



DAVID L. CORLISS
CITY MANAGER

City of Lawrence

CITY MANAGER'S OFFICE

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
MIKE AMYX

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

November 16, 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/PRESENTATION

The City Commission recognized the Miss Indian Youth of Lawrence Program.

Consent Agenda Item No. 12, regarding a request from developers of a proposed seven story mixed use building for the southwest corner of 9th and New Hampshire, was pulled from the consent agenda for separate discussion.

CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to receive minutes from The Traffic Safety Commission meeting of November 1, 2010; the Board of Plumbers and Pipe Fitters meeting of June 16, 2010; and, the Public Incentives Review Committee meeting of April 26, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to approve claims to 193 vendors in the amount of \$1,333,394.87. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to approve the Drinking Establishment licenses for Club Liberty, 642 Massachusetts; Applebee's Neighborhood Grill & Bar, 3900 West 6th; and, Applebee's Neighborhood Grill & Bar, 2520 S. Iowa. Motion carried unanimously.



As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to concur with the recommendation of the Mayor and appoint Bryan Culver to the Lawrence-Douglas County Metropolitan Planning Commission to a term which will expire May, 31, 2012. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to approve the change order to R.D. Johnson Excavating Co., Inc., in the amount of \$74,949.67 for (Project PW0829), Burroughs Creek Rail Trail. Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to approve the change order to R.D. Johnson Excavating Co., Inc., in the amount of \$51,460.32 for (Project PW0913) New York Street Brick Street Reconstruction. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to authorize the purchase of three fixed-route vehicles as replacements for three existing fixed-route transit vehicles which have surpassed both the manufacturer and FTA useful life requirements. The vehicles will be purchased off the existing State of Minnesota Bid Contract with El Dorado National for \$940,539, which requires a local match of \$159,892. Motion carried unanimously. (3)

The City Commission reviewed the Comprehensive Rehabilitation at 1920 Tennessee for the Development Services Department. The bids were:

B1060	Base Bid	Alt #1	Alt #2	Alt #3
T & J Holdings, Inc.	\$24,840.00	\$1,000.00	\$2,550.00	\$4,900.00
Schmidt Contracting, Inc.	\$37,450.00	\$400.00	\$2,500.00	\$3,200.00
Natural Breeze, Inc.	\$30,975.00	\$1,500.00	\$2,450.00	\$4,675.00
Staff Estimate	\$26,518.00	\$850.50	\$2,000.00	\$2,500.00

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to award the bid to T&J Holdings, Inc., in the amount of \$24,840. Motion carried unanimously. (4)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to approve the Change Order No. 2 & final to Bettis Asphalt & Construction Inc., in the amount of \$43,935.23 (Project PW1005), 2010 Overlay Program Phase 1. Motion carried unanimously.

(5)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to approve the purchase of a new Brush Bandit Forestry Chipper for the Parks & Recreation Department from Vegetation Management Supply for \$32,964.82. The chipper will be purchased off the HGAC Cooperative Purchas Contract. Motion carried unanimously.

(6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to adopt on first reading, Ordinance No. 8589, establishing no parking along the south side of 11th Street between Kentucky Street & Tennessee Street. Motion carried unanimously.

(7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to approve an agreement with the Kansas Department of Transportation to partner with KDOT, the Lawrence-Douglas County MPO, and Douglas County on developing an Area Transportation Plan for the US 40/K-10 Interchange Area and US Highway 40 from George Williams Way west to East 800 Road, including funding up to 11% of the total cost of the plan, not to exceed \$11,000. Motion carried unanimously.

(8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to approve the unanimous recommendation from the Traffic Safety Commission to establish a time limit for the loading zone along the south side of 22nd Street adjacent to Schwegler School to 8 am – 9 am and 3 pm – 4 pm school days. Motion carried unanimously

(9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to approve the health insurance stop loss agreement for 2011. Motion carried unanimously.

(10)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell,** to authorize the distribution of Request for Proposals for 2011 Citizen Survey. Motion carried unanimously.

(11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Cromwell**, to authorize the Mayor to execute a cooperation agreement with the Kansas Department of Transportation for the reconstruction of Kasold, south of Clinton Parkway to 31st Street. Motion carried unanimously. (12)

The request from developers of a proposed seven story mixed use building for the southwest corner of 9th and New Hampshire was pulled from the consent agenda for separate discussion.

Commissioner Dever said he was involved in the environmental assessment of the property for the potential lending institution and wanted to remove himself from voting.

Commissioner Johnson said he was involved in the survey of this property and wanted to remove himself from voting as well.

Moved by Chestnut, seconded by Cromwell, to receive the request and refer this item to staff for a report to be placed on a future agenda. Aye: Amyx, Chestnut and Cromwell. Nay: None. Abstain: Dever and Johnson. Motion carried. (13)

CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said 172 permits were issued in October compared to 187 permits issued in October 2009; there were no incidents or concerns regarding the City's first late night street vendor, Last Stop Snack Shop, located at the southwest corner of 10th and Massachusetts; the Fire/Medical Department would assume full coroner responsibilities from the County; Planning staff had developed an online Retail Market Study; Abatement progress had been made at 214 North 6th Street; 15 proposals for Farmland demolition bids were received; and, a new feature called "The City Current" was added to the City's website.

Commissioner Chestnut said the market survey was helpful. He said it would also be helpful to have a breakdown of vacant space in that survey to understand what was driving

those numbers. Some districts were unusually high even though 7% overall vacancy was not bad.

He said there was a split of space dedicated to retail uses versus space dedicated to non-retail uses and suggested looking at that number in 2006 to get a dynamic of how the space was changing.

He asked if there were any other relevant national or regional information for the 2010 timeframe that could be used as benchmarking as well with that vacancy rate. He said the rate was fairly low in comparison to some other areas, but that might be helpful too.

Scott McCullough, Director of Development Services, said that staff would look into those suggestions and follow up with an addendum to the memorandum.

Mayor Amyx said regarding the Fire/Medical Department assuming full coroner responsibilities, he asked if that position would be appointed by the County.

Corliss said correct. He said Fire/Medical Department would coordinate the coroner activity. (14)

REGULAR AGENDA

Conduct public hearing regarding Industrial Revenue Bonds for Plastikon Industries.

Mayor Amyx called a public hearing regarding Industrial Revenue Bonds for Plastikon Industries.

David Corliss, City Manager, introduced the item and referred to the staff report from Roger Zalneraitis, Economic Development Coordinator/Planner, which read:

On October 26th, the City Commission received Plastikon's incentive request for assistance in the purchase of the Serologicals Building in East Hills Business Park. Plastikon requested Industrial Revenue Bonds ("IRBs") and an employee training incentive of \$500 per employee, paid over 5 years by the City and County, with a maximum payment of \$63,000 to Plastikon over those five years. The Commission received a memo on the incentives, approved a Notice of Intent to Issue the IRBs, and forwarded the training incentive to PIRC for consideration.

Tonight the Commission is being asked to conduct a public hearing for the IRBs. Staff is also available to address any questions or clarifications regarding the bond process as necessary.

Public Hearing for Tax Exempt IRBs

Under federal law, the interest paid on the IRBs that Plastikon is seeking will be tax exempt. This lowers the interest rate on the bonds and thus the borrowing costs for Plastikon. The internal revenue code regulates issuance of tax-exempt bonds and requires that tax exempt bonds of this type receive a public hearing prior to issuance. Tonight's hearing meets this requirement, and public comment is welcome on the item. No action other than conducting the public hearing is required.

Next Step

The City Commission will next be asked to take action on December 7th with a first and second reading to issue the IRBs as well as approving the employee training incentive. Staff will also at that time present a performance agreement to monitor compliance for the employee training incentive. This will be followed by a County Commission hearing to approve the employee training incentive on December 8th.

Action Requested

Conduct a public hearing in accord with internal revenue code requirements for tax exempt bonds.

Mayor Amyx called for public comment.

Beth Johnson, Lawrence Chamber of Commerce, spoke in favor of the item and said she was available for questions.

Moved by Chestnut, seconded by Dever, to close the public hearing. Motion carried unanimously. (15)

Receive report from Gina Riekhof, City Bond Counsel, concerning pending industrial revenue bond issuance.

David Corliss, City Manager, introduced the item and introduced Gina Riekhof of Gilmore and Bell.

Gina Riekhof, Gilmore and Bell, said as the City's bond counsel, they were working on the proposed Bowersock Mills & Power Company and Lawrence Memorial Hospital revenue bonds.

A public hearing was scheduled for Bowersock Mills on November 23, 2010 and was expected that on December 7th, for both Bowersock Mills and Lawrence Memorial Hospital, emergencies be declared, adopting on first and second reading, the ordinances authorizing the issuance of those bonds.

She said regarding Bowersock Mills, the bonds would be issued for financing the costs of acquiring, constructing and equipping a hydroelectric generating facility on the north bank of the Kansas River at Bowersock Dam.

The City had received a preliminary application from the Bowersock Mills, as well as the \$1,000 application fee. The application would be updated, as needed, and the final application presented for City Commission review on December 7th along with the bond ordinance and bond documents.

She said regarding Lawrence Memorial Hospital, the bonds would be issued for the cost of renovating the first floor of the main Hospital Facility to permit the expansion and relocation of the Endoscopy Lab and Pain Management Center and renovations to the main kitchen on the lower level and for the acquisition for various items of equipment

It was expected that both Bowersock Mills & Power Company and Lawrence Memorial Hospital revenue bonds would be issued before December 31, 2010, subject to market conditions and both transactions were proceeding in accordance with the City's established procedures for issuance of industrial bonds.

Moved by Chestnut, seconded by Cromwell, to receive the report. Motion carried
unanimously. (16)

Conduct public hearing for the dilapidated structures located at 1200 Pennsylvania Street and consider adopting Resolution No. 6911, declaring the structures unsafe or dangerous and ordering the property owner to repair or remove the structures within a specified period of time. Should the owner fail to comply, the City would contract for the removal of the structures.

Mayor Amyx called a public hearing regarding the dilapidated structures located at 1200 Pennsylvania Street.

Brian Jimenez, Code Enforcement Manager, presented the staff report. The report stated:

On September 28, 2010, the City Commission adopted Resolution No. 6907, which set the public hearing date of November 16, 2010 to discuss the dilapidated conditions of the principal building (house) and the accessory structure (garage) located on the property.

On October 29, 2010, staff contacted Brent Morris, the owner of the property, by phone to ascertain if he had new information for staff to consider regarding his previous plan to demolish the structures. Mr. Morris informed staff that he would have already demolished the structures but difficult financial times has prevented him from following through on the demolition permit he submitted to Development Services on June 1, 2010.

Mr. Morris thanked staff for showing patience by allowing him to pursue the demolition, however; he recognizes the time has come for the City to initiate the removal of the structures as he is unable to move forward with the demolition for an undetermined amount of time. Mr. Morris resides in Raleigh, North Carolina and does not anticipate returning to Lawrence anytime soon to address the property conditions.

On November 1, 2010, staff revisited the property and confirmed that the structures remain in the same severe state of deterioration that has created the unsafe conditions.

Action Requested

Adopt Resolution No. 6911 declaring the structures to be unsafe or dangerous and ordering the repair or removal of such structures. If building permits are not obtained or the structures are not removed by the owner by December 3, 2010; the City will complete the demolition of the structures.

Mayor Amyx called for public comment.

Upon receiving no public comment, **it was moved by Chestnut, seconded by Cromwell**, to close the public hearing. Motion carried unanimously.

Moved by Chestnut, seconded by Johnson, to adopt Resolution No. 6911, declaring the structures located at 1200 Pennsylvania Street unsafe or dangerous and order the property owner to repair or remove the structures within a specified amount of time. Motion carried unanimously. (17)

Conduct public hearing on the request for distance limitation waiver for an Off-Premise Cereal Malt Beverage License for Presto, 602 West 9th Street.

Mayor Amyx called a public hearing regarding a request for distance limitation waiver for an Off-Premise Cereal Malt Beverage License for Presto, 602 West 9th Street.

Jonathan Douglass, Assistant to the City Manager/City Clerk, presented the staff report. The report stated:

The Pantry, Inc. recently purchased the Presto station located at 602 W 9th Street, and has applied for an Off Premise Cereal Malt Beverage (CMB) License. Because the license previously lapsed for a period exceeding 60 days (2009-2010), the distance limitation set forth in Section 4-206 of the City Code now applies. Section 4-206 prohibits the sale of CMB within 400' of any school or church, unless the City Commission holds a public hearing, finds that the proximity of the establishment is not adverse to the public welfare or safety, and approves a distance limitation waiver.

The 9th Street Missionary Baptist Church at 847 Ohio Street is within 400' of Presto at 602 W 9th Street and has been notified of the scheduled hearing. To date, no comment has been received by the City Clerk's Office from the church.

ACTION: Hold a public hearing to consider a request for a distance limitation waiver for an Off Premise Cereal Malt Beverage License for Presto, 602 W 9th Street; find that the proximity of the establishment is not adverse to the public welfare or safety; approve a distance limitation waiver; and approve an Off Premise Cereal Malt Beverage License.

Mayor Amyx called for public comment.

Jackie Whitney, The Pantry Inc., said their company appreciated the City's consideration and he took their responsibility seriously. A number of other establishments in the area sold alcohol and would like to offer another opportunity to the community.

Robert Schmidt said the neighborhood had spent all summer running street bums out of the alley. He said there were 6 establishments in a 3 block area and that a number of problems resulted from this particular location in the past.

Moved by Dever, seconded by Chestnut, to close the public hearing. Motion carried unanimously.

Commissioner Chestnut said based on what was being asked it was hard to understand because of the distance waiver that there were any issues. He said the contiguous location of that store to the residential neighborhood to the north was certainly what was spoken about.

As far as the process, if the City were to have a lot of issues at that location, to move through to revoke the license, he asked how that worked.

David Corliss, City Manager, said it was his understanding that the CMB license was a city license and was not reliant upon a State license which was different from a Drinking Establishment License. The City had the authority to act upon the license, but needed to

provide the appropriate process and consideration of that license, if it was a continuing public safety concern.

He said he was not aware of the situation that Schmidt spoke about because the City wanted to be proactive and not reactive waiting for licenses to come up. Again, the City had the ability to revoke a license if it was a public safety concern.

He said his point was to treat similarly situated premises the same. He said it was staff's legal opinion that the City did not have the ability to stop the operation of a drinking establishment because the State issued that license and the City did not have the ability to act on that license unilaterally. In this case, it was a CMB License and the City had that authority to revoke a license. It was always a difficulty in assigning fault to a retailer for actions that happened off their premises or even outside their door in some cases.

Commissioner Chestnut said at least three of the Commissioners went through a lot of protocol with the drinking establishment license and not having that control. He said in this situation the City Commission had more authority.

Mayor Amyx said there had been no complaints at the nearby convenient store.

Douglass said no complaints had been forwarded to the City Clerk's Office. The code had a well defined revocation process laid out for CMB licenses if it came to that point.

Mayor Amyx said the City granted The Pantry, three other licenses in the last month. He said he did not see any reason to deny this license.

He said Schmidt put the City on notice concerning that area and if there were any problems, he asked that he be notified.

Commissioner Dever said that area needed to be policed if there was an obvious problem in that area.

Mayor Amyx said if there were any problems in that area that were reported to City Hall, he asked that the license be placed on the agenda for City Commission discussion.

Moved by Chestnut, seconded by Johnson, to consider a request for a distance limitation waiver for an Off Premise Cereal Malt Beverage License for Presto, 602 West 9th Street; find that the proximity of the establishment is not adverse to the public welfare or safety; approve a distance limitation waiver; and approve an Off Premise Cereal Malt Beverage License. Motion carried unanimously. (18)

Consider a Text Amendment, TA-4-5-10, to various sections of the City of Lawrence Land Development Code, Chapter 20, in relation to the Commercial Design Standards and approve and to add reference to the proposed Industrial Design Standards. Initiated by Planning Commission on 4/26/10. Adopt on first reading, Ordinance No. 8593, approving the Industrial Design Standards and adopting and incorporating by reference the Community Design Manual November 2010 Edition, and adopt on first reading, Ordinance No. 8588, for Text Amendment (TA-4-5-10) to the City of Lawrence Land Development Code, Chapter 20. (PC Item 8; approved 8-0 on 10/27/10)

Scott McCullough, Director of Planning and Development Services, presented the staff report. The overview of the proposed amendment read:

The City Commission adopted the Community Design Manual-Commercial Development section in July 2006. This has been referred to as the Community Design Standards. Staff is proposing code changes to reference the Design Manual now that this document would have two sections.

Design Standards Draft

Staff has been working with the Industrial Design Committee to draft Industrial Design Standards. This document is section 3 of the Community Design Manual. A grouping of design standards for residential, commercial and industrial development. Currently the manual only contains commercial design standards. Completing industrial design standards is outlined in Horizon 2020 in various chapters and is also a recommendation of the K-10 & Farmer's Turnpike Plan. The committee has reviewed design standards from communities all over the country and local communities. Specifically, the committee reviewed the design standards for the city of Olathe. The draft standards are comparable yet not as restrictive as those of Olathe. The committee has completed its work and has forwarded the draft to the Planning Commission for consideration. This draft is attached to the staff report.

Development Code Text Amendments

Sections 20-207, 20-208, 20-209, 20-211, 20-212, 20-213 are amendments to remove the references to the Commercial Design Standards from the text that describes the various commercial zoning districts. Staff is trying to be consistent and not reference any standards in the district descriptions and not duplicate regulations in various sections of the code.

Section 20-1301 contains references to the Commercial Design Standards that are proposed to be changed to Community Design Manual.

Section 20-1304 contains the review procedure for the Planned Developments. The design standards are applicable to uses that fall within the Commercial or the Industrial use groups in Article 6 of the Code. The Community Design Manual would be applicable to commercial and industrial uses in planned developments. Currently the code only references the design standards in the site plan procedure section. If a property has a PD Overlay, the process would involve review of development plans in stead of a site plan. The code needs to clearly state that the Community Design Manual is applicable for development plan process in addition to the site plan process. Amendments to this section include correction of a numbering error was found in the section and is being proposed to be corrected.

Section 20-1305 provides the site plan review procedures of the code. References to the Commercial Design Standards are proposed to change to reference the Community Design Manual. The proposed amendments also include some numbering errors that are proposed to be corrected.

Section 20-1701 is the Terminology section. This section includes a definition of a Standard Development Project and in that definition it references the Commercial Design Standards. The proposed amendment will update the reference to the Community Design Manual.

STAFFS' RECOMMENATION

Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments to Sections 20-207, 20-208, 20-209, 20-211, 20-212, 20-213, 20-1301, 20-1304, 20-1305 and 20-1701 to the Land Development Code to the City Commission.

Mayor Amyx said in comparing Lawrence to the design standard for the communities in Johnson County, he asked if those text amendments would take Lawrence out of the loop to compete for industrial property.

McCullough said the text amendments would not take Lawrence out of the loop. Staff had studied this issue in depth and took photos of many projects that were completed, such as Olathe for example, and pitted Lawrence's standards to those projects finding that the standards were compatible and were not overreaching on design of industrial projects that would negatively impact the City ability to reach out to the industrial community to come to Lawrence and Douglas County.

Mayor Amyx called for public comment.

Beth Johnson said she sat on the subcommittee and said that the standards might be viewed as an additional barrier to developing in Lawrence. She said there was a time and a

place for communities to do things and everyone needed to be on board regarding whether this was the right time for those text amendments. Lawrence needed to be welcoming to incoming businesses.

Commissioner Chestnut said he had some agreement with Johnson's comments regarding process, but economic times should not necessarily dictate bad planning and if the community believed that the process was where they wanted it to be as far as the land use issues, that needed to be considered. He said like anything, it would take some time to go through a few projects to understand what did not work and what text amendment would need to be introduced. He said he was ready to move forward.

Vice Mayor Cromwell said these text amendments were guidelines and if there was a particular exception that needed to be made, in order to bring someone into town, this should be viewed as an opportunity to make industrial areas more attractive. He said they were planning for industrial and incorporated into the community. He said the time was right for this plan and would not be restrictive.

Commissioner Dever said there was some value to having standards and was one way to streamline smaller development projects and get a more aesthetically pleasing outcome. He said there was value in allowing the user of the land and this particular land use be considered because there was no way the City Commission could understand the needs of some industrial land use that was unique or new. He said dictating the fascia of buildings, gutters, and down spouts was important, especially if it was an infill development or something that infringed on existing land use because they wanted to keep up property values.

He said as the Vice Mayor indicated, they needed to be open to plans that were dictated by a specific industrial activity or land use that was not specifically covered and use it as a tool to help improve a project as opposed to a stick to discourage development that might be different than what was in the guidelines.

In generally, he was in favor of standards, but wanted to be open minded and clear on what the ultimate user of the property needs, as long as it coincided with the community's needs. He said he was in favor of those text amendments, but saw places where they had not thought of every potential land use and the user needed to help through that process.

Commissioner Johnson said the City was getting ready and was doing something that stated this community wanted this type of development. He said sometimes there were arguments over industrial use, but lost sight of what it would look like after it was built. He said this was not an extra hurdle, but telling people the City wanted industrial use in the community and was trying to figure out how to make a company a great partner in Lawrence.

Mayor Amyx said he agreed there would be times this item would be back on the agenda and would consider changes.

Moved by Cromwell, seconded by Johnson, to adopt on first reading, Ordinance No. 8593, approving the Industrial Design Standards and adopting and incorporating by reference the Community Design Manual November 2010 Edition (19)

Moved by Cromwell, seconded by Johnson, to approve a text amendment (TA-4-5-10) and adopt on first reading, **Ordinance No. 8588**, amending Chapter 20, Article 2, Sections 20-207, 20-208, 20-209, 20-211, 20-212, 20-213, Article 13, Sections 20-1301, 20-1304, 20-1305, and Article 17, Section 20-1701 pertaining to the commercial design standards and community design manual by adopting and incorporating by reference the "Development Code of the City of Lawrence, Kansas, Text Amendment, November 16, 2010 Edition prepared by the Lawrence-Douglas County Metropolitan Planning Office of the City of Lawrence, Kansas, and repealing the existing sections. Motion carried unanimously. (20)

Reconsider a Text Amendment, TA-4-4-10, to the City of Lawrence Land Development Code, Chapter 20, Section 20-403, and potentially other sections of the Code, to permit the Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. Initiated by Planning Commission on 4/26/10. Approved 6-4 by Planning Commission on 6/23/10. City Commission returned to Planning Commission on 8/3/10. Deferred by Planning Commission on 9/20/10. Adopt on first reading, Ordinance No. 8543, for Text Amendment (TA-4-4-10) to the City of Lawrence Land Development Code, Chapter 20, to permit the

Hotel, Motel, Extended Stay use in the IBP (Industrial/Business Park) District. (PC Item 4; approved 7-1 on 10/27/10)

Scott McCullough, Director of Planning and Development Services, presented the staff report and recommended the following:

20-509 EATING AND DRINKING ESTABLISHMENTS

The restrictions in (1) and (2) shall apply to a Licensed Premises use. The Fast Order Food establishments in 3 and 4 are not permitted to be a Licensed Premise:

(1) Accessory Uses to Hotels

(i) A hotel with 50 or more rooms may have a restaurant as an Accessory Use; *a restaurant may be permitted as a second Principal Use on the same property as a smaller hotel*, subject to all of the other conditions applicable to the use and the district in which it is located, including separate Parking requirements.

(ii) A hotel with 100 or more rooms may have a Bar or Lounge as an Accessory Use, subject to all of the other conditions applicable to the use and the district in which it is located, including separate Parking requirements. *A Bar or Lounge is not permitted as an Accessory Use to a Hotel, Motel, Extended Stay use in the IBP District.*

(iii) A hotel with 150 or more rooms may have a Nightclub or other live entertainment as an Accessory Use. *A Nightclub is not permitted as an Accessory Use to a Hotel, Motel, Extended Stay use in the IBP District.*

(2) Accessory Bars

In any Zoning District allowing a Restaurant as a permitted use and allowing an Accessory Bar, the Accessory Bar shall be allowed only subject to the following standards:

(i) the Accessory Bar shall not constitute more than 25% of the Floor Area of the eating & drinking establishment;

(ii) the Accessory Bar shall not have a separate Street entrance; and

(iii) if at any time the sales of alcoholic beverages in the eating & drinking establishment constitute more than 55% of gross sales for any two months or longer measuring period, the Bar shall be deemed to be a Principal Use and the operator shall be subject to penalties under this Development Code for operation of an unlawful use.

(3) Standards that Apply in CN1 and CN2 Districts

Fast Order Food establishments shall be permitted in CN1 and CN2 Districts provided that the Gross Floor Area shall not exceed 3,000 square feet.

(4) Standards that Apply in CO District

Fast Order Food establishments are permitted in the CO District provided that the total Floor Area does not exceed 10 percent (10%) of the total Gross Floor Area of all floors of the office Building or of all Buildings in the office complex in which the use is located.

(5) Standards that Apply in CD District

The following restrictions apply to Licensed Premises in the CD district: PC Staff Report – 10/27/10 TA-4-4-10 Item No. 4 - 9

- (i) The Licensed Premises use in CD shall be required to derive from the sales of food for consumption on the Premises not less than 55% of all the Licensed Premises' gross receipts for a calendar year from sales of food and beverages on such Premises.
- (ii) The City Manager or his/her designee shall establish an administrative procedure for the investigation and enforcement of this requirement that shall include the annual reporting of appropriate sales and receipt information from Licensed Premises governed by this Section.
- (iii) The expansion, extension, enlargement, or alteration of a non-conforming use created by these restrictions shall be governed by Article 15 of this Code.

(6) Standards that Apply in the MU District

A Bar or Lounge use shall only be allowed for property applying and approved for a zoning map amendment to the MU District after July 1, 2010. A Bar or Lounge use shall be prohibited for all property with MU District zoning granted prior to July 1, 2010. PC Staff Report – 10/27/10 TA-4-4-10 Item No. 4 - 10

20-1724 EATING AND DRINKING ESTABLISHMENTS

Sale of prepared food and beverages for on- and off-Premises consumption. The following are eating and drinking establishment use types:

(1) Accessory Restaurant

An accessory restaurant is not required to be separated by a permanent wall from the Principal Use to which it is accessory, and generally shares one or more entrances, as well as restrooms, coatrooms and other facilities, with the restaurant. No sales of alcoholic beverages shall be permitted. Accessory restaurants include, but are not limited to, snack bars, school cafeterias, and supermarket delicatessens.

(2) Accessory Bar

An accessory bar is a part of a *Quality Restaurant or high turnover restaurant Fast Order Food establishment* offering alcoholic beverages. An accessory bar is not separated by a permanent wall from the restaurant to which it is accessory, and generally shares one or more entrances, as well as restrooms, coatrooms and other facilities, with the restaurant. An establishment with an accessory bar will generally characterize itself in its signs, advertising and other promotions as a restaurant or food-service establishment rather than as a bar.

(3) Bar or Lounge

An establishment that may include food service but that emphasizes the service of alcoholic beverages for consumption on the Premises. Any establishment generating more than 45% of its gross revenues from alcoholic beverages (on a weekly average) shall be deemed to be a bar and not a restaurant.

(4) Brewpub

A bar or accessory bar in a restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on Premises for either consumption on Premises in hand-capped or sealed containers in quantities up to one-half barrel or 15 and one-half gallons sold directly to the consumer.

(5) Nightclub

An establishment that may or may not serve alcoholic beverages for on-Premises consumption and that offers live entertainment, which may be amplified, and/or music for dancing by patrons. A nightclub may also offer food service.

(6) Fast Order Food

An establishment whose primary business is the sale of food: a) primarily intended for immediate consumption; b) available within a short waiting time; and c) packaged or presented in such a manner that it can be readily eaten outside the Premises where it is sold. This use category includes both establishments that have seating areas for consumption of prepared food on the Premises and those that provide food only for consumption off the Premises; this category does not include drive-in fast order food establishments.

(7) Fast Order Food, Drive-In

Sale of food directly to patrons in motor vehicles or to patrons that intend to use the motor vehicle as an eating area. Typically, this use is either dependent on a long Driveway that provides adequate room for vehicle stacking at a drive-up service window or on a Parking Area near a walk-up service window. This use category includes uses commonly called “drive-ins” or “drive-in restaurants,” “drive-up PC Staff Report – 10/27/10 TA-4-4-10 Item No. 4 - 11

restaurants,” “drive-through food or beverage stands,” and restaurants with “drive-through” facilities. If a fast-food establishment has both seating areas inside the establishment and drive-up or drive-through facilities, it shall be considered Fast Order Food, Drive-In for use purposes; parking standards, however, shall consider the inside dining area.

(8) Restaurant, Quality

An eating establishment where the principal business is the dispensing and consumption of prepared foods and/or beverage at tables, not including bars, brewpubs or nightclubs. Table service by food & beverage servers is available at “quality restaurants”.

(9) Private Dining Establishment

A dining establishment where the principal business is the dispensing and consumption of prepared food and/or beverage at tables, not including Bars or Lounges, Brewpubs or Nightclubs. A Private Dining Establishment is differentiated from other eating and drinking establishments on the basis that it is open to guests by invitation only and/or to the general public by reservation only and seats no more than 30 guests at once. Typically table service is provided by food and beverage servers

Staff recommends that the Planning Commission forward a recommendation for approval to the City Commission for TA-4-4-10 to amend the Land Development Code, Chapter 20, Sections 20-403, 20-509 and 20-1724 to permit the Hotel, Motel, Extended Stay use in the IBP District, add standards regarding accessory uses to Hotels and revise some language for wording consistency.

Mayor Amyx asked if the eating and drinking establishments were eliminated in the IBP Districts

McCullough said no, the restaurant use was an allowed accessory use and a bar in a quality restaurant, such as Applebee’s, was an allowed use and what was not allowed was a stand alone bar, lounge or nightclub without the restaurant use associated. He said it took a hotel with 50 or more rooms to even have the ability to have the restaurant and then a bar or

lounge within that restaurant was an accessory and would be permitted. He said language was stricken that would have allowed a standalone, bar, lounge or nightclub in a hotel with greater than 100 rooms or more.

Mayor Amyx said with 150 rooms, a business could do anything.

McCullough said unless in the IBP District and a business could have a restaurant with an accessory bar, but no nightclub. In the current code it took 50 rooms to get a restaurant, 100 rooms to get the bar or lounge, and 150 to get a nightclub. All of those stay the same for the commercial districts, but not IBP District.

Commissioner Dever asked for clarification that a lot of the new designs had an eating area that was for the residents only, an informal dining area which was technically a restaurant because a person had to pay for the food and adjacent, in the lobby area was a bar that might be 15 feet long. He asked if that type of area would be allowed.

McCullough said they discussed design with the Planning Commission and was a matter of design that needed to be reviewed to make a determination with the site plan process. Staff would look at whether there would be separate entrances, how closely related adjacency of eating and bar use to determine whether or not the bar area was accessory to the restaurant or accessory to just the hotel.

Vice Mayor Cromwell said a lot of the discussion about this issue was related to balconies and other site plan issues, and asked McCullough to go through the process by which the site plan would be analyzed.

McCullough said the site plan for a new hotel project would require notification 200 feet out from the property lines and any adjacent neighborhood association and would require posting of the property with the City's yellow notice sign. The idea was to get notification out to those that would be impacted and affected by the proposal. Along with the City's list serves and other media that the City attempted to do outreach on all development applications. There would be public notice on that type of a request. The site plan would go through the City's

review agencies and non-City review agencies to determine the technical aspects. If there were public comments on the site plan, staff typically worked with the applicant and commenters to see if there were issues that could be resolved. Staff would look at the code to see what was required and what would be offered by the applicant to address any neighborhood comments, for example and was practiced in their commercial design projects. Ultimately, staff would make a determination on the application and then the applicant or stakeholder could appeal that determination if the determination was to the applicants benefit and the appeal would come to the City Commission for mediation.

Mayor Amyx called for public comment.

Gwen Klingenberg said this item was started because of an application for a hotel in an IL District which also included the IBP District. There was an issue of notification and the process was revisited.

Also, about 5 years ago the West Lawrence Neighborhood Association fought to stop a proposed hotel at this site and the Lawrence Association of Neighborhoods and the League of Women Voters fought for the balcony issue to make it equal throughout the City Code.

She said other zonings were protected, but not IBP zoning and now the City was moving into new areas that could have consequences the City was not prepared for. She said she did not approve of the use in the proposed area directly next door to residential.

She said it was not an appropriate place for a hotel and hoped the City Commission would not be doing this at all or grandfathering this area in so that only hotels could only be used in new IBP Districts.

Alan Cowles said at the Planning Commission meeting, the Planning Commissioners at first thought they were only to consider the changes as a whole and could not muster a majority in favor of those changes.

He said he was told the reason for those changes was so that someone could put a hotel on K-10 (IBP District) or on McDonald Drive, but no one wanted to put a hotel in the West

Lawrence IBP area. The City had a mechanism for putting hotels in IBP Districts and no one would be opposed to hotels on K-10. He said there was probably a unanimous opposition from the neighbors to those changes in the West Lawrence area and asked that the City Commission took that opposition into consideration.

Mayor Amyx said in the last year there was discussion about the area to the west and the need for industrial use for future jobs in this community. He said regarding the Research Park, there were discussions about what that area would look like and people might have envisioned hotels in the area, but did not take into consideration the residential component and its impact.

He asked how much area did it take to build a hotel and how much industrial property would the City lose that was already zoned.

McCullough said that discussion had occurred with other text amendments where there were revised uses in the IBP District, but he could not put number on what could be lost. It was staff's opinion and the majority of Planning Commission it was seen as use that was compatible and a support use to the potential industrial uses or business park uses in the IBP District.

David Corliss, City Manager, said over the years, the Commission had struggled in the area of Bob Billings Parkway, Wakarusa, and its industrial growth. It was part of a long-term vision to have those types of uses. The residential had more quickly occurred than the non-residential, industrial type uses at that location. He said there were a lot of different things to weight.

Mayor Amyx said he appreciated McCullough recognizing that those types of hotels were important to development. He said the question was how much zoned area should be given up.

Commissioner Chestnut said he read the Planning Commission minutes several times and he was confused regarding that Commission's direction. He said the Planning Commission voted on the restrictions, but there were a number of comments about the use. He said this

similar situation was encountered at 24th and Inverness where they had a land use that was put together 10 years ago that had not had the demand and a lot of things had happened where it was reshaped. Essentially, this was a zoning and a land use map that was done a while ago, where some of that area was taken and then there was big portions of property that had been undeveloped for a long time. He said his disagreement with some of the conclusions was that it was not true industrial ground, a hybrid, because of its contiguous location to residences. He said not to add to staff time, but it might be appropriate for staff to look at that land use area to see what was at that location and if there was possibly some rezoning issues the City wanted to take up. He said the IBP went all the way through and it was the furthest north area that was the biggest concern, but not further down toward the Golf Superintendents. He said there was land use appropriateness for some type of hotel, in that region, because it was not only to support the businesses, but when having a concentration of residents extended stay hotels might be needed.

Commissioner Dever said when this item came to the City Commission in August, he understood there were some overall majority support from the Planning Commission for moving in this direction.

McCullough said he was reviewing some previous minutes and the Planning Commission made a motion to return the issue to staff to consider the use standards that were discussed in that initial Planning Commission meeting which failed 4-6. There was a second motion by the Planning Commission to approve the issue as proposed without use standards and was approved by the Planning Commission and forwarded to the City Commission with a 6-4 vote. At the time, there was discussion about whether use standards should be employed, not whether or not the use should be added to the IBP District.

Commissioner Dever said at the next Planning Commission meeting, it was confusing and everyone figured out the City Commission sent this issue back with the intention of deciding whether those restrictions were necessary as a part of that amendment.

McCullough said it was fair to point out that of the four dissenting votes, there were a couple of Planning Commissioners that did not think it was appropriate as a text amendment. There were a couple Commissioners that wanted to see use standards and a couple that did not think the use standards were appropriate in the IBP District.

Commissioner Dever said this was one of those situations where the City was planning for industrial development by creating standards by which someone could easily follow the rules and move forward with the development in this community. He said the same thing was being done with the IBP District, although he agreed there was a way for a land owner to site plan and ask for a variance from the current zoning. He said that was not the easy path that people were trying to look for when talking about a project. He said this land has sat for a while and the City had allowed uses that were unusual and not really industrial in nature. He said through the normal course of growth, the City would want to fill the area in rather than expanding even further. If there was a way for the City Commission to clarify and restrict the type of development at this point, he did not see why the City should not welcome an opportunity to infill that area with a responsible, co-existing land use to industrial or office development.

He said he was in favor of both changes in restrictions and continued on the path to allow this use in an area that was acceptable.

Commissioner Johnson said it made sense for this area and was in favor.

Vice Mayor Cromwell said the City made changes for specific areas, but needed to look at the broader picture when making a change that would allow that use. He said he felt confident the City had mechanisms in place with a site plan process to engage neighbors to make sure if there were issues such as overlooking balconies that the City Commission dealt with that issue at the appropriate time.

He said he appreciated the restrictions because without those restrictions, the City would be running into serious problems. He said he was comfortable in moving forward.

Mayor Amyx said the City Commission needed to be careful about how much pressure was placed on residential area. He said he did not like the idea of giving up industrial zoned property.

McCullough said he brought up the site plan application for the proposed hotel, south of Hallmark, which was a 3 story, 67 rooms, and surface parking lot project that was on 1.66 acres of ground.

Commissioner Chestnut said he would like to take another look at this parcel, but if the amendment moved forward, it might be a good idea to take a look at the IBP zoned property. He said when the City Commission looked at 24th and Inverness that area provided a good visual for what was left to be developed and how many acres.

Vice Mayor Cromwell said he was not averse to taking a look at the IBP zoned property, but ultimately he believed a hotel was not a bad use in an IBP District.

Commissioner Chestnut said he thought the use in that area was appropriate. If there was more infill business/light industrial types as well as residential there would be demand. He said he was concerned that entire section was all zoned the same, but was not really characteristically the same. He said he had to commit some bias because he had lived in that area for 10 years. He said in getting closer to the residential area, down Harvard Road, it was a little different than moving across to the south to where it was clearly not surrounded by residential. He said it might be worth taking a look at some of those land uses and what had now developed around it because when the zoning was originally put into place, none of those uses were at that location. It was a little bit different land use situation and the IBP had been in that area for 15 years and guessed there was not one residence that was built west of Wakarusa at that time. There had always been a discussion about Biltmore Drive going through and a lot of things that had happened. He said it would benefit the City Commission to understand that visual and how it worked.

Mayor Amyx asked if Commissioner Chestnut's desire to place this item back on the City Commission's agenda to look at that area.

Commissioner Chestnut said just the land use map.

McCullough said staff could produce an analysis report to start that discussion.

Commissioner Dever asked if Commissioner Chestnut had concerns about that specific piece of land, but not the idea of this land use in this type of zoning district.

Commissioner Chestnut said correct. He said he thought that area was the largest chunk of IBP zoning in the City.

Commissioner Dever asked what happened if the City Commission opted to redevelop a large parcel of IBP property and wanted multi-use activity at that location. He said he hated to disregard this idea because of one piece of property in mind. He asked if Commissioner Chestnut wanted to exclude this parcel.

Commissioner Chestnut said yes. He asked McCullough what IL zoning allowed.

McCullough said IL zoning allowed the hotel/motel extended stay use now which was where this grew out of the City's process to review the IL district. This was not an applicant driven amendment, but something that staff brought forward with the IL district amendment which was an applicant driven amendment and recommended from staff's analysis that if it was a compatible use of the IL uses, which included industrial and commercial uses, then staff believed it was compatible with the IBP district.

Commissioner Chestnut said if the City was looking for a light-industrial, large tract of land, he guessed it would be zoned as and IL district and not IBP.

Corliss said IBP was always discussed when discussing IL and IG, but never pursued.

McCullough said 155 acres went to industrial, but had not had much industrial zoned, rezoned property. The discussion about the City being ready for the next wave of primary job land and location was what staff was trying to accomplish with some of those proposals.

Commissioner Dever asked if the City was not planning on using IBP anymore.

Mayor Amyx said zoning to IBP was unknown.

Commissioner Chestnut said there was no doubt his comments were primarily focused on that piece of ground because he lived closed by. He said he saw issues because he looked at the specific IBP zoning and was not sure it applied across the entire area. He said if staff could come up with some options about discussing modifications, he did not want to hold issue up because it was an appropriate land use addition to IBP. He said his concern was with this particular piece of ground because there were issues.

Commissioner Dever said he understood. He said if Commissioner Chestnut was familiar with the area and had concerns, it was reasonable to take a look at the area and how it was affected specific to this issue although he hated to make rules about specific property.

Commissioner Chestnut said they could look at all the IBP in town.

Commissioner Dever said that idea was best.

Commissioner Chestnut said he guessed this particular area represented 75% of all the IBP in town and could be greater.

Moved by Chestnut, seconded by Cromwell, to defer consideration of a Text Amendment (TA-4-4-10) to the City of Lawrence Land Development Code, Chapter 20, Section 20-403, and potentially other sections of the Code, to permit the Hotel, Motel, Extended Stay use in the IBP District and direct staff to prepare a report on the currently IBP zoned property for a future city commission discussion. Aye: Amyx, Chestnut, Cromwell and Dever. Nay: Johnson. Motion carried. (21)

Receive staff report on City employee overtime policy development

Diane Stoddard, Assistant City Manager, presented the staff report. The report stated:

During the 2011 budget process, staff provided the City Commission a report regarding the City's utilization of overtime.

At the time of the discussion of the overtime report, the City Manager recommended the establishment of a task force to further review the recommendations outlined in the report, and the items identified for further study. It was encouraged that City employees, particularly non-

exempt employees, be engaged with the task force. Additionally, a member of the City Commission may wish to participate in a task force, if established.

Possible Alternatives:

The City Commission has several alternatives at this point:

1. The City Commission could direct staff to assemble a task force to further review the recommendations outlined in the report and discuss the items identified for further study.
2. The City Commission could direct the implementation of any or all of the recommendations outlined in the report.
3. Take other action that the City Commission deems appropriate.

As previously noted, staff suggests that the City Manager establish a task force to provide further input and evaluation of the recommendations.

Action Requested: Direct staff to establish a task force to review the overtime report and provide input on its recommendations, if appropriate.

Mayor Amyx called for public comment.

After receiving no public comment, Commissioner Dever thanked Commissioner Chestnut for the memo regarding this issue because it made a lot of sense.

Mayor Amyx said Commissioner Chestnut made a lot of good comments in his memo regarding this issue, but at this point it was good to get comments from employees on any type of changes that involved employees, but ultimately it was the City Commission's decision.

Commissioner Chestnut said he appreciated a lot of employee input, but asked about the feedback the City Commission would receive from employees. He said it was clearly a policy decision, a lot of group causes of what the overtime was driven by, analysis as a percent of payroll which he cautioned that could actually work against the employees in an analysis in that it could mean the City was overstaffed, but he did not want to make any of those interpretations. He said there were peer community surveys and surveys from the University of Kansas and other public sector employees in the community.

He said in moving forward, the City Commission wanted to communicate with employees and talk through the issues, but at this point, he was having a hard time understanding what the Commission's expectation of employee feedback. He said the City

Commission was suggesting to reducing the overtime and changing that policy. He said the reason he put the memo together was because the information was really good and felt comfortable in moving forward. He said regardless of what happened there was probably a tremendous amount of logistical issues as far as changing a lot of payroll information. He said the City Commission had to give staff time, regardless, to work through the issues of implementation.

Commissioner Dever said there was a way to streamline the process of receiving employee feedback which was with some of the policies regarding application of sick time and vacation toward the calculation of overtime. He said that was one of the most tremendous changes that needed to occur in general because it was good policy.

He said if the City Commission used some of the information in Commissioner Chestnut's memo as well as some of the information in the summary as talking points, giving the employees a strict outline of what the City Commission thought needed to be done and come up with solutions. He said it would be hard for any employee to police themselves in that fashion and to review the policies. He said the City Commission needed to come up with a plan of action and timeframe on what the City Commission wanted to see from the Employee Review Committee.

Mayor Amyx said the recommendation from the City Manager on the July 8, 2010 memo, discussed recommendations of "next steps." He said the memo recommended making the City's overtime policies more uniform and consistent where appropriate, recognizing different jobs and roles of departments. In addition, the memo stated that recommendations further merited discussions and review. He asked if the City Manager had a new policy ready.

David Corliss, City Manager, said no, but had the general outlines of a policy in the memorandums staff provided. There were some logistical issues regarding transition to the new time and attendance software. There were also some important policy issues that needed to be provided to the City Commission in order to give direction. For example, "call back" was a big

issue with a number of departments because employees were called back at 2:00 am, to fix a waterline. The issue would be whether the City had a standing policy as to whether to pay those employees for the time they left their residence to go to a job site or have a minimum period of time for overtime and make that a uniform policy in the different departments. He said this issue could be moved quickly with meetings in December and January and a document drafted to the City Commission that reflected all those issues. The best process was to involve employees, but it would be the City Commission's decision.

Commissioner Chestnut said he did not want to make this issue more complicated than it needed to be. He said "call backs" and other thing was how time was counted. He said this did not have anything to do with the overtime policy, but how the time was metered until hitting those 40 hours. He said it was a matter of how to count that 40 hours and what was "in" or "out" until hitting that 50 hours. He said compensatory time was taken by some departments and not others and he was struggling to understand why compensatory time was offered in some departments and not in other departments. He said he understood there were time issues, but if there was management approval of that time, then it could be managed. He said finally, premium pay was a situation where if an employee worked on a certain day, the employee was at time and a half no matter what had happened during that week. He said he suggested breaking this issue down more because a lot of other things were being thrown into this issue. He said he did not have any issues with the "call back" policy, but how the City calculated the 40 hours.

Corliss said that was a helpful discussion to find out where the City Commission wanted staff to spend its focus.

Commissioner Chestnut said if people were comfortable in moving forward with his proposal, he said he suggested asking employees for their feedback on his proposal and come back with a report.

Vice Mayor Cromwell said he agreed with the memo that was put together by Commissioner Chestnut, but when the City Commission was asking for a task force, a task force purpose was to come up with a plan. He said if the City Commission formed an employee task force regarding something specific as overtime the City Commission would be minimizing the entire effort of that task force. He said part of this issue needed to be handled by the department head level and higher. He said there was a lot of work that needed to be completed from an administrative level. He said he did not like idea of a task force, but liked the idea of employee input. The onus was on the City's management at this point to come up with something that worked and to collect feedback amongst the various departments on how something would or would not work and then bring that plan before the City Commission.

He said the City had a generous policy regarding vacation, holiday, sick time and changes could be made to those policies, but the bulk of this issue required managerial feedback in the various departments.

Mayor Amyx said the biggest concern in Commissioner Chestnut's memo was the way the calculation regarding premium and overtime pay once 40 hours was reached.

He asked if the information was based on all employees that were not considered under a Memorandum of Understanding. He said regarding other comparison cities, he asked if there were other recognized groups the City had to negotiate with on a regular basis. He asked Commissioner Chestnut if there would be a tremendous savings, once this issue was resolved.

Commissioner Chestnut said the MOU's were a completely different situation and separate, but that was not to say if the City Commission took action on the non-MOU employees that that might not introduce itself into the negotiations next summer.

He said there was a financial consideration which could be significant, but there was also a parity issue. He said overtime, a lot of those policies had crept in without City Commission direction such as solid waste and planning. He said there was a parity and needed to start looking at the overtime issue in total and come up with a policy for all non-MOU

employees as a fairness standpoint. He said it seemed there was a financial consideration and wanted to have peer community comparisons to make sure the right thing was being done and might have found an area to make some fiscal decisions.

Mayor Amyx said in a service organization, he asked if one policy could work that covered everything the City had to do.

Commissioner Chestnut said one policy might not work, but his preference was to strip all that away and have the departments come back to say why it was not going to work instead of just assuming it would not work because it was dealt with in the past.

He said he would suggest tasking the employee feedback and getting managers and directors involved in this issue. He said he was concerned the City had a pay policy that they could not go from department to department and specifically state why each department did what they did. He said it was time to start from a blank slate and build that back up with some consistency and have the City Commission approve those changes and those exceptions instead of what the City had now.

Commissioner Johnson said Commissioner Chestnut's memo made a lot of sense. He said he would like to see employees and department heads present their cases on what exceptions needed to be made. In other words, he would like to go with Commissioner Chestnut's idea and liked to hear cases from employees, why it would not work.

Vice Mayor Cromwell said the City Commission needed some input to put something together. He said changes needed to be made relatively soon.

Corliss said staff would make what the City Commission decided, work. He said the City Commission was asking that staff communicate with the employees that at an effective time, preferably at the first of the year to help in the transition, to eliminate vacation, sick leave and personal leave from the overtime calculation and only count holiday in the determination of overtime and there would no longer be premium pay. He said compensatory time was a little more difficult because there were different departments that budgeted for overtime for staffing

purposes. He said employees were taking compensatory time there might be situation where staff would not be available. He said Parks and Recreation did not do much overtime because Parks and Rec utilized compensatory time in recognition that that staff put in a lot of hours in spring and summertime and in December, January and February when not doing a lot of outdoor sports, that was when that staff took their compensatory time and have a longer vacation time because those employees put in 50 to 60 hours weeks. He said if the City Commission wanted to offer compensatory time, staff could see what happened, but he was a little uncomfortable with that idea, but the City Commission could make any changes effective, January 1.

Commissioner Chestnut said he did not think January 1st was achievable. As much as he wanted to make those changes fast, he appreciated employee feedback. He said a task force makes recommendation, but he would rather have a proposal and have the task force react to that proposal. He said he wanted to look at those exceptions and challenge those exceptions coming up with a cohesive, City Commission approved policy.

Corliss said his recommendation was that staff would need time to find specific issues that had not been identified. He said staff had only discussed this issue at the middle management and department head level and a number of different issues were raised. He said the City Commission could direct staff on what deadline needed to be met. He said he was going to need to talk to employees to hear specific issues. He said if getting rid of premium pay, he asked if he would have difficulty in people wanting to work late night hours and weekend hours.

Mayor Amyx said he appreciated Corliss' willingness to represent the employees of the City and carry out the direction of the City Commission. He said Commissioner Chestnut had presented a proposal on overtime pay and would like to have that proposal considered by the City Commission in the future. He said the majority of the City Commission would like feedback from department heads, City Manager's Office, and City employees on whether or not this

particular proposal could work. He said he would like the feedback on this proposal by February 15, 2011.

Corliss said his preference was to have a policy for the City Commission to adopt in February. He said he understood that staff should remove everything but vacation from the calculation on overtime and getting rid of all premium pay throughout the organization unless it was in an MOU.

Commissioner Chestnut asked if the City Manager could change the MOU.

Corliss said no and those MOU employees would not be involved at this time. He said when talking about the 2012 and future MOU's, there would be an issue of the level of parity the City Commission wanted between the non-MOU and MOU organizations and the City Commission would be making decisions that would set the rebuttable presumptions from managements position, going into the MOU discussion by not including anything but holiday in the calculation of overtime.

Mayor Amyx said that decision would come from the City Commission.

Corliss said correct and the City Commission would decide that issue for both non-MOU and MOU groups. He said the City Commission had ultimate control.

Commission Chestnut said when talking about different challenges in recruiting people without premium pay, he contended that a lot of those hours would get paid at time and a half anyway. He said staff might want to do some homework on how many hours were excluded from time and a half which was called premium, but the employee would be at that level anyway because the employee already worked that many hours. He said he would hate to communicate to the employee that they were losing more than they would lose.

Corliss said he agreed and that was why staff wanted to have a process that involved that employee input.

Diane Stoddard, Assistant City Manager, said the paragraph related to premium pay in Commissioner Chestnut's memo, was not related to the "call back" policy.

Commissioner Chestnut said correct. He said “call back” was an entirely different issue.

Moved by Chestnut, seconded by Cromwell, to direct staff to obtain input from department heads, city management, and employees on the proposal as presented by Commissioner Chestnut, and bring back the proposal, comments and a policy for City Commission consideration no later than February 15. Motion carried unanimously. (22)

Receive third quarter financial report and consider authorizing longevity payments.

David Corliss, City Manager, presented the third quarter financial report. The report stated:

I am recommending that the City Commission provide longevity payments to eligible City employees this year at the \$48.00 per year of eligible service rate as budgeted for 2010.

Status of 2010 Budget

As outlined in the third quarter report and shown on the attached fund projections, we believe we are on track to meeting projected expenditures of \$63,503,413 in the general fund. With the revenue projection of \$63,402,126, this would require spending just over \$101,000 of fund balance. Recent sales tax figures as well as continued growth in franchise fees and fines indicate that revenues may exceed that projection. Regardless, the projected ending fund balance in the general fund is still expected to be nearly 20% of expenditures.

As the City Commission knows, earlier in the year, departments were directed to reduce non-personnel related expenditures by 2.5%. In addition, we have reduced our general fund non-public safety workforce. As of January 1, 2011, our authorized non-public safety workforce in the general fund will be 15.8% less than in 2008. Other funds, including Water and Wastewater as well as Solid Waste have also eliminated positions. Despite reduced numbers, however, City employees continue to provide excellent service, in many cases with reduced resources for equipment or materials and added responsibilities.

Cost of Longevity Payments in 2010

The attached memo provides a history of longevity payments and explains the parameters typically used to calculate longevity. The payment has been at the rate of \$48/year of eligible service every year since 2000.

The 2010 budget included \$416,366 for longevity payments. The total cost of longevity payments at the budgeted rate of \$48/year for 2010 would be \$396,608.

Justification for Longevity Payments

As noted above and in the budget attachments, we are currently projecting general fund expenditures to exceed revenues by no more than \$101,000. Any additional expenditure may increase the possibility of having to dip into our existing general fund balances. However, I believe that a revenue/expenditure balance below a 1% margin on \$63.5 million in expenditures continues to demonstrate good fiscal practices. This is especially true considering that the fund balance in the general fund has grown by \$1.4 million since the end of 2006. The longevity payments at the \$48 per year level will not inappropriately challenge City finances this year,

particularly given the City's – and City employees' – continued commitment to controlling expenditures during this tough economic period.

Action Request: Approve payment of longevity at the rate of \$48/year of eligible service for 2010.

Commissioner Chestnut said regarding the general fund, in 2009 versus 2010, he asked where the City needed to be at on expenditures as a percent of budget to be in a surplus.

Casey Toomay, Budget Manager, said the City needed to be at 96%.

Commissioner Chestnut said based on staff's projections, the City would be at 96% this year as well.

Corliss said expenditures might be at 98% this year.

Toomay said the projections showed 97.89%.

Corliss said he was concerned about the revenue more than expenditures because of sales tax.

Mayor Amyx asked if the last sales tax the City received was good.

Corliss said yes.

Toomay said the sales tax had been better this year, especially the past 3 months. She said when the Finance Director prepared revenue projections for the year he looked at what months were higher such as holiday spending which was reflected in the projected total.

Vice Mayor Cromwell said when seeing year-to-date as percent of budget, he asked if that was not year-to-date as percent of budget, but a projection.

Toomay said no. She said that was the percent of budget and the column that was year-to-date was as percent of projected was where the City was at the end of October as a percent of the City's revised projection.

She said the sales tax number the City adopted was the 30.8 and in May or June, staff provided a revised projection of the 2010 revenues and that was the 29.5 million in the projected 2010 column for sales tax. If taking the year-to-date 2010 as of Oct 30th, that was taken as a percentage of that projection and that was where the 82.8% came from.

Mayor Amyx said based on where the City was with the revenues, the projections on revenues versus the expenditures which were 98%, and taking into account that longevity was already figured into those calculations, the shortfall would be \$101,000.

Corliss said correct. He said he thought the City would do better on that expenditure number than what was proposed for the end of the year.

Mayor Amyx said the City had done a lot of work, based on this report.

Commissioner Chestnut said it was obvious that with the enterprise funds, water/wastewater, and solid waste side, the City was in an expense control mode because the City was in significant surpluses in those two very large enterprise funds where the city was in the hole last year. He said he was surprised the City's service revenue in water/wastewater was not much higher than it was in previous year given the fact that he spent a lot of money on his lawn this year in contrast to last year. He said when the comments were made about the increases being attributed to increases in water/sewer rates, there were no comments about usage and wondered if the City did not see any change in the usage.

Corliss said the City had seen healthy increases in usage. He said the City was definitely above where the City was last year.

Commissioner Chestnut said where disconnect was being seen was that in water/wastewater through $\frac{3}{4}$ they were at 22.1 million last year and 22.6 million this year. He said since there was an increase in rates, it did not seem the usage numbers were included. He said he thought the number would be greater.

Toomay said part of that issue was due to a lag between when producing the water bill the water and receiving the payment for the water. She said those late summer months when people were spending more money in water than earlier in the summer, there was a lag at the end of the 3rd Quarter and had not received some of those payments yet.

Commissioner Chestnut said for instance in August when it was hot for 8 days a row, the City had not seen those payments yet in October.

Corliss said the City also had good production in September and October too. He said the days of large water consumption on per capita bases were not what they were in the past, whether it was the economy in people choices, the plumbing code and water saving devices.

Commissioner Chestnut said on a slight downside it looked like the City would end up on the negative side in the public golf course.

Corliss said Parks and Recreation cut back on a number of expenditures and thought there was \$7,000 in the fund balance.

Commissioner Dever said these discussions were great and everyone needed to read those documents to understand where the City stood from a revenue standpoint, how the City spent its money with the great strides to spend less money within the organization while still providing the same level of service. He said the fact the City was being more careful in the way it spent its resources. The City was doing a good job and the quality of life was high in this community. The City spent money, invested in the community in building and infrastructure. He said he likened this type of investment to the investment in the future of the City's employees. It was for him to recommend spending down the City's fund balance to pay, in some people's minds, excess compensation, but the amount was budgeted. He said the City was being conservative in its estimates and more than likely not need to tap into the City's fund balance to make those payments. He said there were arguments "for" and "against" those payments, but he was impressed with the challenges the City Commission placed on its employees and the way the employees had responded. He said he believed a lot of this was merit because the City employees were able to make it through the changes, cuts, scrutiny, and poor economy and still come to work and do a good job. He said for him a lot of this compensation was meritorious as opposed to tenure base. He said he was ready to make the commitment as long as everyone understood the City would do everything it could to not tap into the reserve fund in order to make those payments.

Commissioner Johnson said he agreed with a lot of Commissioner Dever's comments, but it came down to more of a policy issue. He said he did not disagree there were employees in the City organization that warrant and deserve merit, unfortunately this was not setup as a merit way of paying and went against what he thought the City should do. He said he sat through two budget sessions and remembered back in the beginning he was clear about not wanting to dip into the fund balance for not only this compensation, but other things. He said paying the \$400,000 would take away something else the City needed. He said by not voting for longevity, he was not saying City employees were not deserving of every penny of compensation they received. He said City employees were to be commended for putting the City into its position. He said from philosophical standpoint and seeing the things the City did not fund, he was okay with having money left over for next year and for that reason, he voted against longevity.

Vice Mayor Cromwell said he felt very strongly longevity was not merit based, but believed longevity was ingrained into the salary structure or overall compensation package for City employees. He said longevity was delivered at a time in which it amounted to a holiday bonus as well. He said the City Commission was at a point in deciding whether it was appropriate to fund that compensation package this year. He said the City continued to hear doom and gloom in the news, but yet, the City, through good planning and hard work had managed to control its expenses and Lawrence Kansas had been spared a lot of economic woes the rest of the Country was experiencing, not to day the city did not have its share of downturn, but fortunately much less in Lawrence than other places.

He said the budget documents showed the City was on track this year and worked hard to keep on track and would continue. He said he was in favor of funding the longevity payments with the understanding that once again they were calling on employees to save a little and not dip into the fund balance. He said he felt uncomfortable with the remaining fund balance.

He said employees were doing more now with 15% fewer City employees than a few years ago and this were part of the employee's compensation package. If times were tougher and revenues were not up to par, he would have been saying something different. He said the City should fund the payments.

Commissioner Chestnut said he was also in support of the longevity payments. He said he received several emails stating the City should not move forward, but without the good work of City staff, it was all moot. He said as a reminder, the City had not had a mill levy increase in 4 years and there had been a 3 or 4 percent reduction in staff over that period of time. The City's surplus in 3 years prior to 2010 was close to a million dollars coming off of a 3.5 million deficit in 2006 in the general fund.

He said the City Commission made suggestions about looking at consideration of a private hauler options for solid waste and reduction in outside agencies funding, but in looking at peer communities, Lawrence had no reductions in safety personnel or no furlough days and all of those were reduction in City services. The City Commission provided direction and City staff had been right in step with the Commission as far as responding to direction. He said he had a difficult time not funding longevity payments because staff hit the goals that were set for the year.

He said there was this balance between longevity being ingrained into its culture and trying to make it merit based. He said there were some things that could be done to tie some other performance types of activities and define those early in the budget process, making it more of a collective merit based situation. He said he pushed and prodded and tried to create efficiency, but Lawrence had a City staff that wanted to do better, loved this community, and delivered a high level of service. He said if the community wanted to pay for performance and believed City staff stepped up to the task, then the money should be put behind staff. He said he know that was not the intention of longevity pay, but that was where he was at.

Mayor Amyx said regarding the budget, he always thought about managing the revenues. Revenue was needed to pay for the employees services and through the hard work of staff, the City was able to manage those revenues, coming up with a good work plan. He said when there were utility or accident incidents there was no Mayor that showed up first.

He said part of employee compensation was longevity and the city was fortunate to be able to pay that compensation this year. He said he would like to see this money balanced without getting into fund balances. He said the City Commission appreciated staff's work and the services provided to this community.

Moved by Chestnut, seconded by Cromwell, to receive the third quarter financial report and authorize longevity payments at the rate of \$48/yr of eligible service. Aye: Amyx, Chestnut, Cromwell and Dever. Nay: Johnson. Motion carried. **(23)**

PUBLIC COMMENT: None.

FUTURE AGENDA ITEMS:

- 11/23/10 CONSENT
- Approve extension request of formerly approved Site Plan, SP-05-34-07, for phase II of mini-warehouse storage, located at 808 E. 28th Street.
- REGULAR
- Reconsider a Text Amendment, TA-06-12-08, to Section 20-810 of the Subdivision Regulations [County Code Section 11-110] to clarify the natural resources and environmentally sensitive areas that are to be protected or preserved, Section 20-812 [County Code Section 11-112] to revise the required contents of a plat to include environmentally sensitive lands provisions, and Section 20-815 [County Code Section 11-115] to provide definitions of terms related to environmentally sensitive lands. *Initiated by County Commission on 6/23/08.* Adopt on first reading, Ordinance No. 8317, for Text Amendment (TA-06-12-08) to Section 20-810 of the Subdivision Regulations to clarify the natural resources and environmentally sensitive areas that are to be protected or preserved, Section 20-812 to revise the required contents of a plat to include environmentally sensitive lands provisions, and Section 20-815 to provide definitions of terms related to environmentally sensitive lands. (PC Item 2; approved 8-0 on 10/25/10)
- ACTION: Approve Text Amendment (TA-06-12-08) and adopt on first reading, Ordinance No. 8317, if appropriate.
- Conduct a public hearing and consider adopting on first reading, an Ordinance authorizing the issuance of \$23.72 million in industrial revenue bonds for the Bowersock Mills and Power Company project.
- 12/07/10 · Adopt on second reading, an ordinance authorizing the issuance of \$23.72 million in

industrial revenue bonds for the Bowersock Mills and Power Company project.

- Consider approval of Industrial Revenue Bonds and employee training incentive for Plastikon Industries.
- Consideration of Library expansion project timeline and authorize to negotiate architect services.

12/14/10

CONSENT:

Approve Comprehensive Plan Amendment, CPA-3-1-10, to Horizon 2020 for an update to Chapter 8 – Transportation. *Initiated by Planning Commission on 2/22/10.* Adopt on first reading, Ordinance No. 8590, for Comprehensive Plan Amendment (CPA-3-1-10) to Horizon 2020 for an update to Chapter 8 – Transportation. (PC Item 3; approved 9-0 on 9/20/10)

REGULAR:

- Consider Comprehensive Plan Amendment, CPA-6-5-09, to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan. Adopt on first reading, Ordinance No. 8591, for Comprehensive Plan Amendment (CPA-6-5-09) to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan. (PC Item 4; approved 5-4 on 9/20/10)

ACTION: Approve Amendment (CPA-6-5-09) and adopt on first reading, Ordinance No. 8591, if appropriate.

- Consider approving Comprehensive Plan Amendment, CPA-2008-7, amending Horizon 2020 to include Chapter 16 – Environment. Adopt on first reading, Ordinance No. 8592, for Comprehensive Plan Amendment (CPA-2008-7) amending Horizon 2020 to include Chapter 16 – Environment. (PC Item 4; approved 8-1-1 on 8/23/10)

ACTION: Approve Comprehensive Plan Amendment (CPA-2008-7) and adopt on first reading, Ordinance No. 8592, if appropriate.

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.
- Ordinance No. 8565, establishing a Community Improvement District (CID) at 23rd and Ousdahl Streets.
- Approve scope of improvements for Iowa Street, Project PW1012, Iowa Street (US-59 Highway), Irving Hill Road to Yale Road, Street Reconstruction and Geometric Improvements
- Consider changes to sidewalk dining requirements.
- Consider adopting on first reading, Ordinance No. 8587, adopting the International Property Maintenance Code, 2009 Edition.
- Consider approving a recommendation from the Traffic Safety Commission to establish an all-way stop at the intersection of 11th Street and Indiana Street. (TSC Item 2; approved 6-2 on 11/01/10)

ACTION: Approve recommendation from the Traffic Safety

Commission to establish an all-way stop at the intersection of 11th Street and Indiana Street, if appropriate.

- Consider approving a recommendation from the Traffic Safety Commission to establish Rhode Island Street between 7th Street and 8th Street to a two-way street and to retain the partial diverter at 7th Street (TSC Item 3; approved 7-1 on 11/01/10).

ACTION: Approve recommendation from the Traffic Safety Commission to establish Rhode Island Street, between 7th and 8th Streets, to a two-way street and to retain the partial diverter at 7th Street, if appropriate.

- Consider approving the Iowa Reconstruction Plan.
- Consider approving the Farmland Demolition Plan.
- Receive presentation of the 2011 Snow Plan.
- Consider the recommended 2011 Pavement Maintenance Plan.

2011

01/11/11

- Consider recommendation from the Traffic Safety Commission to establish no parking along the north side of Brett Drive, between Berwick Way and Haversham Drive/Stowe Drive, approved 6-1. *This item was continued from the 11/09/10 City Commission Meeting for 60 days*

Moved by Chestnut, seconded by Dever to adjourn at 9:37 p.m. Motion carried

unanimously.

APPROVED:

Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

CITY COMMISSION MEETING OF NOVEMBER 16, 2010

1. Change Order – Burroughs Creek Rail Trail (PW0829) RD Johnson for \$74,949.67.
2. Change Order – NY Brick Street Reconstruction (PW0913) RD Jonson for \$51,460.32.
3. Purchase – 3 fixed route vehicles El Dorado National for \$940,593.
4. Bid – Comp Rehab at 1920 Tenn to T&J Holdings for \$24,840.
5. Change Order 2 & Final – for 2010 Overlay Program Phase 1 to Bettis for \$43,935.23.
6. Purchase – Brush Bandit for Parks & Rec from Vegetation Mgmt Supply for \$32,964.82.
7. Ordinance 8589 – 1st Read – No Parking, S side of 11th between KY & Tenn.
8. Agreement – KDOT & City/County MPO, US 40/K-10 Interchange from GWW, W to E 800 Rd., not to exceed \$11,000.
9. TSC – Loading zone, S side of 22nd adjacent to Schwegler School, 8am-9am & 3pm to 4pm, school days.
10. Health Insurance Stop Loss Agreement 2011.
11. RFP – 2011 Citizen Survey.
12. Cooperation Agreement – KDOT for Kasold, S of Clinton Pkwy to 31st.
13. 9th & New Hamp – 7 story mixed use bldg.
14. City Manager's Report
15. IRB - Plastikon Industries
16. Pending IRB issuance.
17. Resolution 6911 – Repair or remove structure 1200 Penn
18. Distance limitation waiver - Off-Premise CMB Presto, 602 West 9th.
19. Ordinance 8593 – 1st Read, Industrial Design Standards.
20. Ordinance 8588 – 1st Read, amend Chapter 20, Article 2, commercial design standards & community design manual by reference "Development Code."
21. Text Amendment- (TA-4-4-10) 20-403, & other sections of Code, permit Hotel, Motel, Extended Stay in IBP.
22. City Employee overtime policy development.

23. 3rd Quarter Financial Report & longevity payments.