



DAVID L. CORLISS  
CITY MANAGER

# 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

December 14, 2010

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

### CONSENT AGENDA

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve the City Commission meeting minutes of November 2, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive meeting minutes from the Board of zoning Appeals meeting minutes of September 2, 2010; the Historic Resources Commission meeting minutes of September 16, 2010 and October 25, 2010; and, the Public Incentive Review Committee meeting minutes of April 26, 2010. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve claims to 182 vendors in the amount of \$2,919,256.10. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve the drinking establishment license for Montana Mike's, 1015 Iowa. Motion carried unanimously.

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to concur with the recommendation of the Vice Mayor and reappoint Hubbard Collingsworth, Mike Monroe, and Shannon Murphy to additional terms on the Community Commission on



Homelessness which will expire December 31, 2013; and reappoint Matt Lehrman, Beth Johnson, Megan Poindexter and Simran Sethi to additional terms on the Sustainability Advisory Board which will expire December 31, 2013. Motion carried unanimously.

The City Commission reviewed bids for the 2011 Water and Wastewater Treatment Chemicals for the Utilities Department 2011. The bids were:

PRODUCT	VENDOR	BID
<b>Water Treatment Plant chemicals</b>		
QUICK LIME (Kaw-Pebble)	US Lime Company	125.70/ton**
	Mississippi Lime Company	135.50/ton
QUICK LIME (Clinton-Powder)	US Lime Company	125.70/ton**
	Mississippi Lime Company	135.50/ton
SODIUM BISULFITE	Simply Aquatics	1.98/gal**
	Brentag Mid South	2.02/gal
	Harcros Chemicals	2.31/gal
	GS Robins	2.50/gal
FERRIC CHLORIDE	Kemira Water Solutions, Inc	1.50/gal**
SODIUM HYPOCHLORITE	Brentag Mid South	.79/gal**
	DPC Industries	.815/gal
	Vertex Chemical	1.02/gal
	G.S. Robins	1.90/gal
POLYMER, KAW PLANT	Nalco	1,100.00/ton**
	Cedar Chemical	1,240.00/ton
	G.S. Robins	1,360.00/ton
POLYMER, CLINTON PLANT	Nalco	1,100.00/ton**
	G.S. Robins (Does not meet the chemical specifications. Chemical has been tested in plant.)	1,050.00/ton
CALGON WPH 800 PAC	G.S. Robins	1,390.00/ton**
	Cal Pacific Carbon (Does not meet the chemical specifications. Chemical not tested in plant.)	1,240.00/ton
CARBON DIOXIDE	EPCO	67.50/ton**
	Continental Carbonic	205.00/ton
SODIUM HEXAMETAPHOSPHATE	Simply Aquatics	2,100.00/ton**

	Summit Chemical	2,230.00/ton
	F2 Industries	2,373.00/ton
	Sterling	2,516.00/ton
	Harcros	2,580.00/ton
	G.S. Robins	2,600.00/ton
	Brentag Mid South	3,140.00/ton
	Shannon Chemical Corp	3,333.33/ton
	Carus Chemical	2300.00/ton
	DPC	2420.00/ton
SODIUM SILICOFLUORIDE	Brentag Mid South	835.00/ton**
	GS Robins	890.00/ton
	Harcros	940.00/ton
	Thatcher Co.	966.00/ton
	Summit Chemical	1,100.00/ton
AQUA AMMONIA	Airgas	376.20/ ton**
	Harcros Chemicals	380.00/ ton
	G.S. Robins	530.00/ton
ALUMINUM SULFATE – BULK	G.S. Robins	557.00/ ton**
	General Chemical	575.00/ton
PHOSPHATE SOLUTION	Simply Aquatics	10.75 gal**
	F2 Industries (Does not meet the chemical specifications. Chemical not tested in plant.)	7.797/gal
	G.S. Robins	12.10/gal
	Shannon Chemical (Does not meet the chemical specifications. Chemical not tested in plant.)	12.27/gal
	Sterling (Does not meet the chemical specifications. Chemical not tested in plant.)	7.74/gal
POWDERED ACTIVATED CARBON	Cal Pacific Carbon	980.00/ton**
	Jacobi Carbon	1,130.00/ton
	G.S. Robins	1,515.00/ton
<b>Wastewater Treatment Plant chemicals</b>		
QUICK LIME	Mississippi Lime Company	\$135.50/ton **
	US Lime Company (Switched to Mississippi Lime in Oct. 2010 due	\$125.70/ton

	to rock and grit in product that caused equipment to fail.)	
SODIUM HYPOCHLORITE	Brentag Mid South	\$0.79/gal **
	DPC Industries	\$0.815/gal
	Vertex Chemical	\$1.02/gal
	G.S.Robins	\$1.90/gal
SODIUM BISULFITE	Simply Aquatics	\$1.98/gal **
	Thatcher Co. (Does not meet the shipping quantity specifications)	\$1.927/gal
	Brentag Mid South	\$2.226/gal
	G.S.Robins	\$2.30/gal
FERRIC CHLORIDE	Kemira Water Solutions, Inc.	\$1.50/gal **
	PVS	\$1.63/gal
POTASSIUM PERMANGANATE	G.S. Robins	\$3.10/lb **
	F2 Industries (Does not meet the chemical specifications)	\$2.45/lb
	Harcros Chemicals	\$3.35/lb
	Brentag Mid South	\$3.38/lb
TRAMFLOC ANTI-FOAMER	Tramfloc Industries	\$2.90/lb **
	Brentag Mid South (Does not meet the chemical specifications)	\$0.80/lb
POLYMER -- ACTIFLO	BASF	\$1.59/lb **
	Consolidated Water Solutions	\$2.40/lb
POLYMER -- BELT PRESS	Polydyne Inc.	\$1.00/lb **
	BASF	\$1.06/lb
	Consolidated Water Solutions	\$2.40/lb
FERROUS CHLORIDE L.S. #3	Kemira Water Solutions	\$0.52/gal **
FERROUS CHLORIDE L.S. #9	Kemira Water Solutions	\$0.52/gal **
FERROUS CHLORIDE L.S. #46	Kemira Water Solutions	\$0.52/gal **

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to award the bids as marked (\*\*). Motion carried unanimously. (1)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve the procurement of excess workers compensation coverage from Safety National for the insurance period of January 1, 2011 to December 31, 2012. Motion carried unanimously. (2)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt on first reading Ordinance No. 8601, rescinding Ordinance No. 6089 that established Rhode Island Street as a one-way street from 7<sup>th</sup> Street to 8<sup>th</sup> Street for northbound traffic. Motion carried unanimously. (3)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt on first reading Ordinance No. 8602, rescinding Ordinance No. 8537 that established stop signs on Indiana at 11<sup>th</sup> Street and establishes a multi-way stop at the intersection of 11<sup>th</sup> and Indiana. Motion carried unanimously. (4)

Ordinance No. 8597, authorizing the codification and publication of the ordinances of the City of Lawrence, was read a second time. As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt the ordinance. Aye: Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (5)

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. As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt the ordinance. Aye: Cromwell, Dever, Chestnut, and Johnson. Nay: None. Motion carried unanimously. (6)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to adopt the updated Water Conservation Plan and adopt on first reading, Ordinance No. 8492, amending Chapter 19, Article 10 of the City Code to allow the enforcement of the updated plan, per Kansas Water Office requirements. Motion carried unanimously. (7)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve and adopt on first reading, Ordinance No. 8590, Comprehensive Plan Amendment, CPA-3-1-10, to Horizon 2020 for an update to Chapter 8 – Transportation. Motion carried unanimously. (8)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to authorize the Vice Mayor to sign an agreement with KDOT, Wakarusa Watershed, Alvamar, Inc., and Douglas County, regarding the rehabilitation of Yankee Tank Dam, and authorize City funding in the amount of \$75,000, conditioned upon successful completion of City conditions relating to annexation and easement alterations. Motion carried unanimously. (9)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to authorize the Vice Mayor to sign a Release of Mortgage for John and Ferdouz Cochran, 709 Illinois. Motion carried unanimously. (10)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to approve a request from the Lawrence Cultural Arts Commission to carry forward \$5,000 in unspent funds from its 2010 Budget to 2011 for the purpose of furthering a project examining the sustainability and future of the arts in the community. Motion carried unanimously. (11)

As part of the consent agenda, **it was moved by Chestnut, seconded by Dever**, to receive a request from NextG Networks for a telecommunications franchise agreement. Motion carried unanimously. (12)

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

During the City Manager's Report, David Corliss said the City's Utilities Department published an annual update of construction material specifications, design criteria, and standard details for watermains and sanitary sewers; Mark Thiel, Assistant Public Works Director presented the City's Pavement Management System at KU's 54<sup>th</sup> Annual Asphalt Paving Conference; and Planning and Development Services completed the North of the stadium area historic resources survey. (13)

## **REGULAR AGENDA**

### **Consider approving the employee training incentive and authorize the City Manager to execute a performance agreement with Plastikon.**

Roger Zalneraitis, Economic Development Coordinator/Planner, presented the staff report which read:

On October 26<sup>th</sup>, 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 and forwarded the training incentive to PIRC for consideration. Tonight the Commission is receiving the summary of the Public Incentive Review Committee ("PIRC") meeting, and considering whether to approve the employee training incentive.

It should be noted that Plastikon has since withdrawn its request for an Industrial Revenue Bond. Plastikon has instead opted for more traditional debt financing for its project. This leaves the employee training incentive as the only local incentive that they are requesting.

### **Employee Training Incentive**

The PIRC committee met on November 3<sup>rd</sup> to consider the employee training incentive. A copy of the draft minutes for the November 3<sup>rd</sup> meeting is attached. Members asked two follow-up questions regarding waste streams from the manufacturing facility, as well as whether materials were counted as part of their local purchases in the application form. Staff has sought a response from Plastikon on these two questions. There was also a discussion on whether how performance agreements should measure substantial compliance. While it was agreed that in this case a straight averaging would suffice, PIRC members indicated a desire to revisit this subject in future incentive discussions.

Subsequent to that meeting, Plastikon retained counsel to assist with local and state incentives. Counsel identified that Plastikon has supplied the City with wage numbers that included benefits in them. In our application, we ask that salaries be supplied without benefits. Plastikon issued a clarification letter and revised its incentive application to include only monetary wages and not benefits.

PIRC was convened again on December 2<sup>nd</sup> to reconsider the request in light of the wage-only numbers supplied by Plastikon. A copy of the draft minutes are attached, as well as the benefit-cost model results. PIRC unanimously recommended that the incentive be approved by the City Commission. In this meeting, PIRC members asked what the impact would be if none of the anticipated local sales occurred. In the application, Plastikon projects \$5,000,000 of local expenditures each year. Staff did not have the answer at that time, but has since reviewed the model and found that if local purchases were zero, this would result in a loss of between \$50,000 and \$100,000 of revenue for the City over 15 years, and between \$5,000 and \$20,000 of revenue for the County over 15 years. This is about 5-10% of total revenue for the City, and around 2% for the County.

PIRC also requested that City Staff work to clarify the incentive data we were seeking with future applications and applicants. After this discussion, PIRC unanimously recommended that the incentive be approved by the City Commission.

### **Next Steps**

The next step will be for the County to consider their portion of the employee training incentive. Once the County Commission has acted, the City Manager will finalize a performance agreement between Plastikon and the City and County for compliance with wage, hiring, and capital investment targets.

The City Commission should be aware that the Performance Agreement may refer to Plastikon or to a subsidiary of Plastikon that may be created to operate their Lawrence facility. Plastikon is investigating the possible creation of a subsidiary for corporate governance purposes.

### **Actions Requested**

Approve the employee training incentive, and authorize the City Manager to execute a performance agreement with Plastikon, if appropriate.

Vice Mayor Cromwell called for public comment.

After no public comment, Vice Mayor Cromwell said this project looked like a good project and an opportunity in an economic climate where announcements were being seen the other direction.

**Moved by Johnson, seconded by Chestnut,** to approve the employee training incentive and authorize the City Manager to execute a performance agreement with Plastikon.

Motion carried unanimously. (14)

**Receive proposed Comprehensive Plan Amendment, CPA-6-5-09, to Horizon 2020 – Chapter 14 to include the Northeast Sector Plan.**

Dan Warner, Planner, presented the staff report which read:

This comprehensive plan amendment (CPA) to Horizon 2020, Chapter 14, list of specific plans, to add the reference to the Northeast Sector Plan was initiated by the Planning



Commission on June 24, 2009. This CPA will approve the plan and add to Horizon 2020, Chapter 14 the title of the plan, a description of the approximate planning area boundaries, approval dates, and the future review date.

Staff recommends approval of this comprehensive plan amendment to Horizon 2020 by amending Chapter 14 – list of specific plans to add the Northeast Sector Plan description and also approving the plan for the City of Lawrence and unincorporated Douglas County and recommends forwarding this comprehensive plan amendment to the Lawrence City Commission and Douglas County Board of County Commissioners with a recommendation for approval.

Vice Mayor Cromwell said that it was a large document with a lot of important issues regarding soils, properties rights, and industrial development. He said it was a good idea to schedule a joint study session that included the Environmental Chapter.

David Corliss, City Manager, said he met with Craig Weinaug, County Administrator, who indicated that both the Northeast Sector Plan and the Environmental Chapter were on the City Commission's agenda to receive and not take any action at this time. A joint study session was recommended to receive the full breadth of staff presentations and an opportunity to talk about common goals and values or areas where they were not in agreement

Historically, late Tuesdays or Wednesdays worked for both City and County Commissions for joint study sessions, but that date needed to be confirmed. He said if the City Commission wanted to suggest any specific dates, staff could certainly work with those dates.

Commissioner Chestnut said direction from the County was needed.

Vice Mayor Cromwell said it might be best to pursue an email discussion, as far as what dates might work with everyone's calendars. He anticipated needing a couple of hours to go over the sector plan, environmental chapter and other issues.

Commissioner Chestnut said this item was getting down to drainage, options, and agri-business issues. It would be beneficial to focus on issues staff identified and would allow the City and County Commissioners to ask questions about those important points to get a better understanding. He said everybody had different interpretations about a three or four word sentences.

Commissioner Dever said it might be a good idea to make sure they had a technical understanding of some of the bigger issues such as classification of soils, drainage areas, and what those meant technically. If talking about protecting or enhancing the use of something, it was important for everyone to have a clear understanding of what that meant. He said most of the comments were about drainage, flooding and the protection of those two types of soils.

Commissioner Chestnut said he was referring to drainage and soil class.

Commissioner Dever said it was better to ask questions up front and get a professional opinion, that way there would be no debate and everyone could understand how important those issues were together.

Vice Mayor Cromwell said it boiled down to the main contentious areas and they needed to make sure there was the expertise on hand to deal with the technical aspects, making it an interesting study session. (15)

**Receive proposed Comprehensive Plan Amendment, CPA-2008-7, amending Horizon 2020 to include Chapter 16 – Environment.**

Amy Miller, Planner, presented the staff report which read:

The Comprehensive Plans Committee (CPC), in conjunction with Planning Staff, had been working since April 2008 to draft a new chapter in Horizon 2020 concerning environmental issues. This chapter was initiated in April 2008 and the CPC and staff started meeting in September 2008 regarding timeline, process, and the development of a draft overview, strategies, and outline. The draft outline, strategies, and overview were then presented to the Planning Commission in November 2008 to not only get input from the public, but also the Planning Commission. A series of educational meetings were held from December through March 2009 on various sub-topics of the chapter. Community organizations, researchers, and other experts in their fields were invited to give brief presentations to the group in order to help educate staff and the CPC on certain issues.

Staff and the CPC worked over the next year to develop the “April 2010 Draft”. The “April 2010 Draft” was posted to the website in early April and comments were received from both the public and Planning Commissioners at the April 28<sup>th</sup>, 2010 meeting. Staff then worked with CPC to revise the draft document based on those comments. The “August 2010 Draft” is reflective of those revisions.

A website has been setup to act as a central hub for information regarding the drafting of this chapter (<http://www.lawrenceks.org/pds/H2020-Env>) and the “August 2010 Draft” is posted to this site. In addition, an email distribution list has been created to keep people informed about the chapter as it moves through the process. Members of the public can sign up to be a

part of this email distribution list by visiting the City's subscription page (<http://www.lawrenceks.org/subscription>) and signing up for the "Horizon 2020 Chapter 16: Environment" list under the Public Meetings heading.

Staff recommends approval of this comprehensive plan amendment adding Chapter 16: Environment to Horizon 2020 and recommends forwarding this comprehensive plan amendment to the Lawrence City Commission and the Douglas County Board of County Commissioners with a recommendation for approval.

Commissioner Chestnut said regarding the study session, it might be good to have a reminder of the initial chapter of Horizon 2020 which was not a blank document. He said in consideration of this chapter, the preamble needed to be read to understand the context and not consider it in a vacuum.

David Corliss, City Manager, said writing code in this area was particularly challenging as seen with the environmentally sensitive areas code language where the City struggled to make sure that it was operational. He said he had concerns about how well it would be road tested when having a lot of development that impacted those code requirements. The comments about making sure we understood this was a comprehensive plan and was not code language was very important. He said he mentioned the environmentally sensitive area language because they had all seen its evolution and maturation and its changes.

Vice Mayor Cromwell said the City was writing an environmental chapter because environmental issues were important to Lawrence and were relevant to the planning issues that Horizon 2020 addressed. He said it was important to remember not to get too caught up in the wording-smithing of a document when it was not necessarily going to be important to the outcome.

This was another example of a tremendous amount of work and would be useful in clarifying the City's position. It would be a useful tool in planning. Not many communities had similar chapters which would make Lawrence distinguishable. It would be interesting to receive the County's perspective on this issue and there would be opportunities for public input during the first part of the year.

Corliss asked if it was the Commission's desire to have both this Comprehensive Plan Amendment (Environmental Chapter) and Northeast Sector Plan at the same meeting.

Vice Mayor Cromwell said it was difficult to get everyone together for a study session and was in favor of tackling both issues at the same time. He said the environmental chapter impacted the sector plan.

Commissioner Dever said enough time should be allocated to discuss both items because the items were uniquely conjoined specifically the biggest points of contention were the same. He said he hoped both items would pass at a similar time frame.

Commissioner Johnson agreed.

Vice Mayor Cromwell asked what the process was in the next step.

Corliss said he anticipated the City Commission would agree on a joint study session date and staff would do its best to use the list serve and email list to let the interested citizens and stakeholders know about that public meeting. Then, dependent upon direction coming out of the study session, would place it back on the City Commission agenda to take public comment and then any action that the City Commission requested. It would be sometime after the study session so people could be notified and maximize the opportunity for comment. (16)

*Consider approving annexation (A-9-3-10) of approximately 51.13 acres located at the southwest corner of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended). Adopt on first reading Ordinance No. 8594 for the annexation (A-9-3-10) of approximately 51.13 acres located at the southwest corner of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended).*

Toni Wheeler, Director of Legal Services, presented the staff report which read:

### **Background**

On September 21, 2010, the governing body received the property owner's petition for and consent to annexation. In accordance with the City's annexation policy, the governing body referred the request to the planning commission for a recommendation because the tract of land is larger than ten acres in size. The planning commission considered the annexation at its regular meeting on October 27, 2010, and voted 8-0 to recommend the Board of County Commissioners make the finding required by K.S.A. 12-520c so the annexation could proceed. The planning commission also found that the annexation complied with Horizon 2020.

On November 9, 2010, the governing body received the planning commission's recommendation regarding the annexation of the subject land. The governing body then adopted Resolution No. 6910 which requested the Board of County Commissioners find and determine that the annexation of the property "will not hinder or prevent the proper growth and development of the area or that of any other incorporated city" located within Douglas County, in accordance with K.S.A. 12-520c.

The Board of County Commissioners met in regular session on November 17, 2010, to consider the City's resolution and received public comment. The Board continued its consideration of the matter to its December 1, 2010 meeting. At the close of the December 1<sup>st</sup> meeting, the County Commission directed staff to prepare a resolution for its review on December 8<sup>th</sup> that made the finding required by the statute. On December 8, 2010, the Board of County Commissioners adopted a resolution finding that the annexation of the subject property will not hinder or prevent the proper growth and development of the area or any other incorporated city in Douglas County on a vote of 2-1. The County Administrator notified the City of the County's finding on December 8, 2010.

With the County Commission's finding, the City now has the legal authority to adopt an ordinance annexing the property, if appropriate. The adoption and publication of the ordinance annexing the property are the next steps to annex the property. After the ordinance is published, and the city clerk will file certified copies of the annexation ordinance with the county clerk, register of deeds and county election officer.

The City notified Rural Water District No. 6 of its intent to annex the land on September 27, 2010. Under legislation adopted in the 2010 legislative session, notice to a rural water district must be given not less than 60 days before the effective date of the ordinance. Sixty days has lapsed since the City provided RWD No. 6 notice of its intent to annex the subject property. Therefore, the City is free to pass and publish an ordinance annexing the land.

**Action requested:** Adopt on first reading, Ordinance No. 8594 annexing approximately 51.13 acres of land into the City of Lawrence, Kansas pursuant to K.S.A. 12-519 *et seq.*, if appropriate.

Sandy Day, Planner, presented a staff report on the annexation application.

Vice Mayor Cromwell called for public comment.

Jim Davidson asked what authority the City Commission had not to accept public comment on the previous agenda item.

David Corliss said the City Commission had authority to determine its rules as to how it wanted to conduct the meeting.

Vice Mayor Cromwell said this was an open meeting and if there was a general public comment he would be happy to take it at the end of the meeting.

The Commission recessed the meeting at 7:18 p.m.

The Commission returned to regular session at 7:23 p.m.

Ronald Schneider, attorney, spoke in opposition to the annexation. He said he understood that this matter had been before the Commission before as well as the Commissions roles and obligations under annexation law and their prerogatives. He said he would like to address three issues.

First, the staff report. Areas of the staff reports, discussion and conclusions were extremely pertinent and referred to the section plan for K-10 and Farmers Turnpike and also Chapters 4 and 7 of Horizon 2020.

He said in the summary finding of the comprehensive plan review staff stated “the lack of available sewer and water service limits development opportunities for the property in the immediate future unless specific agreements for alternate service can be agreed made.” In its discussion of land use and request, the staff wrote “Horizon 2020 supports a definitive approach that utility services and major street improvements should be in place prior to development. Significant municipal utilities must be extended to serve this area to support urban development. The report went on to say, “the subject property was not immediately contiguous to existing city limits.” Contiguity, as recommended per annexation policy number 2, was not provided in this application. The comprehensive plan supported a proactive annexation plan that ensured adequate facilities and services. The plan specifically recommended annexation of “areas which are needed to complete sewer, water line extensions for a closed loop system.” The following statement was set forth in the planning reports comments. The proposed request was inconsistent with this recommendation for annexation. Progressive annexation from existing boundaries northward was needed to fully comply with this recommendation. However, it should be recognized that some industrial use could exist without city infrastructure and that adequate urban facilities and services could be provided if deemed necessary and if made a priority by the governing body. Public and private utilities must be extended or upgraded to serve this

area. Sanitary sewer, water, off site storm water and roadway improvements needed to be identified and planned for extension and improvement for both the short term and long term.

Staff concluded that the development of the subject property required consideration of adequate timing of providing the necessary infrastructure for basic utilities such as water and waste water. It talked about an interim report where a proposed plan which stated that "this interim proposal may be sufficient to support a single user, such a system would need to be assessed for multiple users".

The City's staff report recognized that this was inconsistent. They do, with all recognition to their final conclusion, recommend approval despite those concerns. He said he thought the concerns had been unfairly overlooked and minimized. He said he would be going through the sector plan and Horizon 2020 briefly to explain their position.

First, looking at K-10, the goals and policies, stated unequivocally, in paragraph 3.1 "These policies are in addition to the policies in Horizon 2020." Therefore, as you know, they were not what were often referred to and described as dispositive, but they were not dispositive, 2020 was directory. He said what did that mean, was it a casual direction? Was it something that should be seriously considered? He said when Horizon 2020 was being developed in the community, it required exhaustive time and consideration by a huge number of people. The community hoped and expected the City and Planning commissions gave it serious consideration, not casual. He said it was not an insignificant piece of work. Controlling? One might make that argument, but it was not the law, but was definitely directional and strong direction was probably the best description. He said the City Commissioners should strongly and seriously consider it, recognizing it as that type of authority.

The goals in the Farmers Turnpike planning area: Goal 2: maintain the rural character in existing areas until the time that municipal services allow urban densities to develop. Goal 4: develop to urban densities over time, taking care to respect and protect the natural systems

currently in place. Goal 5: provide ongoing infrastructure and public facility improvements as the area develops.

He said they recognized there was a sector plan. That sector plan did not define, or recommend or require annexation immediately. The sector plan itself recognized that it would be developed over decades. The sector plan recognized various goals and aspirations on planning considerations. They believed the concept of Island annexation clearly under Horizon 2020 was the exception rather than the rule. He said he placed copies of various parts of Horizon 2020 at each Commissioner's desk and he would like the Commission to review the copies and consider those sections. Since time was limited, the annexation policies were set forth first, which clearly and unequivocally stated that annexation should be based upon the concept of contiguity. Annexations should be contiguous to the existing property. The UGA was an important consideration but still the idea of contiguous annexation was the preference. Island annexation, as recognized by the City staff in the staff report, was the exception rather than the rule. Establishing urban growth areas policy and goal 1 talked about various topographical considerations, priorities for development when there was actually a traffic study done.

Policy 1.3 encouraged the gradual expansion of urbanization outward from corporate limits, required annexation or agreements when there was no contiguous annexation for future development; Policy 1.4; established utility extension policy for newly annexed land. Encourage annexation under certain circumstances which did not apply which was Policy 1.5; Policy 2.3: rural commercial development, commercial development beyond the UGA's shall be limited and carefully reviewed. Those surrounding the city should be considered priority. Annexation Policy - Goal 3, to provide for the orderly development of the community and to provide areas of land that would receive municipal services that could accommodate the residential, commercial and industrial growth of the community. Areas immediately adjacent to the Cities, 3.1: proposed annexation area, 3.2; 3.3. Specific annexation policies if applied to this situation at hand, the annexation consideration should be denied.



Finally, if looking to the Criteria for Location of New Industrial and Employment Related Development, Goal 2, Chapter 7, page 713, the City Commission should authorize or consider annexation and industrial development when there were service utilities available, appropriate studies for storm water, run off, water use, and road use. Transportation Considerations, goal 4, there should be an evaluated traffic impact study which was not preceded.

He said that tonight was premature. Look at Horizon 2020, the sector plan stated unequivocally that Horizon 2020 needed to be applied as any other sector plan. He said there were three primary considerations that appeared to be driving this annexation: 1) the desire to create jobs; 2) a sector plan and that sector plan designated industrial, which is the applicants request; 3) a voluntary annexation. He said those considerations was not a reason to approve an island annexation.

The other matter that was of great concern to them was that the proposed annexation was essentially a conditional annexation. The applicant asked the City to approve this annexation with IG zoning or nothing else which was improper and the zoning issue and the annexation should stand on its own merits before this City Commission. The County Commission had different considerations under the law, but for annexation for the City, they believed the only question was if there should be annexation based upon City policies. He said for those reasons they asked the City Commission to deny the annexation.

Commissioner Chestnut said based on the last statement, the Commissions action was to approve annexation and Ordinance No. 8594 did not have any reference to zoning in that ordinance.

Vice Mayor Cromwell said that zoning would be considered at some time in the future.

Commissioner Chestnut said for everyone to understand, there was no coupling of the two items at this time.

Schneider said based upon what City staff presented, the application was a dual application.

Vice Mayor Cromwell said that the applicant had indicated his desire for zoning.

Commissioner Chestnut said the City Commission was not approving or considering any zoning at this time.

Schneider said he understood that the annexation was contingent upon the zoning by the applicant.

Vice Mayor Cromwell said that statement was incorrect.

Jane Eldredge said a comprehensive plan provided a vision for this community and was a policy guide, defining the City's goals for directing future land use decisions. It was also used to identify where and how development should occur and by residents to understand what the city and county anticipated for future land uses in the community. She said this plan was for community decision makers to evaluate the appropriateness of land development proposals.

The words, land development proposal, encompassed a number of things; annexation was the beginning of the development process, zoning followed, site planning, traffic studies, all of those things follow and were a part of the proposal.

The comprehensive plan, Chapter 4 - Growth Management, discussed land within the UGA being encouraged, over the planning period, to be annexed into the city prior to urban densities of development, not with urban densities of development, but, they were trying to get UGA land annexed before development. She said it made sense because it made the extensions of utilities conform to City standards. The annexation policies that were set out in the growth management section discussed seeking voluntary annexation of land, within the UGA, as development was proposed, that was one of the City's policies.

The new industrial areas were discussed and the location criteria applied to land within the city limits in the UGA or in the unincorporated areas of the county. Those location criteria set out in Chapter 7 - Industrial Chapter, were not just for land that was annexed in the contiguous basis.

The Industrial Chapter dealt specifically with the I-70/ K-10 area. As recently as this fall, about two months ago, the County Commission finally adopted this too; the reference was to 540 acres of industrial and office research uses as identified in the K-10 and Farmers Turnpike plan, as one of the approved areas for industrial and employment center development.

She said it was important to recognize that this was a unique area in the county because of the access to transportation. There was no other spot left that was as conducive to hitting the I -70 Corridor and this particular piece of ground was between the I-70 corridor and the Farmers Turnpike and was surrounded by arterial roads.

She said that Chapter 14 talked about specific plans, the sector plans and neighborhood plans that were adopted through a comprehensive planning process. Those plans contained the detailed policy guidance and become the comprehensive plan policy for the respective areas. The policy in the plans took precedent over other policy found in Horizon 2020, so that if there was any conflict the sector plan was the controlling plan. The area in question was clear in the sector plan, for a number of instances; the sector plan was written for the area as it urbanized, which meant as it came into the city and was developed with the city. There was no known use at this time and the idea was to try to develop a use that would be consistent with the planning that was going on for the sewer and water extensions.

She said there was no doubt that the plan was accepted and approved by the County, City and Planning Commissions. This request for annexation was simply the first step in implementing the plan and she asked for the City Commission's approval.

Tom Kern, President of the Lawrence Chamber of Commerce, spoke in favor of the annexation. He said for available industrial land the community needed choices to market and this annexation would help in marketing purposes.

Commissioner Chestnut said he appreciated the dialogue and that it had been a comprehensive plan discussion. He said he had the privilege of attending the County Commission meeting when they made the determination that it would not hinder or prevent the

proper growth and development of the area. He said that during that dialogue there was a lot of discussion about island annexation. He said Schneider brought up some points about island annexation and infrastructure and utilities. There was a lot of discussion about separation between island annexations that were industrial in nature and most of the time when it was more of an extension of the borders of the City, it tended to be more residential. The comprehensive plan was written around both of those. He said street and sewer needed to be extended when building out residential because that tended to be very much of coverage. Island annexation tended to be applicant driven and industrial in nature, because the idea of having a desire to be in the city, for whatever reason, but for industrial, tended to be separated from the city. He said the annexation was in the urban growth area and was in compliance with the sector plan.

He said the comprehensive plan indicated warehouse, industrial and office use north of Hwy 24-40, as a bullet point objective. The community had revisited that plan and identified many issues in the environmental chapter as a point of discussion as well as class one and class two soils that were not a consideration in 1996 but was a consideration now. He said Sector plans were important in developing that area. In looking at that area it was recognized that there was not a good understanding of the 4,000 acres.

He said there was a large tract of I2 zoning where Berry Plastics built a fairly large distribution warehouse, which was going to be supplied by county services. He said it was not inappropriate to consider 51 acres and not make the connection that it was going to need city services immediately.

He said he supported the annexation and believed it was an appropriate action at this time.

Commissioner Johnson said this process started with Horizon 2020 and the sector plans. He said in looking at Schneider's comments, he could pull out several items that were

supportive of why to move forward with the annexation. He was in favor of the annexation and the proximity to a major transportation corridor and location was important for this type of use.

Dever said the future of this land use was dictated when the Kansas turnpike was installed and users began building large buildings adjacent to it because of its proximity to the highway, and access to labor in the City of Lawrence, and because, at the time, the economy seemed good to build. So we had a facility like the Kmart distribution center go into areas that were not previously highly industrial. He said that they had lived and coexisted with that land use for many years and they had been a good part of the community.

Some of the heaviest industrial land uses in our community were located within close proximity to this. Not only dictated by geography, but also by the natural existence of water, the river, and suitable land, this was a natural progression of a land use further dictated by the installation of the access road off of I-70. Unfortunately this involved land that wasn't immediately adjacent to the community, to our city limits, and for him, that was the only real down side. Because when we annex land we implicitly indicate that we plan on providing services to it in the future. He didn't think the City was promising that right now, but thought there was an agreement that was undertaken when you annexed land, that you intended to serve it. He struggled with how they were going to pay for those services at this time, but thought there was good cause to move forward with the annexation of this land. It was immediately adjacent to I-70 which was one of the busiest roads in the United States, and thought that, as a community, they needed industrial tax base and industrial ground and believed that this met those criteria. He said he agreed with some of Mr Schneider's points, but thought the Commission was given some latitude on the interpretation of the plan and that they took that role seriously and were doing so tonight.

Cromwell said that the theme of the evening was the plan, and what the plan meant. He said we could pull pieces out that said yes and pieces out that said no and that was why the Commission was there. The plan was just a plan and there was a lot more going on and you

couldn't plan for everything. The process had been lengthy and had involved a lot of public comment.

The history of this particular parcel went back to the interstate and particularly the exit off the interstate. We had a parcel of property sitting between Farmers Turnpike and The Turnpike, with an exit close by. There weren't that many areas in town that had that sort of proximity to the transportation; there was some stuff on the K-10 side, but a variety of folks were going to want to see that I-70 access. He said that when you take a bird's eye view of this, look at a map, look at the planning, the K-10 Farmers Turnpike plan seemed to make sense. This property should be industrial

Up close to the property you have people, neighbors. One thing we struggled with on an island annexation was that none of the immediate neighbors to this property were within the city limits, and this was a city body. Regardless of that, it was the duty of the body to consider the implications to the neighbors, regardless that they weren't actually their constituents at the time. With the City spreading that direction, that was probably a matter of time as well. It was in the plan and they would probably see it in the future. He said he believed it was the Commissions duty to consider those neighbors, however, on this particular piece of property he thought it was clear that it needed to be industrial. He said he was sympathetic to the neighbors and that sympathy would manifest itself in January, when talking about the zoning for this, where he would be pushing for consideration of the neighbors and IL zoning with some restrictions; to keep out the convenience stores and other types of IL acceptable uses which would be non acceptable on this particular property. That was what he believed was the best use of this property and it needed to be brought into the city as an IL not IG and that discussion would take place in the future.

**Moved by Dever, seconded by Johnson,** to approve the annexation and adopt on first reading, Ordinance No. 8594, annexing (A-9-3-10) 51.13 acres located at the southwest corner

of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended). Motion carried unanimously. (17)

**Consider approving the 2011 Comprehensive Street Maintenance Program.**

Mark Thiel, Assistant Director of Public Works, presented the staff report which read:

**Program Update.** The first quarter of street rating Cycle 3 was completed in October 2010 followed by recent comparative analysis of the new survey data with existing data in the City's pavement management program. This management program provides Public Works with a tool to maintain an inventory of street pavement, their respective condition and maintenance work history, and the ability to identify budget needs and impacts associated with preservation strategies and asset management. By applying this tool and with the continued support of the City's citizens and representatives, the City has seen the implementation of a wide range of maintenance techniques from preventative maintenance measures to major rehabilitation and reconstruction. The expansiveness of maintenance activities are reflected in the attached 2006-2010 combined maintenance map.

**Program Summary.** Results of the street rating for Cycle 3 indicate the following:

- Average PCI has increased by 10.74% from Cycle 2
- Deterioration rates are slowing
- The percentage of streets in the "unacceptable" range has decreased from:
  - Cycle 1 – 31.5% unacceptable
  - Cycle 2 – 29.8% unacceptable
  - Cycle 3 – 26.28% unacceptable

**2011 Street Maintenance Program & Funding.** In August 2010, the City commission approved approximately \$5.85 million to be utilized for the 2011 Street Maintenance Program. The pie chart below gives a breakdown of the various funding sources. The "Proposed 2011 Comprehensive Street Maintenance Program" map is attached to this document. The map includes streets identified for crack sealing, microsurfacing, mill and overlay/curb and gutter, internal street maintenance project areas that include concrete rehabilitation work, and other project locations such as the KLINK and CIP/Sales Tax projects. The proposed 2011 program map has been sent out for review to other departments, local utilities, consultants, and other local authorities for determination of potential impacts, conflicts, and coordinated work efforts including scheduling.

Vice Mayor Cromwell said an individual had stated that the City's Street Maintenance Program was largely playing catch up and was more reactionary than looking ahead to the future. He said looking through the presentation and seeing pavement condition indexes improve, the amount of money spent, he said there were clear arguments against that impression.

Thiel said the Street Maintenance Program could be viewed through his report and also could be looked at as a proactive approach. Throughout the United States and in many other countries all of the pavement management programs were behind. If the City's program was a hundred percent caught up, there would be no negative deterioration rates. Fortunately, the City Commission had been supportive of the program since inception in 2005, and had given appropriate funding levels which enabled staff to make those proactive decisions. He said when people indicate the City is reactive, in some cases that argument could be made, but staff was trying to maintain that 68 PCI level. He said when staff looked at what pavements to select some pavements that were obviously in poor condition, such as 2100 block of Vermont Street, a brick street. Residents wanted that street restored to a brick street and that street had a PCI of 13.

He said he had \$5.8 million to work with and he could take about half of that amount to get the 2100 Block of Vermont Street up to the correct PCI level, but asked if it would be the right decision and would be a reactive type of maintenance. He said staff was trying to save the pavements with proper maintenance which was another reason other maintenance type techniques were added. Again, staff was trying to be proactive in that direction.

Vice Mayor Cromwell said obviously staff had to react to particular conditions as those conditions arose. He said some of the City's peer communities did not use the same index qualifiers which was a challenge. He asked where the City was sitting if the City took its PCI index to other communities

Thiel said from experience, Topeka used a scale of 1 to 10. He said he preferred the 0 to 100 scale because there was a lot of difference between 8 and 9 as well as 80 and 90. Nationally, the number was in the range of 60 to 70 percent acceptable range.

Vice Mayor Cromwell asked if the City was sitting where it should be.

Thiel said yes. He said it went along with the City's funding, if the City doubled the annual allotment for construction, the argument could be raised that the PCI should be raised.



The test was when the Lawrence residents drove on City streets and when staff did the evaluation with types of maintenance techniques going from severe to mild. If staff could maintain the 60 to 70 percent, those streets were not candidates for major Capital Improvement Plan rehabilitations. He said by maintaining that percentage, staff could continued to extend the life of those pavements without having to spend large amounts of money at one time.

Vice Mayor Cromwell said a lot of problems took place in the spring time or during the winter thaws with the potholes. He said the City had technology that would help with improvements in the future which was a good thing.

Commissioner Johnson said there would always be a reactive nature to street maintenance. Clearly, Thiel's great presentation showed that the City was now proactive and were getting ahead of things, especially what that department had to work with. He said staff was doing a great job stretching the public dollar.

David Corliss, City Manager, said progress was being made, but this was not the only method of determining the PCI. A citizen survey in the spring would be conducted.

The City was trying to be proactive, but if we have a winter that was contrary to the Farmers Almanac and was difficult, staff would be reacting to that event and might be back before the City Commission to adjust the proposed projects due to that winter event.

He said the City was able to execute on the infrastructure sales tax with the bids from Kasold and by getting ahead on Kasold that street would not need to be fixed on a weekly basis and staff could devote their resources elsewhere in the community. He said he was encouraged, but there were miles to go.

Thiel said there were a lot of communities that did not have a program. The way payment and maintenance was done was by driving around to see what streets needed repair and was a reactive type of program. He staff actually knew what streets needed repaired and tried to work toward a goal.

Commissioner Chestnut said it was important to recognize that staff made progress on the PCI index and certain funds helped with North 2<sup>nd</sup>, which revolutionized the intersection and was a major bottleneck in the community, as well as Kasold and Inverness.

He said he was impressed by staff's approach and process because it was a combination of using a base line of data and looking at constituent concerns, and things that were going to come up. Coordinating and looking when bike lanes might be appropriate and trying to be diverse in the community. He said it was a great program because staff understood where repairs were needed and was not a lot of guess work.

He said North 2<sup>nd</sup> had to be the best project, as far as traffic relief. He knew a lot of people who drove across that area and were thankful that street was widened.

Vice Mayor Cromwell said the longer spent on a construction project, the more appreciative the community was when the project was completed.

Commission Dever said regarding the concrete rehabilitation on Inverness, he asked about the outcome versus what was anticipated and would staff continue to utilize that approach.

Thiel said there was good success with that approach. He said when placing asphalt on top of concrete, the result looked a lot better, but it accelerated the deterioration of the concrete underneath, essentially, using a band aid approach instead of a structural repair.

He said that section of Inverness should be good for ten or fifteen years and would not need another overlay. The concrete not affected by the patching would continue to deteriorate and second round of partial and full depth patching might be needed to match what was already completed.

Also, staff completed in-house patching on 15<sup>th</sup> Street from Haskell, east and Barker Avenue as well. A lot of the concrete streets in town were holding up well and had a minimal amount of concrete rehabilitation. In the near future that was the type of maintenance that would be more successful.

Vice Mayor Cromwell called for public comment.

After receiving no public comment, **it was moved by Chestnut, seconded by Dever**, to approve the 2011 Comprehensive Street Maintenance Program. Motion carried unanimously.

(18)

**Consider adopting the 2011 State Legislative Priorities Statement.**

David Corliss, City Manager, presented the staff report which read:

This next budget and legislative year will undoubtedly prove to again be challenging to both state and local government. The City of Lawrence urges our legislators to not make cutbacks in the state budget that will require cities to pass on those cuts or look for alternative funding at the local level. Challenging economic times require even greater cooperation among levels of government to ensure that tax dollars are spent wisely and resources are directed where priorities demand.

We have prepared a list of legislative issues impacting the City of Lawrence that are likely to be addressed during the 2011 session. Many of these concerns are on-going each year as the legislature convenes. Municipal governments will be particularly concerned about any proposals that would place caps on the taxing authority of cities. Attempts to erode the home rule authority of the City of Lawrence to determine local spending and taxing priorities will be met with opposition.

**LOCAL TAXING & SPENDING DECISIONS SHOULD BE MADE BY LOCALLY ELECTED OFFICIALS**

The Lawrence City Commission strongly opposes the enactment of State imposed spending or taxation controls or lids. The so-called Taxpayer Bill of Rights (TABOR) proposals create an arbitrary and capricious procedure for what should be an essential function of representative democracy: elected officials determining the appropriate spending and taxing policies of their community. Local tax and spending decisions should be made by locally elected officials – not by artificial limits in the state statutes or constitution. The City desires to partner with the Legislature to find solutions which will ease the hardship of property tax burdens on low income, elderly homeowners while maintaining adequate funding sources for City services.

**TRANSPORTATION AND INFRASTRUCTURE SYSTEM IMPROVEMENTS**

The City of Lawrence supports the transportation plan adopted by the 2010 legislature. State resources are a key source of funding for cities as they face aging infrastructure and dwindling resources to protect these investments. The City supports the State's T Works program and urges the legislature to look at additional funding streams to enhance investment in the state. Support for all modes of transportation is important to the Lawrence community. Investment in infrastructure is investment in jobs and growth potential.

**ALCOHOL AND LIQUOR TAX FUNDS ARE KEY CITY RESOURCES**

The City of Lawrence and many community groups rely heavily on monies received from State taxes levied on alcohol purchases. Pursuant to State law, one-third of the fund revenues are allocated to the City's General Fund, one-third to the Special Recreation Fund and one-third goes in the City's Special Alcohol Fund. Resources in the City's general fund provide support for a number of City services, while monies deposited in the City's Recreation Fund provides

resources for a number of park and recreation activities. A number of not-for-profit Lawrence organizations and our school resource officers rely on the funds from the City's Special Alcohol Fund for their programs. These programs and services are vital to the health of the Lawrence community. The City of Lawrence opposes any efforts to divert or diminish the distribution of local alcohol tax fund dollars to the state. The City supports the addition of local alcohol and liquor taxation authority.

### **PROTECTING SALES TAXES: AN ESSENTIAL CITY REVENUE SOURCE TO FUND CITY SERVICES**

Sales taxes are a vital component of City budgets funding essential municipal services and capital improvements. An important federal and state issue that must be addressed is the legal authority to impose state, city, and county sales taxes on electronic commerce and catalog sales. A sales tax on e-commerce and catalog sales protects an important revenue source for state and local governments and puts traditional land based businesses in our communities on an equal taxation footing with their electronic competitors. The Kansas Legislature should continue to pursue the "Stream-lined Sales Tax" efforts and other opportunities to include Internet and catalog sales tax collection. Local city and county sales tax revenue must continue to go to municipalities. Any effort to divert local sales taxes will be opposed.

### **MUNICIPAL AUTHORITY TO ENACT EXCISE TAXES**

The City of Lawrence supports the enactment of legislation to allow all Kansas cities the ability to enact development excise taxes. In 2006 the Legislature adopted legislation which allows certain cities to maintain existing excise taxes – but not cities such as Lawrence. This places cities such as Lawrence at a competitive disadvantage – essentially penalizing Lawrence taxpayers who must pay more for infrastructure than residents of cities with excise taxes. This is fundamentally unfair and the Legislature should enact legislation allowing all cities this financing option.

### **TELECOMMUNICATIONS LEGISLATION**

Lawrence's ability to franchise utility companies and regulate its public rights-of-way must not be compromised. Private companies which use a public asset – such as locally owned right-of-way – should continue to be required to collect franchise fees. These utilities should also continue to be required to relocate in the right-of-way for public projects at their own expense – and not at the expense of local taxpayers.

### **TOURISM**

The City of Lawrence offers many destination places for travel and entertainment. The City encourages the State of Kansas to enact a comprehensive tourism plan and to increase state funding of tourism promotion and marketing. Tourism brings sales, hotel and guest tax and additional revenue to the state and should be viewed as an investment.

### **KPERS AND KP&F – COMMITMENTS TO OUR PUBLIC SERVANTS**

KPERS and KP&F are very important benefits for the individuals who have chosen public service in the State of Kansas, including City of Lawrence employees. We do all Kansans a disservice by ignoring current and future funding obligations for this vital benefit system. Any proposals to change KPERS and KP&F should encourage – not discourage – public service.

### **HOMELAND SECURITY**

The City of Lawrence urges an active partnership between state and local governments regarding issues of homeland security. The City's police department and our City/County fire and medical department are essential resources in providing security and safety to our

community. These departments rely on funding resources that should be protected by our State legislature.

### **STATE LIMITS ON ANNEXATION POWERS**

In the 2010 session, legislation was again introduced that would have severely limited the authority of the City to annex new property. The City of Lawrence opposes efforts to limit the ability of cities to annex. We oppose changes to the current state annexation statutes. Annexation provides a key tool for municipalities' ability to manage and plan for growth.

### **CONGRESSIONAL REDISTRICTING**

In 2011, the legislature will look at congressional redistricting as a result of the 2010 census. The City of Lawrence urges the legislature to partner with communities during this process. Federal funding and relationships with members of Congress are vital to protecting the City's interests at the federal level.

### **UNFUNDED MANDATES**

The City of Lawrence opposes unfunded mandates from the State of Kansas as they drain limited resources from needed City programs and activities. State legislators know how federal mandates hamper the State's ability to respond to problems and issues, similarly the State should not impose unfunded mandates on local units of government. The City supports state and federal financial assistance for mandated public works improvements, such as the current levee recertification requirements.

### **RESPONDING TO OUR ENVIRONMENTAL RESPONSIBILITIES**

We continue to support State efforts to encourage resource conservation and recycling. The City also encourages the legislature to adopt measures to reduce greenhouse gas emissions and to adopt measures to encourage energy conservation and use of public transportation and to provide resources for bicycling modes of transportation. Incentives should be created for the use of alternative fuels and transportation, retrofitting of existing structures for energy efficient technology, and increased use of solar, wind and other environmentally friendly energy resources.

### **ENSURING ADEQUATE WATER SUPPLIES FOR OUR FUTURE**

Because a good water supply is essential to the welfare and growth of the Lawrence community, the City Commission has taken steps to assure continued quality water resources. The City opposes federal and state regulatory changes to quality standards that are not demonstrably related to public health unless adequate state and federal financial assistance is provided to meet such new treatment requirements. We oppose water transfers that will negatively affect Lawrence's current and future water supplies.

The City of Lawrence supports continued study and implementation of appropriate plans to respond to the sedimentation issues of Kansas Reservoirs. Clinton Reservoir is a vital water supply source for the Lawrence community. The City of Lawrence supports increases in the municipal water fees funding the State Water Plan if such increases fund water project beneficial to preserving the quantity and quality of our vital water resources. Municipal water fees should only increase in proportion to increases on other water plan fees for industrial and agricultural users.

Vice Mayor Cromwell called for public comment.

Hank Booth, Lawrence Chamber of Commerce, said the format of the Legislative Breakfast would be changing; that this was a significant time of change in the State government; that KU and Lawrence – Douglas County has a remarkable message to offer regarding helping the governor's priority of creating jobs, including bioscience, West Labs, Farmland, KU; that the biosciences corridor was a place for jobs and economic rejuvenation could take place; and that the community's message to the State should be "How could they help?"

Commissioner Dever said that on page six there was a right column that was empty and suggested placing information in that column about the City's bioscience effort with Kansas Bioscience Authority and the use of state funds. It was a substantial effort and was an illustration of cooperation or implementation of state funds. A picture of the building could be added with a comment about the building.

Commissioner Chestnut said the legislative session needed to be watched closely. He said there was a half billion dollar deficit to make up and it might get a little crazy. Unfortunately, there was some risk to the City's revenue as well.

He said there was funding issues with KPERS and pension funds for public service, but those would all be fairly significant considerations in the legislature and had far reaching impact for the City of Lawrence.

**Moved by Chestnut, seconded by Dever,** to adopt the 2011 State Legislative Priorities Statement with the addition of language highlighting the community's cooperation with the State on biosciences. Motion carried unanimously. (19)

**Consider adopting on first reading, Ordinance No. 8603, establishing the quorum of the Lawrence City Commission as three (3) commissioners.**

David Corliss, City Manager, presented the staff report which read:

Attached is Ordinance No. 8603 which would change the City Commission quorum from four members to three. The City Commission quorum was originally changed from three to four in the early 1990s to allow for two commissioners to meet without creating a public meeting under the Kansas Open Meetings Act. When the Kansas Open Meetings Act was changed to allow two governing body members (with a five member body) to meet without creating a public meeting, the City Commission repealed the Charter Ordinance that allowed the City

Commission to annually establish the City Commission quorum. The City Commission did choose to keep the ordinary ordinance establishing the quorum at four members. Most governing boards follow the general rule that a majority of the board is a quorum – which in the case of the City Commission would mean three members.

If a situation occurred because of Commissioner illness, absence, or travel that meant that two commissioners would be absent from a City Commission meeting, this would mean that the City Commission could not meet, even to pay bills, accept bids, etc. The Mayor's absence from this Tuesday's meeting, and planned travel from other commissioners over the holiday period, has focused attention on the quorum requirements.

If the City Commission desires to establish the quorum at three members, Ordinance No. 8603 has been prepared to accomplish this goal. It is placed on first reading for December 14, 2010 and would be placed on second reading for December 21.

Vice Mayor Cromwell called for public comment.

After receiving no public comment, Dever said he was in favor of establishing a quorum at 3 Commissioners.

Commissioner Chestnut said typically when a Commissioner was out of town, the agenda was adjusted to work through issues that had less focus in the public eye. He said the City Commission had acted very responsibly.

**Moved by Chestnut, seconded by Johnson,** to adopt on first reading Ordinance No. 8603, amending Chapter 1, Article 2, Section 1-204, of the Code of the City of Lawrence, Kansas, 2009 Edition, and amendments thereto, establishing the quorum for the conduct of City Commission business. Motion carried unanimously. (20)

**Declare an emergency and adopt on first and second reading, Ordinance No. 8604, authorizing the issuance of up to \$27 million in industrial revenue bonds for the Bowersock Mill and Power Company, establishing a higher interest rate threshold for the transaction, and repealing Ordinance No. 8599; Authorize the City Manager to execute the Amended Memorandum of Lease, the BMPC South Agreement Addendum, and the Ground Lease Addendum, all regarding the use of city property on the north and south sides of the Kansas River.**

David Corliss, City Manager, introduced the item.

Sarah Hill-Nelson, Bowersock Mills and Power Company, said the plans had changed somewhat. The maximum interest rate under the original ordinance needed to be raised to 10% due to changed conditions in the bond market.

The second issue was that for one of the recovery zone grants, the lease of the ground had to be contemporaneous with the useful life of the power house, necessitating the amended lease documents.

Vice Mayor Cromwell called for public comment.

After receiving no public comment, Corliss suggested that Hill-Nelson mention that the bonds were several years out.

Hill-Nelson said they extended the land leases to run contemporaneous with the dam maintenance agreement which ran through 2077. On the north side had a 20 year extension within the lease. The original lease was 86 years for the north side and the south side ran through 2077 without the option for extension. What the proposed addendum did was to place the 10 year extensions to bring the total potential life of the lease to 126 years. It was a long lease, and by putting in the fair market value piece that the City would have the opportunity to reassess every 10 years to ensure the City felt it was receiving fair market value for that property.

Corliss said that staff thought it was appropriate. He said staff did not know the fair market value of the property and that was the reason for the appraisers that would decide.

He thought it was a good way to proceed. The lease was protecting the city's interest in the levy and the City wanted to be a good landlord partner and see the project proceed.

Vice Mayor Cromwell called for public comment.

After receiving no public comment, **it was moved by Dever, seconded by Chestnut**, to declare an emergency and adopt on first and second reading, Ordinance No. 8604, authorizing the issuance of up to \$27 million in industrial revenue bonds for the Bowersock Mill and Power Company, establishing a higher interest rate threshold for the transaction, and repealing Ordinance No. 8599. Motion carried unanimously. **(21)**

**Moved by Dever, seconded by Chestnut**, to authorize the City Manager to execute the Amended Memorandum of Lease, the BMPC South Agreement Addendum, and the Ground



Lease Addendum, all regarding the use of city property on the north and south sides of the Kansas River. Motion carried unanimously. (22)

**Public Comment: None**

**FUTURE AGENDA ITEMS:**

- |          |  |
|----------|--|
| 12/28/10 | <ul style="list-style-type: none"><li>· City Commission meeting will start at 9:00 a.m. and consist of bill paying items and consent agenda items only.</li><li>· Adopt Resolution No. 6915, declaring the boundaries of the City of Lawrence, Douglas County, Kansas.</li></ul>   |
| TBD      | <ul style="list-style-type: none"><li>· 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.</li><li>· Receive Lawrence Human Relations Commission gender identity report.</li><li>· Consider changes to sidewalk dining requirements. Ordinance No. 8580</li><li>· Consider approving the Farmland Demolition Plan.</li><li>· Menu of options for sanitation and recycling services.</li><li>· Charter ordinance regarding arrest powers.</li><li>· Consider issuing an RFP for a strategic retail study, and direct staff to develop a report on stand-alone databases, if appropriate.</li><li>· 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) Deferred by City Commission on 11/16/10.</li></ul> |

**ACTION:** Approve Text Amendment (TA-4-4-10) and adopt on first reading, Ordinance No. 8543, if appropriate.

**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.
- TBD            ·    Receive update on the status of City Code compliance efforts at 1313 Haskell Avenue (deferred from 10/26/10 City Commission meeting).
- Consider new overtime policy no later than February 15.

**Moved by Chestnut, seconded by Johnson** to adjourn at 8:53 p.m.    Motion carried unanimously.

**APPROVED:**

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Aron E Cromwell, Vice Mayor

**ATTEST:**

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Jonathan M. Douglass, City Clerk

## **CITY COMMISSION MEETING OF DECEMBER 14, 2010**

1. Bid – 2011 Water & Wastewater Treatment Chemicals to various vendors.
2. Excess Workers Compensation Coverage – Procurement, Safety National, Jan 1, 2011 to Dec 31, 2012.
3. Ordinance 8601 – 1<sup>st</sup> Read – rescind Ord 6089, 1 way on Rhode Island, from 7<sup>th</sup> to 8<sup>th</sup>.
4. Ordinance 8602 – 1<sup>st</sup> Read – rescind Ord 8602, stop signs on Indiana at 11<sup>th</sup>.
5. Ordinance 8597 – 2<sup>nd</sup> Read – City code codification.
6. Ordinance 8317 – 2<sup>nd</sup> Read – TA-6-12-08, plat to include environmentally sensitive lands.
7. Ordinance 8492 – 1<sup>st</sup> Read – updated Water Conservation Plan.
8. Ordinance 8590 – 1<sup>st</sup> Read – CPA-3-1-10 Transportation.
9. KDOT Agreement – Wakarusa Watershed, Alvamar Inc., rehab Yankee Tank Dam, City fund \$75,000.
10. Mortgage Release – Cochran, 709 Illinois.
11. Lawrence Cultural Arts Commission - \$5,000 in unspent funds from 2010 to 2011 Budget
12. Telecommunications Franchise Agreement – NextG Networks.
13. City Manager's Report.
14. Plastikon – employee training incentive.
15. CPA-6-5-09, include NE Sector Plan.
16. CPA-2008-7, Environment.
17. Ordinance No. 8594 – 1<sup>st</sup> Read - Farmer's Turnpike Annexation, 51.13 acres.
18. 2011 Comprehensive Street Maintenance Program.
19. 2011 State Legislative Priorities Statement.
20. Ordinance 8603 – 1<sup>st</sup> Read - Quorum for CC business.
21. Ordinance No. 8603 – 1<sup>st</sup> & 2<sup>nd</sup> reading (emergency), Bowersock repeal Ord 8599.
22. Bowersock Mills and Power Company Lease Documents.