



City of Lawrence

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CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

June 14, 2011

The Board of Commissioners of the City of Lawrence met in regular session at 4:00 p.m., in the City Commission Chambers in City Hall with Mayor Cromwell presiding and members Amyx, Carter, Dever and Schumm present.

A. STUDY SESSION

1. City Commission Study Session regarding the 2012 Police Budget.

At 6:00 p.m. the City Commission recessed. At 6:35 p.m. the City Commission reconvened for the regularly scheduled City Commission meeting.

B. RECOGNITION/PROCLAMATION/PRESENTATION:

1. Proclaimed June 16, 2011 as Brady Tanner Day.

C. CONSENT AGENDA

Commissioner Amyx asked that consent agenda item number 7, second and final reading joint Ordinance No. 8592/Resolution No. 11-11, for Comprehensive Plan Amendment (CPA-2008-7) amending Horizon 2020 to include Chapter 16 – Environment, be removed for separate vote.

It was moved by Amyx, seconded by Dever, to approve the consent agenda as below, with the exception of item number 7. Motion carried unanimously.

1. Received minutes from various boards and commissions:

Traffic Safety Commission meeting of 05/02/11.

Sister Cities Advisory Board meeting of 05/11/11.



2. Approved claims to 194 vendors in the amount of \$1,220,659.94.
3. Approved licenses as recommended by the City Clerk's Office.
Drinking Establishment license for Carlos O'Kelly's Mexican Café, 707 West 23rd and
Retail Liquor license for City Wine Market, 4821 West 6th, Suite: N
4. Approved appointments as recommended by the Mayor.
Robert Chestnut, 1005 Oak Tree Drive, 830-8522, to the Lawrence Memorial Hospital
Board of Trustees. Robert Chestnut, 1005 Oak Tree Drive, 830-8522, to the Public
Incentive Review Committee for the financial analyst position, and Vice-Mayor Schumm
for the city commissioner position. Ursula Minor, 2115 Kingston Drive, 749-1712, to the
Public Library Board.
5. Bid and purchase items:
 - a) Awarded bid for Project No. PW1020, City Bid No. B1130, Bob Billings
Parkway, Kasold Drive to Crestline Drive (westbound lanes), complete
pavement reconstruction, to King's Construction Company, Inc. in the
amount of \$667,310.90. *This item was approved on the 06/07/11 agenda
in the amount of \$637,310.90 but should have included an additional
\$30,000 asphalt oil adjustment.*
 - b) Approved Change Order No. 1 in the amount of \$28,300.00 to Shelley
Electric for Project UT0915KW – North Final Electrical and Kaw Well
Field Electrical Improvements.
 - c) Awarded bid for pumps and motors for the Utilities Department to Mid
America Pump for \$114,690.00, Douglas Pump for \$75,809.00, JCI for
\$131,361.00, Layne Christensen Company \$25,798.00, and Patchen
Electric \$2,995.00; total for all pumps and motors, \$321,354.00.

- d) Awarded bid for Project No. PW1105, City Bid No. B1131, 2011 Overlay Program, Phase 2 to R. D. Johnson Excavating Co., Inc. in the amount of \$1,305,689.37.
- e) Waived the Engineer's Estimate and awarded bid to Sunflower Paving for Project PW1101, KLINK: 6th Street – Massachusetts St. to Iowa St. in the amount of \$1,215,161.90, provided the contractor can meet the terms established in the contract documents and contingent upon KDOT approval. This project will include right turn lanes/transit stopping lanes on westbound 6th Street at Maine and at Michigan streets.
- f) Approved the purchase of a Mini Track Skid-Steer Loader for the Public Works Department from Bobcat Company in the amount of \$28,233 through the HGAC cooperative bid for the Public Works Department.
- g) Rejected the bids for Comprehensive Rehabilitation at 2209 Princeton Blvd because they exceed the program limits of \$25,000.00.
- h) Approved change order #1 in the amount of \$140,000 to Public Works Project No. PW1109, 2011 Downtown Miscellaneous Concrete Repairs, to add concrete work on Delaware Street from 19th Street to north of E. 22nd Terrace, and E. 22nd Terrace from Learnard Avenue to Delaware Street.
- i) Authorized staff to bind coverage for Property/Casualty Insurance from the Hartford for the insurance period of 7/1/11 to 7/1/12 for a premium of \$110,809; authorized staff to bind coverage for Fire/Medical Auto/Professional Liability/Portable Equipment with ESIP for the insurance period of 7/1/11 to 7/1/12 at a premium of \$61,570; and authorized payment of brokerage fee of \$16,510 to Arthur J. Gallagher.

6. Adopted the following ordinance(s) on first reading:

- a) Ordinance No. 8636, repealing higher fines and court costs for seat belt violations. This is necessary due to a change in state law.
 - b) Ordinance No. 8635, amending the maximum amount of compensation that a Judge Pro Tempore for Municipal Court may receive, from \$50 per day to \$250 per day.
 - c) Ordinance No. 8634, amending Chapters 4 and 6 of the City Code regarding alcohol licenses, to incorporate state law changes requiring biennial licensing.
7. THIS ITEM WAS REMOVED FOR SEPARATE VOTE. Adopted on second and final reading joint Ordinance No. 8592/Resolution No. 11-11, for Comprehensive Plan Amendment (CPA-2008-7) amending Horizon 2020 to include Chapter 16 – Environment.
8. Approved request by Albert Jost, the property owner of record, for a variance from 19-214(B) 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 749 Maple Street.
9. Approved unanimous recommendation from the Traffic Safety Commission to deny the request to increase the speed limit on Bob Billings Parkway from Iowa Street to the West City Limits.
10. Authorized staff to submit application for FY2013 KLINK funding for West 6th Street (Iowa to Monterey) resurfacing project.
11. Approved Rezoning request, Z-3-11-11, to rezone approximately .3 acres from IG (General Industrial) to RS5 (Single-Dwelling Residential), located at 525 & 527 N 7th Street. Submitted by Nieder Properties, Inc., property owner of record. Adopted on first reading, Ordinance No. 8637, to rezone (Z-3-11-11) approximately .3 acres from IG (General Industrial) to RS5 (Single-Dwelling

Residential), located at 525 & 527 N 7th Street. (PC Item 12; approved 9-0 on 5/25/11)

12. Approved Text Amendment, TA-3-5-11, to the City of Lawrence Land Development Code, Chapter 20, Article 4, Section 20-403 to change “Detention” from a use permitted by right in the IG (General Industrial) District to one permitted with Special Use approval. Initiated by Planning Commission on 3/28/11. Adopted on first reading, Ordinance No. 8638, for Text Amendment (TA-3-5-11) to the City of Lawrence Land Development Code, Chapter 20, Article 4, Section 20-403 to change “Detention” from a use permitted by right in the IG (General Industrial) District to one permitted with Special Use approval. (PC Item 13; approved 9-0 on 5/25/11).

Moved by Schumm, seconded by Dever to approve consent agenda item 7, adopting on second and final reading joint Ordinance No. 8592/Resolution No. 11-11, for Comprehensive Plan Amendment (CPA-2008-7) amending Horizon 2020 to include Chapter 16 – Environment. Motion carried 3-2 with Carter and Amyx in the negative.

D. CITY MANAGER’S REPORT:

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

E. REGULAR AGENDA ITEMS:

1. Receive public comment concerning 2012 City budget issues.

David Corliss, City Manager, introduced the item.

Mayor Cromwell called for public comment.

Robert Chestnut said he wanted to comment on general fund expenditures, the health plan, and water and wastewater rates. He said over the last 4 years the city has been successful in reshaping general fund expenditures to focus on streets and public safety without raising the mill levy. He said over the last four years the general fund expenditures grew annually by 1.5%. Police expenditures grew about 10%. The expenditures were grown

intentionally in these areas while they were decreased in all other departments. He said without a significant mill levy increase he wasn't sure how services could be sustained. Regarding water and waste water, he said the examples of other cities that were now entertaining rate increases currently had significantly lower rates. Their increases will still not bring their rates to where we are already. He said it was time to challenge the utilities group in what they are doing with capital and personnel spending because water usage was down. On health care, he was not sure how you could have 10% annual increases in expenditures when you were down last year. The recommendations of the health care committee should be looked at hard, and employee only plans would have to be charged a premium.

Laura Routh said she appreciated the transparency of the memo written by Chief Khatib in the study session. She said she agreed with some things, such as civilization, animal control, energy efficiency, publicly accessible facilities, funding for a position dedicated to investigating crimes against women. She said she did have some concerns. Based on her math she said the department was seeking an additional 7.5 million dollars. One of the things related to the critical incident response team. She did not support the purchase of the armored vehicle with machine guns. She said she would like to know about the deployments of that type of vehicle. She said we had a 12.9 percent clearance rate for property crimes. She asked if the armored vehicle should be a higher priority than community policing resources. She said the department should make do with less and seek efficiencies. She would like to see more use of benchmarks. She would like to see the strategic plan be a higher priority. She said a community advisory board or civilian oversight of the police department was long overdue.

KT Walsh, East Lawrence Neighborhood Association, said there was some talk about getting a living wage for neighborhood coordinators. Most of these people work longer hours than reported. She said the CDAC should be directed to pay the coordinators a living wage.

Mayor Cromwell said he appreciated the input they had received here and via calls and emails. He said there would be additional opportunities for public input in the budget process.

Corliss said there would be a study session Tuesday, a recommended budget presented by the 4th of July. The Commission would establish a top dollar amount to be discussed at a public hearing. He said we would receive assessed valuation information soon, perhaps this week. He didn't expect a wild swing in either direction.

2. **Receive a report on current and potential energy efficiency projects and an update on the Take Charge Challenge.**

Eileen Horn, Sustainability Coordinator, presented the staff report.

Margaret Tran, Take Charge Challenge Coordinator, presented an update on the Take Charge Challenge.

Schumm asked what the point totals were.

Horn said we were behind on two of the categories.

Cromwell said not by very much.

Horn said it was measured per capita.

Cromwell said Manhattan gained population in the last census and Lawrence lost.

Horn said we were also trying to capture what businesses were doing.

Carter asked how the programs worked with renters.

Horn said they had to get coordination from their landlords for some aspects of the program.

Cromwell asked about the energy efficiency of switching fluorescent lamps.

Horn said 50% but some upgrades to the ballasts were necessary. These upgrades made big efficiency improvements because they are usually at businesses where the lights are on all day.

Cromwell said we would have to make our decisions regarding any prize money usage based on several factors that included energy savings.

Dever asked about the big fan installations and if the reduction calculation was based on published data or our experience at the aquatic center.

Horn said based on published data.

Dever said we may see dramatic improvements in the less humid warehouse type environments. They seemed like a winning improvement.

Schumm asked how much those fans cost.

Horn said seven to ten thousand dollars depending on size.

Corliss said we would be recommending a 5% increase in budgeted funds for electricity from 2010 actuals for the 2012 budget.

Amyx said Horn was very helpful in setting up an energy audit on his business, and this was something everyone should do.

Cromwell said there was always room for improvement.

Mayor Cromwell called for public comment.

Hank Booth said the Chamber of Commerce was very interested in energy efficiency and thanked Eileen Horn for her work. The collaborations she has brought to the business community have been tremendous. She was helped with energy audits for several Chamber members. He invited city commissioners on a farm tour next Friday organized by the Chamber. We have a lot of cooperation going on with sustainable agriculture in Douglas County. He said he had been skeptical about the sustainability coordinator position when it was first discussed, but he now believed her work would pay for itself many times over now and in the future. He said Tran was also terrific.

Cromwell said the efforts of the chamber and the business community toward sustainability are remarkable and much appreciated. He said there was no gulf or separation between sustainability and business.

Corliss said there was an equipment reserve fund and we were able to work on some items in Horn's list of improvements.

Moved by Carter, seconded by Amyx, to approve the prize categories set out in Horn's report.

3. **Accept dedication of easements and rights of way for Preliminary Plat, PP-3-2-11, for Kappa Delta Addition, a 1.8 acre subdivision containing one lot, located at 1602 High Drive. Submitted by Bartlett & West, for Zeta Epsilon House Corporation, property owner of record. (PC Item 11; approved 7-2 on 5/25/11)**

Sandy Day, Planner, presented the staff report.

Amyx asked if the development restrictions had nothing to do with this because there is no development before us.

Day said correct.

Amyx said we didn't have any involvement in the agreement between the other parties.

Day said correct. She said they would try to look at that during any future site planning process and proper notice would be given to neighbors.

Mayor Cromwell called for public comment. None was received.

Amyx said it was pretty well discussed at the Planning Commission and it was understood that the restrictions would be discussed if any future development was proposed.

Moved by Amyx, seconded by Carter, to accept dedication of easements and rights of way for Preliminary Plat (PP-3-2-11) for Kappa Delta Addition. Motion carried unanimously.

4. **Receive staff memo regarding economic development incentive policies and criteria.**

David Corliss, City Manager, presented the staff report.

Carter asked whether there was a moral obligation for the city in an IRB default issue.

Corliss said there was no legal or moral obligation, although the community may not want their name associated with a failed project.

Schumm asked Corliss to go through the payment in lieu of taxes policy.

Corliss said with an IRB, by act of state law taxes were totally abated on the property. If the Commission wants a lower abatement, they enter into a PILOT agreement with the entity and then distribute the PILOT payments among the taxing entities.

Diane Stoddard, Assistant City Manager, pointed out that on the tax abatement policy there were additional criteria regarding the percentage of the abatement. There was an emphasis on current businesses that are within the community and other criteria such as environmental sustainability.

Cromwell asked where to find that document.

Stoddard said in the Economic Development Process Goals and Procedures document beginning on page 9.

Corliss said the code set out the criteria and the percentage of exemption.

Schumm asked on the Transportation Development Districts, if staff could explain generally when and how they are used.

Stoddard said they were used to fund transportation related improvement costs, such as parking. The distinction between this tool and CIDs was that TDD had to be public improvements that were transportation related.

Corliss said the policy set out specific criteria for projects utilizing TDDs.

Schumm asked for an example of improvements beyond that which the city could require.

Corliss said perhaps we couldn't require a traffic signal at a particular location because it was off site from a development, but the Commission felt that the improvement was necessary due to the development and a TDD could fund that.

Corliss said it was important to remember that the elected officials ultimately made the decisions.

Schumm asked how long a TDD could last.

Corey Mohn, Economic Development Coordinator, said there was no statutory limit, but the project couldn't be reimbursed beyond their actual costs.

Mayor Cromwell called for public comment.

KT Walsh said in the discussions with the school district about consolidation and street closures, there was discussion about pedestrian infrastructure such as bridges and whether a TDD could fund that.

Mohn said it was conceivable that could be incorporated if a project was close to a school, but it depended on the particular project.

Amyx said it had been discussed at a recent study session as well as during the campaign about special taxing districts, and whether signage should be required to notify the public. He said we needed to discuss whether any of these items would not be used, and we should be up front about that. He didn't want to waste people's time if we were not going to use any of these tools.

Carter said specifically the CID was something that shouldn't be dangled out there if we weren't going to use it. Perhaps it shouldn't be taken out of the tool box but more specific criteria needed to be established.

Schumm said we needed a separate discussion on CID, because there was a lot of looseness in the policy. For example we used the word unique, but in the first application we received he didn't see anything unique. He said he saw value in the tool in some very unusual or difficult cases, but stronger language about how we were going to use it was needed. A discussion of signage was needed. The TDDs needed to be discussed also. There were questions in his mind about when we would and would not use it. For example at Bauer Farms there was discussion of changing the character of what was originally proposed, and the TDD may have been envisioned as tied to the originally proposed development. He also thought additional discussion on TIF was needed.

Dever said he was pretty comfortable with most of the policies. The application of CIDs had become more complicated. It was important to send a message to people about what they are paying and why. With NRA we needed to make sure the language was not too vague. He was in favor of using these tools and others that might be out there.

Amyx said he agreed with Dever. One of the things we needed to discuss is whether a sales tax should be used to fund a private business. The signage was a necessary thing. He said we received comments now about people paying extra at TDDs.

Dever said maybe we needed to say what percentage of the CID should be used for private improvements. The community would benefit, but it wasn't the direct benefits of public improvements.

Cromwell said some of the confusion came from the fact that we said something and something completely different was reported by the newspaper. The city had been restricting the use of CID and it was reported as if we were inventing the use of it. There was enough material here, signage for sales tax, both CID and TDD; we need to talk about the criteria and what it could be used for; we needed to see what authority we had to limit what CIDs could be used for.

Corliss said we could be more restrictive than state law, that we could have more rigorous criteria.

Schumm said an unusual thing about the CID was that it was a very broad base of things the tax could be spent for, and there was no cap on the tax that could be collected. Usually a tax had limits on how much could be collected and CID was only limited in terms of time. It was much too broad for him to support.

Amyx said NRAs were basically intended for downtown and the areas surrounding downtown. We look at those as they come along and the final decision rests with the governing body. He said Schumm commented on the open endedness of the CIDs. Was there an amount it stopped at, or just 22 years.

Mohn said he would have to look at the statutes but he was not aware of a dollar amount cap.

Cromwell said there was still some confusion and it needed discussion.

Schumm said it was open ended, it just depended on how much they could sell.

Corliss said the CID could include continuing costs, not the definite type of cost of improvements funded by a TDD.

Cromwell said the direction would be that we would revisit a few of these things.

Carter said he would like to look at best practices on signage. There had to be some good examples out there.

Cromwell said there were examples specifically for special taxing districts.

Schumm asked if that was for exterior signage.

Cromwell said it depended on the community.

Carter said he felt the NRA seemed clear, but when Amyx said it was intended for downtown and the areas surrounding downtown, he said he didn't read that in the policy.

Schumm said there was a map that indicated that.

Carter said he read it as primarily downtown and then infill, so there may be some confusion. He said he would also want to have language about precedents for NRAs, that approving one did not set precedent for anything and that it was always on a case by case basis.

Cromwell said common law was not happening here, but if one was approved the next person would come in and compare their project to the approved one.

Carter said having some language regarding precedent may still be helpful.

Stoddard said there were clauses about the authority of the governing body to decide on each application.

Corliss said almost everything the governing body did set up precedent because people would cite it.

Cromwell said CIDs, TDDs, and NRAs needed to be discussed further.

Corliss said we would look at the uniqueness attributes of the criteria, signage for CIDs, and public vs. private improvements.

5. **Consider authorizing staff to submit applications for FY2014 KLINK Geometric Improvement Funding for reconfiguration of 6th and Iowa and 23rd and Iowa.**

Shoeb Uddin, City Engineer, presented the staff report.

Carter asked why we went 50/50 on one request and 60/40 on the other.

Uddin said the minimum requirement was 20% match and increasing the match made our application more competitive. On the 23rd and Iowa the 60/40 match met the max state funding.

Regarding the 23rd and Iowa project, Schumm asked how a person in the shopping district went east on 23rd Street.

Uddin said they would have to go to the next entrance to the east or to the Iowa street entrance.

Dever asked whether we would need property owner approval to get the median cut closed.

Uddin said no.

Dever said the Commission could approve the closure of the median, but we can't do anything with the driveway without the property owner approval.

Uddin said yes.

Dever said the sharper angled turns slowed down traffic and made the turns safer.

Uddin said yes.

Amyx said we should check on the discussion when that cut in the median was originally approved, because there may have been some other agreement about it.

Corliss said we would need to contact the property owners if we actually got funding for these projects. We were not making any commitments to close medians or driveways tonight. Before signing agreements with KDOT we would have discussions with property owners.

Carter said coming southbound on Iowa, it seemed pretty easy to merge as it was configured now because of the long merging lane.

Uddin said we would look further in depth at that and this was just a preliminary concept.

Uddin asked whether 60/40 was good for the application.

Corliss said the program was competitive and that KDOT was very familiar with the area.

Schumm asked how probable both projects were to get funded at the same time.

Corliss said very unlikely.

Uddin said applying for two projects gave us and KDOT more choices depending on the available fund levels.

Schumm said to leave the matches as they are now and see what happens.

Chuck Soules, Public Works Director, said we could negotiate with KDOT at the time of any award.

Carter asked if it would help to look at the change on the NW corner and reduce the cost of the project.

Uddin said it was so preliminary that it probably wouldn't make a difference.

Cromwell said he was fine with the recommended percentages.

Moved by Schumm, seconded by Carter, to authorize staff to submit applications for FY2014 KLINK Geometric Improvement Funding for reconfiguration of 6th and Iowa and 23rd and Iowa. Motion carried unanimously.

F. PUBLIC COMMENT:

Michael Tanner made comments regarding Downtown Lawrence, Inc. and that they had a sign in their window saying no soliciting. He said the city in general had trespassed against

him, that they were trying to paint him as a criminal. He said he did not agree with the noise ordinance applying in the commercial district.

G. FUTURE AGENDA ITEMS:

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

H. COMMISSION ITEMS:

Cromwell asked when Schumm wanted to discuss follow up to the downtown listening meeting.

Corliss said we had minutes and a report on downtown vacancies.

Carter said we had discussed, regarding social service funding, determining where our priorities were.

Corliss said next week we would receive recommendations from the social service advisory board. It would be appropriate to discuss funding for prioritized needs rather than just being driven by requests.

Cromwell said he would like to have a discussion of installing giving meters and an accompanying public awareness campaign to help people donate to where their money would do the most good.

Schumm said a discussion of the ordinance regarding unrelated individuals living together was needed.

Corliss said we could receive a staff report next week.

I. CALENDAR:

David Corliss, City Manager, reviewed calendar items.

J. 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 9:18 p.m. Motion carried unanimously.

APPROVED:

Mayor Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk