



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

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

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

CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

April 19, 2011

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

A. RECOGNITION/PROCLAMATIONS/RECOGNITIONS

Mayor Cromwell recognized the tragedy suffered by the Basel Family in the K-10 accident. He said he had received a request from the Mayor of Eudora for a letter of support from the City Commission to KDOT to place barriers on K-10 and requested this item be placed on a future City Commission agenda to address that request.

AGENDA

It was moved by Amyx, seconded by Schumm to approve the consent agenda as below. Motion carried unanimously.

1. Approved City Commission meeting minutes from 04/12/11.
2. Approved claims to 211 vendors in the amount of \$1,585,633.01.
3. Approved licenses as recommended by the City Clerk's Office.

Drinking Establishment Licenses for 23rd St. Brewery, 3512 Clinton Pkwy; Jeffersons, 743 Mass; Chipotle Mexican Grill, 4000 W. 6th Ste 1; Chipotle Mexican Grill, 911 Mass; La Familia Café & Cantina, 733 New Hampshire; and, Sidewalk Dining and Hospitality Licenses for Aimee's Coffeehouse, 1025A Mass; Bourgeois Pig, 6 East 9th; Teller's, 746 Mass; Zen Zero, 811 Mass.

4. Bid and purchase items:
 - a) Set bid date of May 3, 2011 for City Bid No. B1122, Project No. PW1109, 2011 Downtown, Miscellaneous Concrete Repairs.



- b) Set bid date of May 3, 2011 for City Bid No. B1126, Project No. PW1102, 6th Street. Folks Road to Monterey Way, Geometric Improvements, Milling, Overlay, Pavement Marking.
 - c) Set a bid opening date of May 24, 2011 for Bid Number B1125 2011 Pump & Motor Rehab.
5. Adopted on second and final reading, Ordinance No. 8628, to rezone (Z-2-6-11) the 800 block of Lynn Street, approximately 3.9 acres, from the IG (General Industrial) and IL (Limited Industrial) Districts to the RMO (Multi-Dwelling Residential-Office) District. (PC Item 4; approved 9-0 on 3/28/11)
 6. Approved a Temporary Use of Public Right-of-Way Permit for the Lawrence Art Guild to close Massachusetts Street from North Park Street to South Park Street on Sunday, May 1 from 6:00 a.m. – 7:00 p.m. for the 2011 Art in the Park Art Fair.
 7. Authorized the City Manager to sign a contract with ADG (Airport Development Group) in the amount of \$54,558 (\$51,830 paid by FAA and \$2,800 paid by City) for a Wildlife Hazard Assessment study at the Lawrence Municipal Airport.
 8. Approved as signs of community interest, a request from the Antique Automobile Club of America to place temporary directional and notification signs along 23rd Street in the area of the Douglas County Fairgrounds. The signs are in connection with The Lawrence Swap Meeting and will be placed out Friday, May 6 through Sunday, May 8, 2011. Approval is contingent on adjacent property owner permission.
 9. Approved as signs of community interest, a request from the Lawrence MS Walk to place signs at various locations in the right-of-way from April 20 – May 1, 2011.

C. CITY MANAGER'S REPORT:

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

Vice Mayor Schumm asked if there were really 176 building permits issued in March.

Corliss stated yes, but that the number included remodels, furnace change outs, etc. not just new construction. There were 13 single family housing permits issued in March.

D. REGULAR AGENDA ITEMS:

1. **Consider request for long term parking passes and to designate parking lot #10 (1000 block of Vermont Street) as a long term parking lot. This item was continued from the April 5, 2011 City Commission Meeting.**

David Corliss, City Manager, presented the staff report regarding the request for long term parking passes in the 1000 block of Vermont Street.

Vice Mayor Schumm asked what would happen with the farmers market.

Corliss stated it would not be affected this year and it was hoped that it could occur in the plaza area near the new library in future years.

Mayor Cromwell said currently the lot allowed for two hour parking as well as ten hour permits.

Corliss stated that there was a value pass available that allowed parking in that lot and the Riverfront Garage. The applicant was asking for the lot to be a standard ten hour lot not just the value pass.

Commissioner Amyx said the total number of permits was a question last year. He asked at what point did the City need to consider reaching the capacity on those permits.

Corliss stated that Commissioner Amyx raised a good question and staff would monitor the number of permits. So far the parking capacity counts indicated that there was still capacity available.

Bill Fleming, Treanor Architects, stated that the NRA decision had made it through the City, County and School District. He said this was the last piece of the puzzle. The purpose of the change was to allow employees to park in that area, but also in other nearby lots that were 10 hour lots instead of value passes. He said he was supportive and flexible regarding the designation of the lots and some dedicated two hour spaces.

Vice Mayor Schumm asked if part of the proposal was a guaranteed rate on the passes.

Fleming said yes.

Mayor Cromwell called for public comment.

The owner of Rex's Stadium Barbershop said the back parking lot was vital for their customers. He said he missed an earlier meeting regarding this issue, but he did not receive a notice. He said there were already two fifteen minute meters in the area that were not useful for his business and taking 60 spots away would hinder his business. He said out of all the neighboring businesses, only Dr. Crandon knew about the earlier meeting.

He said he and his neighbors worried about the long-term parking and everyone needed to keep KU football in mind because people utilized that lot instead of paying to park near campus. Parking was very valuable to businesses in that area for their customers, including senior citizens, who could not walk far. Long term parking was available in a number of other areas nearby, including the New Hampshire Street Garage.

Commissioner Carter asked when the 15 minute meters had been added.

Corliss stated approximately 6 months ago.

Commissioner Carter asked why those meters were installed.

Corliss stated there had been a request for the ability for downtown customers to run quick errands.

Cary Strong, Strong Antiques, said he had just found out about the proposal. He said he had talked to others on the block and found that many others had not received the notice sent earlier. Many businesses wanted to be at the meeting, but had prior engagements. He asked that the item be tabled to give him and others time to understand and consider the proposal. He said that leaving 8 two hour spaces was too few. He said his main request was to table this item for discussion about the issue. He said the 15 minute meters should have been placed on the corner.

Mayor Cromwell asked what notice was sent out.

Corliss said notice was sent to property owners and occupants. Comments had been received by a few and he did not know why others had not received the notice. He said there was no urgency in considering the proposal at this time.

Price Banks, speaking on behalf of D&D Tire, said the City Commission received a letter from him. He said office employees generally arrived early in the morning and left late in the afternoon, and those employees were not terribly inconvenienced by walking a couple blocks to work. He said the two blocks in question were soft and if the lot was dedicated to long-term parking, it would have a deleterious effect on retailers. Short-term lots encouraged customers

and turnover. Customers carrying packages and tending children needed to be closer to their vehicles than office workers. He urged Commissioners to reject the proposal.

Vice Mayor Schumm said at one time, he owned a business at 1021 Massachusetts, where Aladdin's was currently located and parking was a challenge at that lot and other lots. The lot in the 1000 block was underutilized and was the reason why the farmers market was at that location. He said 50 percent of those parking lots were paid by the property owners and 50 percent by the parking system revenue, so the property owners had some ownership. He was not opposed to delaying consideration of this item. He said it was important to remember that even if this proposal was not granted, 60 vehicles would still park in the area. He passed out a document to commissioners and others.

He said he was in the area at 11:00 a.m. this morning which might be a typical time regarding parking requirements. He said his document showed that with the existing 10 hour meters in the vicinity of 11th and Vermont, there were 15 spaces that existed on Park Street, thirty-four 10 hour meters at the Community Building and if adding 5 more 10 hour spaces on to Park Street, would end up with 54 potential spaces, 27 which were occupied.

At the 1000 block of Vermont, if taking the east side of Vermont changing those spaces to 10 hour spaces, sixteen 10 hours spaces would be gained on that side. If taking 30 spaces in the 2 hour proposed lot and turning those spaces into 10 hour spaces, there would be a total of 46 more spaces. This morning there were only 2 cars parked in the area that would be designated for 10 hour meters in the 2 hour lot which was the west half of the lot, along Vermont Street and therefore the area closest to the businesses that front Massachusetts Street would be left 2 hour free parking. In conclusion, there would be 100 spaces in that area, 37 spaces were occupied earlier which left 63 open spaces.

He said anyone could buy a parking pass and if a business thought it was a good idea, could buy a pass and park at any 10 hour meter. He said there was a mixture of uses spread over 2 blocks. He said it would accomplish what Treanor was trying to do in having a number of

spaces available for their employees within a certain distance, yet having a number of open spaces remaining for the businesses and the west side of Vermont Street would be 2 hour spaces that could be used for the churches in the 900 block and in the 1000 block, office spaces. He said he put those numbers together so the City Commission could react and understand businesses in that area were concerned.

Commissioner Amyx said this was a classic example of someone wanting to do something with an underutilized building. He said that if the lot behind his business were changed from 2 hours, that change would have an effect on his business. He said something could be done with the value passes. There would be a change to the parking in that area, no matter what, because more people would in that area. He said Treanor wanted to make a big investment, and equally the other businesses already had made big investments. For businesses to be successful, those businesses had to rely on parking. He said the development of Treanor's business would also have positive effects on the other businesses. He said if anyone had any proposal to benefit everyone, he would like to hear that proposal, but thought Vice Mayor Schumm's proposal was a good starting point.

Commissioner Carter concurred with Commissioner Amyx's statements. He was comfortable waiting a week or two to give the neighbors time to consider this item. He said parking would be an ongoing challenge and there was an issue of retraining people's habits. He said a lot of the things this City aspired to, in other downtown areas people could not park right in front of a businesses. He said there was a probability of changes in the future. He was supportive of waiting a few weeks.

Commissioner Dever said a compromise was possible. He said the highest occupancy in this lot was in the evening when Treanor's employees were not at that location. He said it seemed reasonable to take a look at Vice Mayor Schumm's numbers, changing around some numbers in that district. He said it was a good idea to allocate some spaces to make sure the least amount of people were impacted negatively and the impacts were as good as possible.

Mayor Cromwell said every time a business wanted to locate in the downtown area additional parking spaces were needed for customers. He did not think the challenge would be solved this evening, but an aggressive effort could be made to get the stakeholders together, and suggested staff going door to door, making a personal effort to get people together in two or three weeks.

Corliss said staff needed a few weeks to do both mailed and door to door notices.

Mayor Cromwell said there should be another meeting with the applicant, staff, and affected downtown merchants to work on a compromise before it was brought back to the Commission.

Vice Mayor Schumm said he wanted to talk about the pricing proposal also tonight.

Commissioner Carter said the rates had not been changed in five years.

Corliss said he did not plan on increasing fees for the 2012 budget.

Commissioner Carter said he was not as comfortable with those employees paying a discounted rate in 5 or 6 years. If the rates moved down the road Treanor's employees should pay the same as everyone else.

Mayor Cromwell said both issues would have to be considered together.

Vice Mayor Schumm said he thought the rates had been adjusted recently.

Corliss said they had on the meters, but not the long term passes.

Vice Mayor Schumm said he did not favor special pricing, it should be the going rate for everyone.

Corliss said he would mail a notice, arrange a door to door notice, and hold a stakeholder meeting. He said he would notice everyone on the other possible changes to the on street parking and other lots nearby as suggested by Vice Mayor Schumm.

William Fleming said those businesses would be their neighbors and he wanted to try to make everyone as happy as possible.

The consideration of the item was deferred for 3 weeks and staff was directed to hold another stakeholder meeting before coming back to the City Commission.

2. **Consider making a determination based on a consideration of all relevant factors that there is/is not a feasible and prudent alternative to the proposed demolition of the structures located at 711 Connecticut Street and that the proposed demolition includes/does not include all possible planning to minimize harm to the listed property. The Historic Resources Commission determined on February 17, 2011 that this project will encroach upon, damage or destroy the listed historic properties and their environs.**

Lynne Braddock Zollner, Planner, presented the staff report regarding the proposed demolition of the structures located at 711 Connecticut Street.

Commissioner Amyx asked if it was staff's determination that those structures were unfit for habitation.

Zollner said yes.

Vice Mayor Schumm asked about the vote by the Historic Resources Commission.

Zollner said the vote was 4-0 but some members had been absent.

Mayor Cromwell called for public comment.

Moved by Schumm, seconded by Dever to open the public hearing. Motion carried unanimously.

Michael Tubbs, attorney for the property owners, stated that the structure was only about 5 feet away from the neighboring structure. The south wall had significant termite and water damage and they had concerns that it might give way. They had been trying to address the demolition issue since August. The City Planning and Development staff condemned the structure on August 10, 2010 as structurally unsafe. The HRC staff on January 7 conducted an inspection of the structure. A second inspection was conducted on January 14 to confirm the first finding. A member of the Lawrence Preservation Alliance was present on a walk through of the structure. Staff recommended condemnation and demolition. An engineer's inspection found that restoration costs would exceed replacement costs. On December 6 he said he had

attended a neighborhood association meeting and advised them of the desire to demolish the structure. They had reached out early on to show good faith. A member of LPA attended the January 14 walk-through and they recommended saving the structure, but that was their purpose. The HRC approved demolition under the local code but denied it under the state law review, somewhat inconsistently and troubling. Tubbs stated that his office submitted a demolition and design application last year and an appeal and follow up this year. He recommended the commission follow the staff's recommendation and HRC recommendation that had both recommended demolition. Two engineering firms had also recommended demolition. In the past few days a termite inspection showed significant infestation and damage, in addition to extensive decay. He showed pictures of the property, including water damage. He said the water had been off inside the home but had been turned on by a trespasser. The water was on from the city line because there was someone living in the accessory structure. He said the south side of the structure had extensive termite and water damage. There were other animal infestations in the building. There was wood rot and water damage throughout the structure. He said those were some of the challenges in the structure. He said he was here asking the commission to allow them to go ahead with the demolition. They were not opposed to continuing to work with the city and the plan review board. Regarding the conditions of the HRC numbers one and four, when the severity of the deterioration required removal, compatible structures should be used as replacements. He believed they had reached that point. He said all old structures need not be saved. He was not here to debate how the structure got to this point but it was here and had to be dealt with. The staff report said that demolition of the structures could be supported. They were not opposed to the conditions proposed by staff. They were 8 months and several thousand of dollars into the project. For the record, he stated that Commissioner Dever had walked through the structure today.

Vice Mayor Schumm asked who the owner was and how long they had owned the property.

Tubbs said the owner was James Dunn since 2004.

Vice Mayor Schumm asked if Tubbs was representing Dunn.

Tubbs said he could not divulge that because of attorney/client privilege.

Commissioner Dever asked where in the staff report demolition was recommended.

Tubbs said on Page 2, in the middle of the page of the staff report.

Commissioner Carter asked about Natural Breeze's estimate.

Tubbs said that estimate was outdated and was before the water and termite damage.

Derron Belt stated that his house also had termite damage and had stood for 50 years.

Tubbs had attended the neighborhood meeting but had not divulged who his client had been, and that was not transparent. He said KT Walsh had suggested turning the water off. The water damage could have been prevented. He could not hold the owner accountable for someone breaking in but he could hold the owner accountable for property maintenance. He said it was an obvious case of demolition by neglect. He would appreciate if Tubbs and his clients would work with the neighbors.

KT Walsh, East Lawrence Neighborhood Association, said she lived down the street from this property. She said the ELNA was vigorously opposed to the demolition. Reverend Winn and his wife were very compassionate people. A property they owned had been intended for people in poverty and addiction, but ended up as a drug house with many problems. Reverend Winn was the purported new owner and current manager of the property. When a house was condemned as structurally unsound that was not the end. She said a number of homes in the area had been condemned but were now safe and remolded. She said the subject property had many redeeming qualities. An inspector had said that the foundation could be rehabbed. A number of people were interested in rehabbing the property if it was the right place. Demolition and rebuild was the least environmentally sound way to handle the building. She said that Dennis Domer had written about the fabric of East Lawrence and its historic structures.

She asked that the commission deny the demolition and the church and Reverend Winn focus on other good works and get out of the rental business.

Elaine Winn said that 711 Connecticut was termite infested, molded, leaning and should be demolished. She said if it had been condemned she did not know why it should even be an issue to demolish it. She said this should be an issue of demolition and had nothing to do with the character of people and their rights and abilities to maintain property.

Dennis Domer said the addition was architecturally inappropriate and demolition of that addition was not opposed. The rest of the structure did not need a bulldozer it needed a dumpster to remove the squalor. He believed the foundation was not an issue. The squalor and the water pipe bursting were the fault of the owner. A nice multi dwelling project could be constructed within the existing zoning. The applicant has refused to consider this because they seem enamored with the text amendment proposed to increase density in RM32. This property at its west end abutted a historic district. HRC ruled that the demolition, the zoning change, the parking variance would damage the district. He said this was a good time to try an alternative approach. The applicant has not worked on design options. If the applicant cared about public safety there was an exterior stair that should be removed. If the applicant cleared the debris he would allow LPA staff to examine the structure and help identify solutions.

Amanda Schwegler said her house was built in the 1890's and was historic even if not on a register. She said she would like to speak as a neighborhood homeowner. She had bought her home because of its historic character and the neighborhood's historic character. It was frustrating to see the neglect of a nearby property. She requested that the commission do not make allowances for the demolition by neglect that had been allowed to occur.

Candice Davis said this type of issue really demonstrated the need for a rental inspection program. She hoped that as time went on, blight could be addressed.

Martha Davis said if this house was going to fall and hurt a child, she asked why not demolish this house. What was so special about this house? She suggested saving the valuable architecture on the inside of this home.

Moved by Schumm, seconded by Amyx to close the public hearing. Motion carried unanimously.

Zollner said that in the staff memo demolition could be supported, but that was staff's opinion, not the HRC.

Scott McCullough, Planning and Development Services Director, said that staff was not supportive of other elements as a whole. He said staff could support demolition with all of the planning and other factors that go along with it. He said Tubbs brought up conditions that he agreed with and it would help to understand the applicant's position on those issues.

Commissioner Amyx said the staff report indicated the building was unsafe, uninhabitable, and that it was important that replacement be compatible with the surrounding neighborhood. He asked if it possible that the Commission could agree with the unfit and unsafe determination, but proceed with demolition or partial demolition with feasible and prudent alternatives.

McCullough said one option was to make a determination that there were no feasible and prudent alternatives to the demolition, but there were for the redevelopment. A new plan could then be reconsidered.

Vice Mayor Schumm said he walked around the building, but did not go inside. He said the roof and foundation looked fairly good. The siding was rough and it was messy inside. He did see a structure with some integrity to it and wanted to know what Commissioner Dever observed in the interior of that building.

Commissioner Dever said the building had been occupied for the same residents for 30 years. He could not comment on what happened, but there was a long term chronic problem. There was too much debris to assess the structural integrity of many parts of the building. He

said the interior was in poor condition and had been neglected. It had been lived in though. He did not see the interior as something that jumped out and said it had to be torn down. There were unsound areas but the four exterior walls looked sound and he did not see evidence that the south wall was about to fall over as Tubbs alleged. He agreed that the rear building should be taken down. The building could be rehabbed in his mind. He said Vice Mayor Schumm said that Tubbs stated that the cost to rehab was equal to a new structure.

Tubbs said they believed those costs were comparable. He was not opposed to the conditions with the planning.

Vice Mayor Schumm said the structure seemed to have potential. If those costs were no more to rehab, if demolishing the structure, a new structure was gained, but the historically valuable components would be lost.

Commissioner Carter asked if an appraisal or inspection had been conducted at the time of the purchase seven years ago.

Tubbs said he did not have that information at the time.

Commissioner Carter said he was curious what the condition was at the time the property was purchased since this might be a question of demolition by neglect. He asked what would happen if the demolition was not approved and the owner did not redevelop.

Corliss said there were tools in the code to require a building be brought up to code. The City did not have a budget to improve those types of properties. The city could assess some costs to the property, making sure the property was not unsafe and dangerous.

Mayor Cromwell said the applicant allowed the property to decay for seven years and there were neighbors who were concerned about the condition, but who were also responsible for the maintenance. It was a farce. He said rather than apologizing, the property owners and managers brought forward a plan to profit from it. The alternative being asked by the Commission was to find a feasible and prudent alternative, but he could not make that finding. The question was what we would do moving forward. The conditions were unacceptable and

must be changed for the good of the neighborhood. The environmental chapter allowed us to make improvements to the property.

Corliss stated it was a minimum life safety code. The City Commission could require some minimal work on the exterior.

McCullough said the code was best suited when there were owners who would work with the city and improve the property. It became a challenge for timing and resources in the department but there were tools available.

Vice Mayor Schumm said if the commission found it was not in the interest of the community to demolition, the owner would be forced to make a choice about continued ownership. He said his personal interest was that the structure could be reestablished, part of it demolished. He said denying the demolition was in the interest of the public, and also sale of the property to someone who would rehab the structure.

Commissioner Amyx asked if the commission was just concurring with the HRC.

McCullough said the commission could find that there were feasible and prudent alternatives, affirming the HRC findings.

Commissioner Dever said the City had similar situations with structures that were environmentally and structurally blighted. When walking by this house, the extent of the problems could not be seen and he did not think that the structure needed to be demolished. He said the applicant's request might not be feasible, but maybe it would be for someone else. He could not say there was no feasible and prudent alternative and did not believe the zoning should be changed. He said it was not a good precedent. The commission needed to address the property to ensure that the property was cleaned out and secured. It had been condemned from an occupancy standpoint, but not from a demolition standpoint.

Commissioner Amxy said if the commission decided not to have the property removed but only secured, what would happen to the property according to the HRC.

Zollner said the applicant could reapply to the HRC and the HRC would have to make determinations based on the facts.

Commissioner Amyx said his main concern was not creating any more of an unsafe situation on the property and in a few years the commission had to look at the same property again which had not been touched in the meantime. If there was question about the demolition of part of that property, the Commission needed to consider that question.

He said he agreed that the zoning should not change and that the house was unfit for habitation, but asked how long that property sit before something was done.

Mayor Cromwell said that property could not be allowed to slip into more dangerous and blighted condition. Going forward it needed to be a more compatible project. The neighborhood had to be protected. He asked what was needed to make the property safe.

Commissioner Amyx said the building needed to be secured for safety purposes and he did not want to create a problem for the neighborhood. He said he did not want a lengthy timeline.

McCullough said if the commission wanted to determine not to demolish the property and direct staff to button up the property from a life safety perspective, staff could monitor the condition of the structure and progress on that site

Moved by Schumm, seconded by Carter, to make a determination based on a consideration of all relevant factors that there is a feasible and prudent alternative to the proposed demolition of the structures located at 711 Connecticut Street and that the proposed demolition does not include all possible planning to minimize harm to the listed property. Motion carried unanimously.

Commissioner Dever said some professional judgment regarding the safety of the structure was needed.

Moved by Schumm, seconded by Dever, to direct staff to inspect the structure, work toward correction of life safety issues, monitor the property and report back to the City Commission as necessary. Motion carried unanimously.

Moved by Schumm, seconded by Amyx, to make a determination based on a consideration of all relevant factors that there is a feasible and prudent alternative to the site plan, parking variance, and rezoning requests at 711 Connecticut Street and that the proposed actions do not include all possible planning to minimize harm to the listed property. Motion carried unanimously.

3. Consider the following rezonings from RM32 (Multi-Dwelling Residential) to MU (Mixed Use):

- a) Consider Rezoning, Z-1-1-11, of approximately .13 acres and adjacent right-of-way from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1340 Tennessee Street. Submitted by Paul Werner Architects, for Gremlin Holdings, LLC., property owner of record. (PC Item 2A; approved 10-0 on 3/28/11)
- b) Consider Rezoning, Z-1-2-11, of approximately .13 acres and adjacent right-of-way from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), including establishing a Bar or Lounge use as an automatic Special Use Permit for Bullwinkle's, located at 1344 Tennessee Street. Submitted by Paul Werner Architects, for Lynn Investments LLC., property owner of record. (PC Item 2B; approved 8-2 on 3/28/11)
- c) Consider a Special Use Permit, SUP-3-2-11, for a bar or lounge use located at 1344 Tennessee Street for Bullwinkle's and consider adopting on first reading, Ordinance No. 8627, for a Special Use Permit (SUP-3-2-11) for a bar or lounge use located at 1344 Tennessee Street. (PC Item 2B; approved 8-2 on 3/28/11)
- d) Consider Rezoning, Z-1-3-11, of approximately .27 acres and adjacent right-of-way from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1343 Tennessee Street. Submitted by Paul Werner Architects, for TK Property's LLC., property owner of record. (PC Item 2C; approved 10-0 on 3/28/11)
- e) Consider Rezoning, Z-11-25-09, of approximately .23 acres and adjacent right-of-way from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1403 Tennessee Street. Submitted by Paul Werner Architects, for DJC Holdings, LLC, property owner of record. (PC Item 2D; approved 10-0 on 3/28/11)

- f) Consider Rezoning, Z-11-26-09, of approximately .14 acres and adjacent right-of-way from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 1400 Ohio Street. Submitted by Paul Werner Architects, for Wakarusa Partners, property owner of record. (PC Item 2E; approved 10-0 on 3/28/11)
- g) Consider Rezoning, Z-11-28-09, of approximately .20 acres and adjacent right-of-way from RM32 (Multi-Dwelling Residential) to MU (Mixed Use), located at 413 W. 14th Street. Submitted by Paul Werner Architects, for Douglas J. Compton, property owner of record. (PC Item 2F; approved 10-0 on 3/28/11)
- h) Consider adopting on first reading, Ordinance No. 8626, to rezone (Z-1-1-11, Z-1-2-11, Z-1-3-11, Z-11-25-09, Z-11-26-09, Z-11-28-09) approximately 1.1 acres, located at 1340 Tennessee St, 1344 Tennessee St, 1343 Tennessee St, 1403 Tennessee St, 1400 Ohio St, and 413 W 14th St, from RM32 (Multi-Dwelling Residential) to MU (Mixed Use).

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

Commissioner Amyx said the Planning Commission meeting minutes indicated the closing time for Bullwinkles and only allowed a Cereal Malt Beverage (CMB) License.

McCullough said that was one of the motions made by one of the Planning Commissioners restricted Bullwinkles to only a CMB License and further restricted the hours of operations to closing at midnight. He said from that Planning Commissioner's prospective, in his opinion, was based on the single-family structures to the east of Bullwinkles.

Commissioner Amyx said an application to rezone to an MU District was made for a development to occur and asked if that was an administrative approval by the City Commission.

McCullough said it was administrative approval with notice to the neighborhoods and to the property owners within 200 feet.

Commissioner Amyx said at the time when the City Commission had discussions about the KU Book Store, he asked if the City required that item to come before the City Commission if development occurred.

McCullough said he thought the City did require site plan approval by the City Commission at that time.

Commissioner Amyx said he trusted McCullough's judgment regarding those types of issues but when discussing structures that were 50,000 square feet and under, it might be appropriate for the City Commission to consider those issues because of neighborhood discussions.

Vice Mayor Schumm said since he last served on the City Commission, 18 years ago, things had changed and certainly the development code. He asked how the primary and secondary development zones interact in this particular situation.

McCullough said there would be no secondary development zone along the block front. Those were not large lots by green-fill development means, but the primary zone would allow vertical development with no residential use on the ground level. The primary zone was compatible with the conditions due to the breaks created by the street and alley system because those were end blocks.

Vice Mayor Schumm said the definition did not fit the primary zone unless tearing down and rebuilding.

McCullough said this was an area noted for its historic mixed use. There was capacity for redevelopment in a form based way.

Vice Mayor Schumm said it seemed like a secondary zone more nearly fits the definition today.

McCullough said it was compatible as well, but from an applicant's perspective there was a density difference. They wanted to maintain the 24 unit per acre density.

Vice Mayor Schumm said regarding living units, they would be required subscribed parking.

McCullough said yes.

Mayor Cromwell asked what kind of license the Hawk and Wheel had.

McCullough said Drinking Establishment.

Mayor Cromwell said the difference was proximity to the residential.

Commissioner Dever asked why Bullwinkle's had previously requested a DE License.

David Corliss, City Manager, said Bullwinkle's had applied for a DE License 10-15 years ago and the Commission did not think that license type was appropriate. It was a subject of litigation and the city position was sustained. The concerns were proximity to residential, its size. He said he didn't think it was particular to their operations. There was neighborhood backing the city's position. It was an interesting case because it was administratively approved, at the time, rather than commission approved. There was a question of whether it was appropriately zoned. At that time, there was concern about the liquor use at that location.

Commissioner Dever asked if there was any impact on the case law or the ruling or any legal impact to approving this type of license now.

Vice Mayor Schumm said the City Commission would be changing the zoning.

Commissioner Dever asked if the decision was tied to the zoning. He said it was a land use and a permit denial and asked if now it was implicit to offer the SUP.

Vice Mayor Schumm said we could approve the zoning but not the SUP.

McCullough said yes. It could remain a legal nonconforming use in the MU District and its status would essentially be the same. Legal nonconforming seemed to be a black mark on the property when it was time to sell.

Commissioner Amyx asked if the SUP had any requirements placed on the property, such as parking or anything else.

McCullough said we were holding all of the uses on the properties until redevelopment happened to the form base code.

Commissioner Amyx said the big requirements came in at that time.

McCullough said language was built into the code where new development had to meet the new standards of MU, but did not occur until redevelopment.

Commissioner Amyx asked if the property owners were the same on all those properties.

McCullough said no.

Commissioner Carter said when he was on the Planning Commission he was in favor of MU at the Hawk and Wheel and in Oread neighborhood in general. Some of those allowed uses in the MU District could open up possibilities that were needed within walking distance in that area and he gathered there was support for those possibilities in the Oread neighborhood.

Mayor Cromwell called for public comment.

Paul Werner said this item grew out of protecting the Hawk and Wheel some time ago with the legal non-conforming status. There were probably seven different ownership groups in the area. He said the rezoning of that area conformed with the neighborhood plan and added opportunities down the road.

Vice Mayor Schumm asked who the applicant was for Bullwinkles.

Werner said Andy Linn.

Janet Gesner said she had lived at 1101 Ohio for about a decade and had been heavily involved in discussions about the bars. She said Oread was an area that had a lot of activity and changes. Behind this area 7 properties had been allowed to decay and the owners were very well rewarded by selling their properties to the university. She said what was proposed could be

interesting. There had been book stores, cafes and barbershops and it could be interesting to get those things back. The devil would be in the details about how it developed. She said it seemed a lot more intense than what would be inviting or safe with the pedestrian on-goings. It might make sense to consider the secondary zone of development which was less intensive. Her other concern was Bullwinkle's and operating until midnight or two o'clock. She would like to see all three bars limited to midnight but that would probably be difficult. It seemed strange that it had been allowed to occur and the other bars were allowed to stay opened until 2:00 a.m. She said it would be important to condition Bullwinkle's to not be open after midnight. She said there had not been much comment from the neighborhoods, which could be because Oread Neighborhood Association was made up of landlords instead of residents, and because the residents were busy with other issues.

Candice Davis said she would hate to see Bullwinkle's stay opened until to 2:00 a.m. She said she had worked at a group home and at that time, a girl had been killed crossing the street at that location.

Mayor Cromwell asked if separate discussion was needed for Bullwinkle's.

Commissioner Carter said there were two sides to the 2:00 a.m. issue. The drinking age moved to 21 and now many students had to go elsewhere and that contributed to big house parties. He thought it was a wash because the establishment had to follow laws and was more strictly regulated and Bullwinkle's would likely stay a neighborhood bar. He thought the MU zoning could be shopped and promoted.

Vice Mayor Schumm asked whether there had been other comments about Bullwinkle's other than what the Commissioners had said.

McCullough said no.

Commissioner Amyx said the MU District should be allowed to proceed. He said he had concerns about density, but with parking requirements and breaks due to the alleys and streets would help. Regarding the SUP he said the Commission might want to discuss with staff or the

Planning Commission what kind of conditions might be placed on the site. He said development plans should come back to the City Commission.

McCullough said that was not a condition on the west side of the area as it had been with Jayhawk Bookstore.

Commissioner Amyx said the conditions might be able to be worked out on the side rather than at the Commission meeting.

Vice Mayor Schumm said he had concerns about the outdoor consumption on the corner. He said he would like to spend more time looking at that. The Hawk and Wheel were in less dense areas and this was at a busy corner.

Mayor Cromwell said he shared the reservations. He said he had concerns about more liquor consumed by kids. He suggested deferral on item 3c.

Moved by Amyx, seconded by Carter to approve rezoning of (Z-1-1-11, Z-1-2-11, Z-1-3-11, Z-11-25-09, Z-11-26-09, Z-11-28-09) approximately 1.1 acres, and adopt on first reading, Ordinance No. 8626. Motion carried unanimously.

Werner said he would like to talk to his client and staff and come back with options for conditions they could work out rather than going back to the Planning Commission.

Moved by Amyx, seconded by Schumm, to defer for 30 days consideration of a Special Use Permit (SUP-3-2-11) for a bar or lounge use located at 1344 Tennessee Street. Motion carried unanimously.

4. Orientation session with City Commission. Information on Kansas Open Meetings Act

Toni Wheeler, Legal Director, presented information regarding the Kansas Open Meetings Act and local conflict of interest laws.

Amyx said if there was ever a question, commissioners should contact city staff.

E. PUBLIC COMMENT:

None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

Vice Mayor Schumm asked if any of the commissioners would like to meet with Downtown Lawrence, Inc. regarding the high vacancy rates downtown.

Mayor Cromwell said that sounded like a prudent thing to do. He said a study session could be done or maybe attendance at a Downtown Lawrence Inc., meeting.

Commissioner Amyx suggested that a couple commissioners attend a DLI meeting.

Vice Mayor Schumm said he would like to be included.

Mayor Cromwell suggested that a report back to the Commission be made after the meeting.

H: CALENDAR:

Corliss reviewed calendar items including the budget process calendar.

Moved by Amyx, seconded by Dever to approve the budget calendar with the study sessions scheduled for May 17, 3:00 p.m. – 6:00 p.m.; June 21, 4:00 p.m. – 6:00 p.m.; July 8, 3:00 p.m. – 5:00 p.m. Motion carried unanimously.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Schumm, seconded by Amyx, to adjourn at 10:24 p.m. Motion carried unanimously.

APPROVED:

Mayor Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk