20, Sections 20-403, 20-509(3), and 20-524 of the Code of the City of Lawrence, KS to permit Bars or Lounges and to consider changes to development standards for various Eating & Drinking Establishments in the MU (Mixed Use) District and to consider a new Mixed Use Entertainment district, and adopt on first reading, Ordinance No. 8530, if appropriate.
- Follow-up regarding Community Improvement Districts (CID).
- 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.
- Approve Special Use Permit, SUP-3-4-10, for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. Submitted by Bowersock Mills & Power Company, property owner of record. Adopt on first reading, Ordinance No. 8529, for Special Use Permit (SUP-3-4-10) for the construction of the North Bowersock Mills & Powerhouse, Utility and Service, Major, located at 1000 Powerhouse North Road. (PC Item 1; approved 7-0 on 5/25/10)
- Receive [request](#) from Lowe's for formation of a Community Improvement District (CID).

#### **COMMISSION ITEMS:**

Vice Mayor Cromwell suggested carving some time out for a study session regarding the library and look at the issue of a referendum and suggested Thursday, June 24, 2010 at 4:00 p.m., at City Hall and establish August 6, 2010 to be placed on the agenda as a regular agenda item.

**Moved by Chestnut, seconded by Cromwell,** to adjourn at 7:30 p.m. Motion carried unanimously.

#### **APPROVED:**

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Mike Amyx, Mayor

#### **ATTEST:**

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Jonathan M. Douglass, City Clerk

## **CITY COMMISSION MEETING OF JUNE 1, 2010**

1. Bid Date – 2010 Overlay Program, Phase 2, June 15.
2. Sole Bid - 7 mobile computers – parking control to APS for \$19,175.30.
3. Ordinance No. 8515 – 2<sup>nd</sup> Read, allow alcohol on city property.
4. Subordination Agreement – 1808 Atherton Ct, Walter Ewert.
5. Agreement – Blue Goose Golf, scorecards & yardage booklets at no charge.
6. Resolution No. 6885 – 1313 Haskell – unsafe & dangerous.
7. City Manager Report.
8. City own bldg at 1920 Moodie Rd. – Willow Domestic Violence Center
9. City Auditor – solid waste report.