



# City of Lawrence

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## CITY COMMISSION

**MAYOR**  
ARON E. CROMWELL

**COMMISSIONERS**  
ROBERT J. SCHUMM  
MICHAEL DEVER  
HUGH CARTER  
MIKE AMYX

June 21, 2011

The Board of Commissioners of the City of Lawrence met in study session at 4:00 p.m., in the City Commission Chambers in City Hall with Mayor Cromwell presiding and members Amyx, Carter, and Schumm present. Commissioner Dever arrived at 4:07 p.m.

### **A. STUDY SESSION:**

1. City Commission Study Session regarding the 2012 Budget.

The City Commission recessed at 6:00 p.m. The City Commission resumed the regular session at 6:35 p.m.

### **B. RECOGNITION/PROCLAMATION/PRESENTATION**

1. None.

### **C. CONSENT AGENDA**

Rob Farha requested that consent agenda item number 6, Text Amendment (TA-6-8-11) to various sections of the City of Lawrence Land Development Code to review parking standards related to "Congregate Living" and "Multi-Dwelling Structure" uses, be pulled from consent for separate discussion.

**It was moved by Schumm, seconded by Amyx** to approve the consent agenda as below, with the exception of item number 6. Motion carried unanimously.

1. Approved City Commission meeting minutes from 05/24/11 and 06/07/11.
2. Received minutes from various boards and commissions:



Lawrence-Douglas County Bicycle Advisory Committee minutes of 01/18/11,  
02/15/11, and 03/22/11

Lawrence Cultural Arts Commission meeting of 05/11/11

3. Approved claims to 225 vendors in the amount of \$1,753,288.40, and payroll from 06/05/11 to 06/18/11 in the amount of \$1,916,825.98.
4. Bid and purchase items:
  - a) Approved change order #1 in the amount of \$28,094.29 to Public Works Project No. PW0929, 2009 Sidewalk Gap Program. This work is part of the KU lighted pathway project and was included in the original project scope and budget developed in 2010.
  - b) Awarded the construction contract for Bid No. B1123; Project UT0810DS – Phase II of Watermain Replacement Program; Kentucky Street from 12<sup>th</sup> to 19<sup>th</sup> Street, 9<sup>th</sup> Street from Tennessee to Vermont including alternates 1, 2, and 3 to the low bidder RD Johnson Excavating in the amount of \$1,423,333.00 and authorized the City Manager to execute the contract.
5. Adopted the following ordinance(s) on second and final reading:
  - a) Ordinance No. 8634, amending Chapters 4 and 6 of the City Code regarding alcohol licenses, to incorporate state law changes requiring biennial licensing.
  - 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. 8636, repealing higher fines and court costs for seat belt violations. This is necessary due to a change in state law.

- d) 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 7<sup>th</sup> Street. (PC Item 12; approved 9-0 on 5/25/11)
  - e) 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).
6. THIS ITEM WAS PULLED FOR SEPARATE DISCUSSION AND VOTE. Voted to not initiate Text Amendment (TA-6-8-11) to various sections of the City of Lawrence Land Development Code to review parking standards related to “Congregate Living” and “Multi-Dwelling Structure” uses.
7. Approved installation of speed cushions on 11<sup>th</sup> Street and W. Campus Road. The city will pay for the construction cost upfront and then get reimbursed 100% by KU.

Rob Farha said he asked for item 6 to be pulled. He said 6-17-09 was initiated 2 years ago. They went back and forth on the language and came up with something workable, a compromise. Now this was being initiated four months later basically contesting the compromise that was made. He said it was a slippery slope submitting text amendment after text amendment until somebody gets exactly what they want. He said we just spent a year and 8 months going back and forth on this.

Scott McCullough said the value of the text amendment was to utilize larger structures on smaller lots, to give some relief to those structures such as congregate living and multi-dwelling structures. There were discussions about the exact structure size and parking requirements. He said we now have a pretty good list of the actual structures and lots.

Hugh Carter said part of the idea was to help preserve some of the larger structures.

Scott McCullough said that was correct. It was also allow the rehabilitation of some multi-dwelling structures.

Hugh asked if this affected 25% of the structures.

McCullough said the Planning Commission never focused on the goal of a certain percentage, but on the structure sizes and the parking.

Mike Amyx said preserving those big buildings was a goal and asked if there been any applications for such projects.

McCullough said one.

Candice Davis, Oread Residents Association, said she supported this amendment because during the two years Rob Farha mentioned, the number of 3500 square feet was very much in discussion. The 25% number is accurate based on the appraiser's office. 3500 square feet was selected looking at applications for boarding house structures. If you consider 20-25% of the houses qualifying, it would nearly take up all of the on street parking, which would be unfair to other residents of the neighborhood. She thought the compromise of .5 spaces was acceptable for exceptionally large structures only. This has created an incredible problem. The average size house in the Oread Neighborhood is slightly under 3500 square feet. It was not clear at the time the decision was made was whether 3500 included unfinished square footage as well. She thought it needed to be looked at again.

Gwen Klingenberg said she and LAN had been involved in this issue. After hearing of the number of houses that would have access to this idea, she thought these house sizes we are looking at are not exceptional. LAN looked at 4000 square feet as a starting point. It was decided that this should get in the books and we could come back and take a look at it again in the future and this is what was being done now. It was an appropriate initiation.

Fadila Boumaza said none of the parties got all what they wanted but an acceptable compromise had been reached. She encouraged commissioners to decline this request.

John Joserand said he went to a lot of the meetings associated with this issue. The characterization of it as a compromise is not accurate. He said 25% was not a unique exception and he supported further review.

Carter said his understanding was that moving forward with the overlay districts is the bigger fix to the issue. He said they were only just beginning on the real fix. He said he couldn't see this getting out of control at this point. There had only been one application since the adoption of the standard. He asked what the urgency was.

Davis said these numbers are wrong. They are unfair. The City Commission agreed on one parking space per bedroom. The only applications that would come would be for .5 spaces. She said they had the numbers from the appraiser's office. You could look at those numbers and see which houses would fit the standard. She said she was tired of things not being fair for everyone.

Carter asked if there was a lack of faith in getting the overlay districts done, having the neighborhoods working with the landlords on the plan. He asked what the impact had been so far.

Davis said she bought a house on Ohio. It could have applied to be a boarding house if you counted the unfinished basement. Already across the street are two boarding houses with 8 people each. It would be useful to identify what houses would qualify. She could demonstrate the parking taken up on the street given the 20%. She said she did not have faith.

Amyx said this should be on the regular agenda. He suggested deferring it and discussing it at a later meeting.

McCullough said they had information that could be added to the agenda materials. We were talking about opposing, complex values.

Carter said the choice was putting it on a future agenda or just not initiating. He said given the 18 months and who knows how many hours spent on this already, he thought there was a longer term solution that should be pursued instead. If we just keep on the same route

the neighborhood had been going on we would be chasing our tails. We needed to focus on longer lasting things.

**Moved by Carter** to not initiate the text amendment.

Amyx said the fact that we only had one application was significant. He believed we would be back at this some day. He was willing to second the motion so we could have a vote, but we would have to deal with this.

**Seconded by Amyx** to not initiate the text amendment.

Dever said he would like to understand more of the history so he could understand the background better.

Amyx asked what additional information he would like.

Dever said the unfinished space was an issue.

Cromwell agreed that he didn't have enough information.

Carter said the flaw in the issue was that there was only one application since the adoption of the standard. The 20% was a doomsday scenario. There was a backlog of work for Planning staff. We are really opening something up here that we just finished and we have only had one application. It was premature and an overreaction. We are caught in the middle of something rather than focusing on the neighborhood plan.

Dever asked whether staff usually commented on this type of initiation.

McCullough said normally initiating a text amendment was a consent agenda item. Previously it was not focused on the number of structures that could be impacted by the code. It could be said that it was good to apply to lots of structures because it would preserve structures. Others would say it contributed to proliferation of boarding houses. It would be good to be very specific that the Planning Commission should discuss only this narrow standard and not all of the standards that had been worked on.

Carter said if the proliferation was a concern, he said the uncertainty of the Oread Neighborhood without the neighborhood plan in place was a concern. The unintended

consequences were a concern. They could mean no more new investment in the neighborhood. He thought the concerns about the parking were slightly overblown.

Schumm said he didn't have enough information. This deserves a full blown agenda item.

**Moved by Carter, seconded by Amyx**, to not initiate Text Amendment (TA-6-8-11) to various sections of the City of Lawrence Land Development Code to review parking standards related to "Congregate Living" and "Multi-Dwelling Structure" uses. Motion carried 3-2 with Commissioners Schumm and Cromwell in the negative.

**D. CITY MANAGER'S REPORT:**

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

**E. REGULAR AGENDA ITEMS:**

**1. Receive staff report regarding public harvesting of fruit trees on city property.**

David L. Corliss, City Manager, presented the staff report.

Mark Hecker, Assistant Director of Parks and Recreation, presented additional information.

Mayor Cromwell called for public comment.

Boog Highberger said he had been working with the Lawrence Fruit Tree Project on this issue. There are some cities that have taken steps to encourage urban agriculture. He said regarding picking the fruit being a danger to wildlife was overstated. There are few trees currently. He understood the concern of hurting the plants. The amount of activity this would encourage was minimal. The issue of land leased by the city could be dealt with by adding language concerning it. All this ordinance did was decriminalize picking fruit, it didn't add any liability.

Eric Farnsworth said Hecker had stated the case well. Amending the ordinance opened the door to additional activity but did not mandate it. He said he would like to see more public orchards but that would be a long process. It made sense to decriminalize picking fruit. It would

be positive to make it possible to pick a berry off a bush in a park. It was important to have that relationship to food. He supported the amendment.

Carter asked what Farnsworth meant would be a long gradual process.

Farnsworth said the process of planting fruit trees and issues such as spraying the trees, which would have to be worked through.

James Dunn asked about city trees in the public right-of-way.

Corliss said we would probably make the language clear that it didn't apply to public right-of-way or land leased by the city to other entities.

Cromwell said a few years ago he did pick mulberries in a park in North Lawrence and had no idea that it was illegal. He thought with the addition of some language this would be something that would be okay.

Amyx said the language change would be to better define city property. He said he didn't think we had that many trees where people could pick fruit.

Schumm said there was one concern staff raised about edible plants as well, so this should perhaps solely be fruit of trees.

Cromwell said the language did say ripe fruit, and there were some bushes and vines with fruit.

**Moved by Dever, seconded by Carter,** to direct staff to draft an ordinance with the changes to the language regarding leased property and right-of-way. Motion carried unanimously.

**2. Discussion on the following items related to the Downtown Listening Session on May 19, 2011.**

- a. Retail vacancies and retail growth management**
- b. Retail/bar mix**
- c. Event coordination with Convention and Visitors Bureau and KU**
- d. Support for the Arts Downtown**



Vice Mayor Schumm said about a month ago they had a listening session where they listened to concerns from downtown shop owners, business owners, property owners and others who had concerns about downtown. For the sake of being able to get through the retail and event topics he had asked staff to put these on the agenda tonight. There were also other topics such as homelessness that were discussed also and may be discussed in the future. He said a major concern to a number of people was that there was a rather high vacancy rate at the moment. That drove a bit of a question and answer regarding the retail/entertainment mix. He wondered if there was a marketing solution to filling some of those storefronts.

Cromwell said he appreciated the memo from Amy Miller about the overall mix and vacancies.

Amyx said he noticed the vacancy rate from 2006 to 2011 had been a bit of a roller coaster ride. The number of businesses had increased in the same time period. He asked if there was a recruitment program by Downtown Lawrence, Inc. He thought we were seeing a little more vacancy now and a recruitment program could be beneficial.

Cromwell asked if the overall number of businesses had increased.

Amy Miller, Planner, said yes, but looking at square footage was perhaps more telling.

Cromwell asked if the vacancies were up but the number of businesses was also up, and how vacancy was calculated.

Miller said that the square footage vacancy was also up.

Cromwell said it was not dramatic but was something that we should keep an eye on.

Carter said there had been some good ideas. He said we had talked about DLI quite a bit and what their role should be. He said the vast majority of feedback received was from three people. He said he was supportive of supporting the efforts and said an important question was who would champion them.

Schumm said his personal observation was that once you lose your retail downtown you don't ever get it back, so you can't take any chances losing it. You also had to have a critical

mass to get people to come and spend a significant amount of time. You also had to have an attractive area, but you couldn't do it after the fact. He didn't want to see downtown become any less occupied than it was. Downtown benefited the entire city because it drew people and maintained the character of the community. There was a lot of competition for entrepreneurs. He would like to see a lot of the vacancies fill up. He said there were a lot of economic consequences tied to the health of downtown.

Cathy Hamilton, DLI, said they did have a recruitment program. She said we did have a vacancy issue. She said there had been a lot of discussion on the incubator issue. She said they needed more information; most people didn't know how that would work. She said it warranted a deeper look.

Peter Zacharias said this was the most vacancies he had ever seen in downtown Lawrence. We had a loss of customer base due to the recession, due to the beggar problem downtown, overdevelopment on the edge, internet shopping and competition with restaurants and bars. An incubator program would be excellent. He said a moratorium on liquor licenses downtown was needed.

Cromwell said he was glad to see the data provided by staff.

Amyx asked if Schumm had information on the incubator proposal and if it was a city sponsored program.

Schumm said there would be an incentive to it, and if we pursued it we would use city incentives to accommodate leasing some of these spaces. He said a task force could look at some of the models for incubators and bring the information back to the commission. He said staff could bring that information back also.

Amyx said his main concern was writing down rent space. That was a concern to him. He asked how that incentive would work.

Schumm said he wanted to stop and state that he would not personally participate in any kind of incentive program. He said landlords would have to participate also in bringing down rents. It would be wise to study this out first and come back with some kind of proposal.

Cromwell said the more important number was the number of retail businesses. He said it was absolutely critical to focus on keeping retail. Next steps would be to have another item on the agenda identifying ways to encourage retail, one of which would be some sort of incubator. He didn't know what other ideas were out there but he wanted to hear about them.

Amyx asked regarding the other items on the agenda, if those were other things for a task force to look at.

Schumm said he tried to group two categories of issues together that they heard at the listening session. He said events downtown helped. There were a number of good features playing in our behalf and hopefully more could be figured out. That could be in the purview of a task force as well – how you could capitalize on events and how we could maximize our efforts in filling vacancies.

Cromwell said we started with a downtown retail task force last year which morphed into a general retail task force. He said we could go the task force route or tackle these things individually.

Schumm said 6-7 people who were familiar with the issues could get together and tackle some of them.

Cromwell said the direction to staff was to formulate resolution for a downtown task force to tackle the issues outlined here.

Carter said he wasn't comfortable charging the task force with examining the retail/bar mix. He wasn't sure we should be looking at regulating that market at this time.

Schumm said in the last couple of years there had been a real change in the number of square footage from retail to bar/entertainment. Taking retail off the rolls meant losing the critical mass. He said he had seen Aggieville change over 15 years and lose almost all their retail. He

said the committee could have a fact finding mission concerning what other cities have done and what kind of square footage percentages should be targeted.

Corliss said his recommendation was to do it with a resolution that included the composition, time frame, and charge for the task force.

Cromwell said that helped with the Solid Waste Task Force. He asked if there was anything else staff should add to the task force resolution.

Corliss asked if the task force should address items A-D on the agenda.

Cromwell said yes.

**Moved by Schumm, seconded by Carter**, to direct staff to draft a resolution creating a task force to study retail and events downtown. Motion carried unanimously.

**3. Receive staff memo regarding occupancy for unrelated persons in single-family and multi-family residential districts and general code enforcement activities.**

Brian Jimenez, Code Enforcement Manager, presented the staff report.

Amyx said in 2010 there were 20 cases and asked if there was resolution of those cases.

Jimenez said yes. They recently took one to court and won. The end result to become compliant was to move people out, which was difficult on people. He said court was a last resort.

Schumm asked if there was difficulty identifying who was a resident and who was not.

Jimenez said yes, but there were ways to find that out. In some cases the tenants know they are in violation and turn in the landlord when they have some dispute with them. In some cases they don't put everyone on the lease.

Schumm asked what constitutes residence.

Jimenez said the code didn't specifically define that. They asked questions to try to make a determination. He said some of the problems were lifestyle issues rather than residency.

Mayor Cromwell called for public comment.

George Catt said one of the things he always liked about Lawrence was that we have zoning, code, good fire and police departments. He said we were being infested with unscrupulous landlords packing single family homes with unrelated people. He said we had to look at stiffer fines, maybe cumulative fines, that would get their attention. He said a house down the street had 8 unrelated people living in it and it got shut down. The cars were a major problem. There is now a house with the same seven cars parked there every morning. This problem had to be addressed in a firm fashion because as it was it was just a minor cost of doing business. This is a serious issue that affects property values.

Schumm said he lived a couple blocks from George. He asked how many houses in the neighborhood seemed like they were in violation.

Catt said 3. He thought one even ran a gymnasium. He said the same cars were parked there every single day.

Ted Boyle said we needed to keep this code in effect. A couple years ago a brand new house was built and there was a problem with 6 or 7 unrelated college girls living in the house. He called code enforcement and it turns out the house next door had 6 or 7 unrelated males in it. They partied all the time and had cars all over the place. In North Lawrence 78% of home were owner occupied so they didn't have too much of a problem, but once in a while they do. He knew enforcing this was a difficult thing.

Gwen Klingenberg said this was an important issue in a lot of neighborhoods. She said she taught music at a house once where they had to build a fence, protect

windows, etc. because they suffered vandalism and break-ins. She said we needed to keep this an active program because it was important.

Deborah Snyder said she supported the proposals brought up by Jimenez. She said she wanted to make a plea for additional staffing in code enforcement because it took so much time to compile material for taking someone to court. She said she would like the Commission to rest assured that the penalty would only be utilized in the 1%, since 99% were in compliance.

Carter said it must be frustrating to see habitual violators move people out then go right back to violating. He said a very small percentage of landlords were causing the problem. We only had limited resources in code enforcement. If we just stuck strictly to health and safety we could put some real teeth in the regulations and maybe reduce the number of violators.

Schumm said it was an economic situation. You have turn economics against the perpetrator. Right now interest rates were down, prices were down, KU prices were up, so economics worked in favor of putting too many people in a home. He said it wasn't right that there was nothing we could do. We need to make it a cumulative fine where it became economically unfeasible to violate the code and make a profit. He said if we needed to identify in the ordinance how long someone lived there to be considered a resident, we should do that. He asked if Jimenez had other suggestions.

Jimenez said he liked the disclosure forms. In Fort Collins it was required by code and if there was a complaint they could request it. The disclosure statement when the property sells could be a possibility. We had a lot of out of town buyers that didn't know the rules and didn't care. He said he liked the idea of increasing the fines.

McCullough said with the Commission's direction he would bring back a comprehensive proposal to stiffen up the codes. One thing would be direction to cite, not just work toward compliance.

Cromwell said fines weren't the way out of our budget issues, but they could cover some costs when we have someone who takes up a lot of staff time.

Schumm said once people started getting some fines word would get around.

Jimenez said part of the reason for the disclosure statement may be as an evidence tool further down the road so people couldn't plead ignorance.

Cromwell said a lot of students probably had no idea of the rules.

Jimenez said he thought our education efforts would help.

Amyx said as part of the fine, could we require that a house register if it was found in violation.

Jimenez said we would have to do some research. He also said there was language regarding revocation of rental license.

Cromwell said one of the things he was interested in was having a significant fine that escalates in habitual cases.

Jimenez said the fine language now had a range.

Cromwell said tightening that up could help achieve an appropriate fine levied against violators.

Jimenez said sometimes the court process was not always timely.

**Moved by Amyx, seconded by Schumm,** to direct staff to bring back a comprehensive report including fines, disclosure statements, definition of resident, revocation of rental license, and other appropriate issues. Motion carried unanimously.

**4. Receive list of potential audit topics from city auditor.**

Michael Eglinski, City Auditor, presented the staff report.

Cromwell said the rental registration program was of interest to him. He also said we received a letter from Jeff Weinberg asking us to take a look at this. He said we had

a history of working well with the university and thought it was a good idea to give his request some consideration.

Dever said he agreed with the rental registration. He said police workload was important, cash handling, and library construction jumped out at him as good topics.

Carter said the city/county relationships jumped out at him, especially during budget times.

Amyx said those would be fine. Rental registration and especially city/county relationships were a very good idea. Financial indicators were fine too.

Corliss said he appreciated Eglinski's work. He suggested cash handling and felt it was an important issue. He said he knows we have had different practices in different departments.

Carter asked if we needed to whittle down the number a little. He said the police one was big.

Eglinski said it could be an option to pick two or three and he could come back if those were finished and he was ready to take on more.

Dever suggested rental registration and cash handling.

Amyx said city/county relationships.

Eglinski confirmed that financial indicators also were included.

Dever said yes.

Mayor Cromwell called for public comment. None was received.

**Moved by Schumm, seconded by Amyx,** to direct the auditor to include in his work plan financial indicators, rental registration, cash handling, and city/county relationships. Motion carried unanimously.

5. **Consider a motion to recess into executive session for approximately 30 minutes to discuss employer-employee negotiations. The justification for the executive**



**session is to keep labor negotiation matters confidential at this time. The regular meeting will resume in the City Commission Room at the conclusion of the executive session.**

**Moved by Schumm, seconded by Dever**, to recess into executive session at 9:07 p.m. for approximately 30 minutes to discuss employer-employee negotiations. The justification for the executive session is to keep labor negotiation matters confidential at this time. Motion carried unanimously.

At 9:45 p.m. Cromwell, Schumm and Carter resumed the regular session. It was **moved by Carter, seconded by Schumm**, to extend the executive session by 20 minutes. Motion carried 3-0.

The City Commission returned to regular session at 9:53 p.m. Commission Dever left the meeting at that point. No action was taken following the executive session.

**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 calendar items.

**I: CURRENT VACANCIES – BOARDS/COMMISSIONS:**

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

**Moved by Amyx, seconded by Carter**, to adjourn at 9:55 p.m. Motion carried 4-0.

**APPROVED:**

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Mayor Cromwell, Mayor

**ATTEST:**

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Jonathan M. Douglass, City Clerk