



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

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

January 18, 2011

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Chestnut, Cromwell, Dever, and Johnson present.

A. EXECUTIVE SESSION

1. **It was moved by Johnson, seconded by Chestnut,** to recess into executive session for the purpose of consultation with attorneys for the body which would be deemed privileged in the attorney-client relationship. The justification for the executive session was to keep matters confidential at this time. The Commission would conclude the executive session at approximately 6:20 p.m. and resume the open meeting at 6:35 p.m. Motion carried unanimously.

The Commission concluded the executive session at 6:20 p.m. There were no comments following the executive session.

The Commission resumed the open meeting at 6:35 p.m.

B. PROCLAMATIONS

1. None.

C. CONSENT AGENDA

It was moved by Johnson, seconded by Chestnut, to approve the consent agenda. Motion carried unanimously.

1. Approved City Commission meeting minutes from 11/16/10 and 11/23/10.
2. Received minutes from various boards and commissions:



Board of Electrical Appeals meeting of 05/05/10
Sustainability Advisory Board meeting of 11/10/10

3. Approved claims to 185 vendors in the amount of \$1,741,223.96. Approved payroll from January 2, 2011, to January 15, 2011, in the amount of 1,772.691.99.
4. Approved licenses as recommended by the City Clerk's Office.

Drinking establishment licenses to 8th Street Taproom, 801 New Hampshire, Henry on Henry's Street, 11 East 8th Street, and West Coast Saloon, 2222 Iowa. Cereal Malt Beverage license, contingent upon departmental approvals, to Shop N Go, 1000 West 23rd Street.

5. Approved appointments as recommended by the Mayor.

Building Code Board of Appeals:

Appointed Micah Kimball to a position that expired 11/30/10.

Contractor Licensing Board:

Reappointed Dan Riedemann and Joe Caldwell to additional terms that would expire 12/31/14.

Fire Code Board of Appeals:

Reappointed Dan Wilkus and Stephen Blanchard, Jr. to additional terms that would expire 01/31/14.

6. Bid and purchase items:
 - a) Set bid date of February 15, 2011 for Comprehensive Rehabilitation Projects at 1046 Pennsylvania Street and 407 Maine Street.
 - b) Set bid date of February 15, 2011 for 2011 mowing contracts.
 - c) Authorized the City Manager to execute Supplemental Agreement No. 3 in the amount of \$42,527.00 to the current Engineering Services Agreement with BG Consultants for Design and Construction Phase Engineering of additional watermain replacement adjacent to Phase II of Project UT0810DS Watermain Replacement Program.
 - d) Approved purchase of two new mowers for Eagle Bend Golf Course from Professional Turf Products in the amount of \$27,882.43, and from John Deere Company in the amount of \$24,849.50, for a total of \$52,731.93.
7. Adopted the following ordinance(s) on second and final reading:
 - a) Ordinance No. 8609, authorizing the issuance of general obligation bonds in an amount not to exceed \$220,000, plus costs of issuance and interest, for the cost of demolition and environmental remediation at the former Farmland property, as authorized by the City Commission on December 21, 2010.

- b) Ordinance No. 8608, for Special Use Permit (SUP-10-7-10) for a daycare facility located at 345 Florida Street.
- 8. Adopted Resolution No. 6916, expressing conditional support for the proposed rehabilitation of the Poehler Building at 619 E. 8th Street for apartment units and such affordable housing tax credits as may be available from the State of Kansas.
- 9. Approved request by Glen and Carla Helm for a variance from 19-214B of the City Code which states that a private sanitary sewer service line shall not be located in a City public right of way for greater than 15 feet, for 700 and 761 Elm Street.
- 10. Authorized the Mayor to sign two Releases of Mortgage for Elizabeth Patrick, 2734 Bonanza and a Subordination Agreement for Marilyn Figuieras, 2044 Emerald Drive.
- 11. Approved the following items relating to sidewalk dining and hospitality area at Spoons Yogurt Restaurant, 732 Massachusetts Street:
 - a) Approved Site Plan SP-10-53-10 for a new restaurant and sidewalk dining for Spoons Yogurt Restaurant, to be located at 732 Massachusetts. Submitted by Ron Derusseau, DJC Holdings, property owner of record.
 - b) Approved sidewalk dining and hospitality license for Spoons Yogurt Restaurant, 732 Massachusetts Street.
- 12. Authorized staff to complete the needed online paperwork to become a 'Let's Move' community and work with local organizations who wish to utilize the marketing and branding materials for their efforts to reduce childhood obesity and create a healthier Lawrence.

D. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the City Manager's Report.

Mayor Amyx thanked Roger Zalneraitis for preparing the analysis of gas prices and said that they would affect many Lawrence citizens.

E. REGULAR AGENDA ITEMS:

- 1. **Consider Rezoning, Z-9-13-10, of approximately 51.13 acres from County A-1 (Suburban Home Residential) to City IG (General Industrial), located on the southwest corner of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended). Submitted by Venture Properties, Inc., property owner of record. Consider placing on the January 25, 2011 City Commission meeting on first reading Ordinance No. 8595 for the rezoning (Z-9-13-10) of approximately 51.13 acres located at the southwest corner of N 1800 Road (Farmer's Turnpike) and E 1000 Road (Queens Road Extended). (PC Item 6B; approved 8-0 on 10/27/10)**

Consideration of this item was deferred until the January 25, 2011, City Commission meeting.

2. **Reconsider a Text Amendment, TA-4-4-10, to the City of Lawrence Land Development Code, Chapter 20, Section 20-403, and 20-509, and 20-1724, 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.**

Scott McCullough, Planner and Development Services Director, presented the staff report.

Mayor Amyx asked if there was a different way to deal with the lot south of Hallmark other than the text amendment.

McCullough said that lot could currently accommodate a hotel use.

Amyx said it would be hard to approve a request for commercial use adjacent to the neighborhood near Bob Billings and Wakarusa.

McCullough said this type of use would also apply to future IBP zonings. If this text amendment was not adopted and a request for a hotel in this or other areas came in the future, another option was to pursue rezoning to other districts that allowed hotel uses.

Chestnut said there were three IBP zoned areas in the city. IL zoning was small, and IG zoning represented most of the industrial zoned land in the city. The area near Bob Billings and Wakarusa was the only area this text amendment would apply to.

Cromwell said a variety of zoning options were available for hotel uses. It was tough to consider the text amendment when it only applied to one area. He said rezoning was an option in dealing with requests for hotel uses.

Mayor Amyx called for public comment.

Steve Toalson spoke in opposition to the changes.

Kitty Ware said it was disturbing to allow hotels and motels in the area adjacent to the residential area; that it would have negative impacts on children, safety, and property values;

that various residential streets directly connected to the land discussed; that homeowners had a reasonable expectation that zoning would not change adjacent to their property; and that there were other options.

Derek Van Schmus said he hoped the Commission would vote “no” on the text amendment; that this was the wrong location for hotel/motel uses; and that other areas in northwest Lawrence would be okay for hotel/motel uses, but not at this location.

James Church said noise, lights, odors, traffic from patrons, and waste disposal were quality of life issues related to a hotel/motel uses in this area.

Sarah McKinley said she purchased a home in the area 12 years ago, that she enjoyed the benefits of growth and development in the area, but that smart growth and quality of life issues were concerns for her; and she asked the Commission to think about the families in the area.

Jeff Herman asked the Commission to consider the implications of the change and vote against this use.

Tony Potela said he moved to Lawrence for quality of life purposes and this use would hurt the quality of life in this area. He urged the Commission to oppose the use.

George Hughes said a hotel on the west side of Lawrence would be good, but this area was not the right place.

Taunya Cole said she opposed the proposal.

Gwen Klingenberg said that only the piece of property to the far north was big enough for a hotel; that notification was a problem in getting neighbors to know about the proposal; that she opposed the text amendment but if the amendment passed, this particular piece of property should be grandfathered to not allow the hotel/motel use; that some people on Biltmore understood that there was an agreement with the city and she asked the Commission to make a black and white agreement to notify those property owners of anything in the future that would connect to this street.

Alan Cowles said there were many places in the city where such uses would be welcomed and the process was by rezoning, not by changing the uses allowed in IBP; and, that this use was inappropriate and hurtful.

Bill Wanna said his biggest concern was safety in terms of traffic and who would visit the hotel; he was a huge fan of developing west Lawrence but there were better locations where there was so much undeveloped land.

Amyx asked about the Biltmore neighborhood and notification.

McCullough said the text amendment was noticed up per the statutes and requirements. Written notice did not go to adjacent neighborhoods for text amendments.

Amyx asked what the notification requirements were.

McCullough said 200' from the site planned property to properties and neighborhoods.

Chestnut asked if there were other agreements regarding Biltmore and notification.

McCullough said nothing written was in their records.

Cromwell said this particular IBP could be excluded from this use, but allowed other uses, and asked what would be better from a planning perspective?

McCullough said the development code was complex and the distinctions between IBP, IL and IG were also. IBP did not allow retail uses like IL. IG allowed heavier uses, but not so much the office and retail uses. Staff viewed hotels as a support use to the business uses of IBP. It would depend on how speculative the city wanted to be in attracting certain uses to certain areas, and whether the city wanted to rely on the uses in the current codes.

Johnson said staff did a great job with this item and he appreciated what staff was trying to do. He could not say whether the hotel/motel use would be good or bad for the neighborhood because there was no proposal at hand. If someone wanted to locate a hotel at that location, that person could always request rezoning. He was not comfortable with the risks involved without having a specific site proposal and details to consider. He said he was not okay with opening up a specific site proposal to the unknown at this time.

Chestnut said he was against this recommendation. He thought the area containing 202 acres was huge, with surrounding neighborhoods. About 70 percent of the vacant acreage was adjacent to the neighborhoods. He agreed with Johnson's idea of letting someone come through with a project and rezoning request to be analyzed rather than adding to the IBP table of uses. He said some applications made sense, but not all of the applications. He said he had resistance to adding to the use table because then it became a use by right. He said it might be time to look at all the use tables for industrial zonings because all those tables were created when the new zoning codes were adopted. There was too much to be developed in that area and it did not make sense for hotel/motel use.

Dever said he commended the effort to clarify the code. He thought there was a suitable use in having motels and hotels in industrial parks, but was not in favor of a hotel/motel use in this location. When examining the proximity of the residences it did not make sense. He said the neighbors' communications and concerns were succinct and clear.

Cromwell said he was reluctant to see "use creep." He said that he agreed that there was an appropriate use of hotel/motel in industrial parks, but because of the proximity of the neighborhood he was in favor of keeping the use out of that area without a rezoning request so that control could be maintained.

Chestnut asked about the planned development at the corner of Bob Billings and Wakarusa.

McCullough said he was not familiar with the history.

Dever said there had been grand scale planning in the area which had been downsized.

Amyx said changes had happened over time and the neighborhood had built up around the research park. People had made purchases based on the uses in the park. He said this was a case where the Commission was being asked to change the uses which were allowed. The Commission had tried to accommodate a use, but he disagreed with the recommendation. He

thanked staff and everyone that had communicated with him on this issue. He said he believed that the neighborhood association was very much in tune with development in the research park. If there were ways to help with notification he would like to help, but he thought a good job was done with notification. If someone wanted to locate a hotel/motel on this property there was a process to follow to request a change to the zoning. He did not think it was appropriate to add a use to the IBP zoning.

It was moved by Dever, seconded by Cromwell, to deny Text Amendment (TA-4-4-10) and Ordinance No. 8543. Motion carried unanimously.

F. PUBLIC COMMENT:

None.

G. FUTURE AGENDA ITEMS:

David Corliss, City Manager, outlined potential future agenda items.

H: COMMISSION ITEMS: None.

I: CALENDAR:

David Corliss, City Manager, reviewed upcoming calendar items.

J: CURRENT VACANCIES – BOARDS/COMMISSIONS:

Existing and upcoming vacancies on City of Lawrence Boards and Commissions were listed on the agenda.

It was moved by Cromwell, seconded by Johnson to recess the meeting until 4:00 p.m. on January 24, 2011, at which time the Commission would reconvene the meeting and then recess into executive session. Motion made at 7:40 p.m. Motion carried unanimously.

At 4:04 p.m. on January 24, 2011, the Board of Commissioners of the City of Lawrence reconvened in regular session in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Chestnut and Johnson present. Commissioners Dever and Cromwell had not yet arrived.

It was **moved by Johnson, seconded by Chestnut**, to recess into executive session in the City Manager's Conference Room for approximately two hours to discuss non-elected personnel matters. The justification was to maintain confidentiality of personnel matters. Motion carried unanimously.

Commissioner Dever joined the meeting at 4:18 p.m.

Commission Cromwell joined the meeting at 4:42 p.m.

The Commission concluded the executive session at 5:40 p.m. and returned to regular session on the 1st floor of City Hall. There were no comments following the executive session.

It was **moved by Chestnut, seconded by Dever**, to adjourn the meeting at 5:42 p.m. Motion carried unanimously.

APPROVED:

Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk