



City of Lawrence

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CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

June 28, 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, Dever and Schumm present. Commissioner Carter arrived at 6:44 p.m.

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. None.

B. CONSENT AGENDA

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

1. Approved City Commission meeting minutes from 06/14/11.
2. Received minutes from various boards and commissions:

Public Health Board meetings of 04/18/11 and 04/29/11

Planning Commission meeting of 05/23-25/11

Lawrence/Douglas-County Bicycle Advisory Committee meeting of 05/17/11

Hospital Board meeting of 05/18/11
3. Approved claims to 229 vendors in the amount of \$848,374.54.
4. Approved licenses as recommended by the City Clerk's Office.

Drinking Establishment License for Royal Crest Lanes, 933 Iowa St., 23rd Street

Roadhouse, 1003 East 23rd St., Kokoro, 601 Kasold Dr, On the Border, 3080 Iowa,



and Class A Club License for Lawrence Country Club, 400 Country Club Terrace, and Retail Liquor License for Myer's Retail Liquor North, 1805 West 2nd St.

5. Bid and purchase items:

- a) Authorized continued use of Kleinfelder as the testing firm for Kasold Drive reconstruction and approved a purchase order increase in the amount of \$30,500.
- b) Authorized payment of \$18,283.86 to the Kansas Department of Insurance for the 2011 self-insured assessment.
- c) Authorized City Manager to execute First Extension for Renewal of Agreement for Collection Services.

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

- a) Ordinance No. 8513, annexing approximately 7.6 acres of city-owned land at the Lawrence Municipal Airport.
- b) Ordinance No. 8639, regarding the picking of ripe fruit from trees, plants, and vines on certain city property.

7. Received request from Consolidated Properties, Inc., regarding redevelopment of the Masonic Temple at 10th and Massachusetts Streets; referred to staff and Public Incentives Review Committee for recommendation.

8. Approved a request for the use of 30 parking spaces in Lot 10 on Friday, September 2, 2011, from 10:30 a.m. – 1:30 p.m. by the Horseless Carriage Club.

9. Authorized the City Manager to sign an Agreement for Capital and Operating Assistance Funds for the Lawrence Transit System to receive funding from the FY2012 Comprehensive Transportation Program.

10. Approved appointments as recommended by the Mayor.

Convention and Visitors Bureau Advisory Board:

Reappointed Nancy Longhurst and Stephen Horton to additional terms that would expire 07/01/15.

Douglas County Emergency Management Board:

Reappointed Truman "Bud" Waugh (843.6670) to an additional term that expires 07/01/12.

C. CITY MANAGER'S REPORT:

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

Bob Schumm asked if the residents on Tennessee had been notified about the mill and overlay project.

Corliss said no, but that they would be before the project started.

D. REGULAR AGENDA ITEMS:

1. Receive 2010 Lawrence-Douglas County Housing Authority Annual Report.

Sue Hack, introduced Allen Humphrey and Shannon Oury. Oury presented the Lawrence Douglas County Housing Authority Annual Report.

Mayor Cromwell thanked Oury for the report and the introduction.

Commissioner Amyx asked what kind of growth the housing programs had seen in the last few years.

[Commissioner Carter arrived at 6:44 p.m.]

Oury said the biggest addition was Clinton Place. In April they started administering conversion vouchers, which was the most exciting recent development. They were adding about 140 new vouchers as a result.

Cromwell said he had heard quite a bit about the waiting list. He asked what it was like at this point.

Oury said the one bedroom waiting list was currently closed due to HUD regulations. They had taken steps to purge the list to try to make sure it was accurate.

Mayor Cromwell called for public comment.

James Dunn said the Housing Authority provided a valuable service. The Housing Authority collaborated with many agencies to provide support services for housing needs. He said he appreciated the resident services programs.

Moved by Dever, seconded by Amyx to receive the Lawrence Douglas County Housing Authority Annual Report. Motion carried unanimously.

2. **Conduct public hearing to consider the vacation of one (1) foot of two utility easements located in Lot 1, Block 1, Accessible Residential Options West Subdivision (a.k.a. 2218, 2222, and 2226 Yale Road) as requested by property owner LCHT Accessible Housing, LLC.**

Chuck Soules, Director of Public Works, presented the staff report.

It was **moved by Schumm, seconded by Amyx** to open the hearing regarding the proposed vacation of two utility easements in West Subdivision. Motion carried unanimously.

No public comment was received.

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

Amyx asked if we had ways to make sure buildings weren't built into easements in the future.

Scott McCullough said this had happened about 20 years ago but that we were careful though the platting and site planning process to avoid similar situations today.

Moved by Schumm, seconded by Amyx, to approve Order of Vacation. Motion carried unanimously.

3. **Consider approval of a Special Use Permit, SUP-3-2-11, for a bar or lounge use located at 1344 Tennessee Street for Bullwinkle's and adopt 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). This item was deferred from 04/19/11.**

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

Schumm asked if the Planning Commission discussed safety issues related to the hours of operation and the nearby intersection.

McCullough said they did not have a healthy discussion of safety, but the discussion was more focused on potential impact to neighbors.

Schumm said if the City Commission approved the SUP without any conditions and the bar operated under a drinking establishment license allowing the bar to stay open until 2:00 a.m., he asked whether at a later date the City Commission could amend this ordinance.

McCullough said the Commission would likely need to have cause through police reports or issues that arise in order to bring back the SUP. The SUP was a right granted by the City Commission and there were code provisions to bring back a special use permit for a hearing to determine its impact to the neighborhood and they could place conditions on the SUP at that time.

Schumm asked if the Commission could bring back the SUP for safety, noise or crowd issues.

McCullough said if the City Commission placed no conditions on the SUP it would be a fairly high bar to reach to bring the SUP back to the City Commission to place conditions. He said the City might want to frame that SUP with conditions at this time to have more to come back with at a later date.

Paul Werner, Paul Werner Architects, said they thought this was a reasonable place to start. He said one thing that came down for him was difference in occupancies between Bullwinkle's and the Hawk and The Wheel nearby, whose patrons also crossed the intersection. He said a 1:00 a.m. closing time might be confusing because bars now either closed at midnight or two. He said he liked the idea of coming back in a year for review of the SUP to see if there were any problems.

Schumm asked if part of the fence would be removed to open up the sight triangle.

Werner said the taller section was outside the site triangle.

Schumm asked if you looked over the fence currently to see ongoing traffic.

Werner said yes.

Amyx asked if Werner's suggestion was the 2:00 a.m. closing time and review in a year.

Werner said yes.

Carter said in a year the same governing body would be here, so he liked the idea of bringing the SUP back in that time. It should be pretty easy to craft something if there were problems to address at that time.

Schumm said a major concern he had was that the intersection was heavily used, particularly at certain times. Sometimes people congregated outside the fence. He asked if there were concerns about the wide open front stoop and people leaving and spilling out into the street.

Werner said they were built right to the property line. There was about 25 feet to the curb.

Schumm asked if a wrought iron railing or something could be added to enhance safety.

Werner said it helped that there was a light there. That light was a functioning red light throughout the night. There was a bad accident several years ago, but the owner had an incentive to clear everybody out.

Cromwell said the problem with the site was people spilling out into the sidewalk and street. He wasn't sure how the fence and tree even helped with the neighbor issues because the party was in the street at that intersection. He said Werner made a good point about patrons from the other bars being in the area.

Werner said Bullwinkle's held 66 people and there were 600 coming down the street from the other establishments. He said they would like to do something on the south side but the sight triangle was a challenge. The activity at Bullwinkle's was minimal compared to other establishments.

Schumm asked whether a wrought iron fence in the right-of-way on the west side of the sidewalk could keep people from spilling out into the street.

McCullough said that was a possibility. One of the values of raising the fence was reducing the cross fence discussion and activity that drew people into the right-of-way. He said he wasn't sure if the wrought iron fence did as much to mitigate the challenges as a solid fence. It was possible but it might not reduce congregating in the street.

Mayor Cromwell called for public comment.

None was received.

Cromwell said he was extremely concerned about safety at that site, but they weren't all the responsibility of Bullwinkle's. Right now if the building was destroyed it wouldn't be able to be rebuilt.

McCullough said generally speaking no.

Cromwell said he was a little uncomfortable about the site. He said it was incredible the number of people in the street and in the grass. He wondered if adding additional spirits to this area was advisable.

Amyx asked if Cromwell's recommendation was to deny the SUP at this point.

Cromwell said he was concerned about the alcohol side. He wasn't sure what he wanted at this point. He said he was pretty conflicted. His original gut feeling was to keep to beer only at midnight. He said they were already not good right now. He didn't know how the addition of hours and spirits would affect it.

Amyx said he agreed with that. One of the concerns was that this wasn't attached to the areas to the west. They did go ahead with the zoning knowing the SUP was coming up. If we deny the SUP we still don't improve the safety. Could it be made safer and were there conditions that could do it.

Cromwell said he didn't know.

Schumm said a fence would channel people to the intersection to cross where they should. It would also keep people off the grass and set a barrier to control the crowd.

Amyx said currently there was a fence which affected the sight triangle.

Dever said the concern he had was whether approving the SUP was endorsement of longer hours and more alcohol. Other than that he thought it was a unique piece of ground. He was convinced it wouldn't have a huge impact on the neighborhood. Screening would be good for the neighborhood. He didn't think the SUP would add a whole herd of people to the neighborhood. It might be a drawing point from the other establishments. It was kind of a traffic nightmare anyway.

Cromwell asked about the occupancy

Werner said the occupancy at the Hawk was 307; The Wheel was 125, but was 2 or 3 times that on the patio; and, Bullwinkle's was 66 plus 25 on the patio.

Schumm asked if the fence was taller on the east side.

Werner said it was even taller, ten feet.

Dever asked if the 66 included the basement.

Werner thought no one went in the basement. It was storage.

Dever said he read an article that someone bought it and had plans for the basement.

Werner said they may have thought about it but it wasn't possible due to fire protection and egress issues.

Carter said if we didn't approve the SUP it stayed as is. If we had a timeline for review they had an incentive to improve things because they had potential for more profits with a DE license. He said his bigger concern safety wise was on the front. He liked the idea of a wrought iron fence along the sidewalk. That could be a slight improvement but the incentive of review of the SUP was more significant.

Schumm said the deck wraps around in back and was adjacent to the other dwelling units. He said he wouldn't want to live next to a bar that was open until 2:00 a.m.

McCullough said there was some discussion of the issue at the Planning Commission.

Werner said the same owner owned both Bullwinkle's and the dwelling units. People renting those units knew what they were getting into. He thought the wrought iron fence might be a good idea. If it was on the west side of the sidewalk it may give people too much room to congregate on both sides of the fence.

Schumm said you didn't want to create what looks like a gathering space. He said if there was a review date set and we had complaints from the neighbors we would have to consider that at that time.

Amyx asked if there was any reason to think the close time had to be 2:00.

Schumm said he was okay with that if there was a review date and something to mitigate the crowds in the right-of-way.

Amyx said he wanted to make sure we weren't allowing additional people on the right-of-way and obstructing the sight triangle.

Schumm said he didn't want more people there. Maybe signage could be added. Management of the establishment would be the key.

Cromwell asked if the wrought iron fence would be a sight triangle concerns.

McCullough said there were some standards but it was probably possible. Another option was landscaping to keep people from congregating.

Schumm said we could let staff work with the applicant to come up with the best possible design for the front of the establishment.

Cromwell said shrubs might keep people in and discourage congregations.

Werner said that might be a good solution.

Moved by Amyx, seconded by Schumm, to defer consideration of Special Use Permit (SUP-3-2-11) for a bar or lounge use located at 1344 Tennessee Street and direct staff to work with the applicant on options for landscaping and fencing to address congregating in the right-of-way.

4. **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 Amyx, to recess into executive session for approximately 30 minutes to discuss employer-employee negotiations, at 7:38 p.m. The justification for the executive session is to keep labor negotiation matters confidential at this time. Motion carried unanimously.

Cromwell, Schumm and Carter returned to the room at 8:09 p.m. It was **moved by Schumm, seconded by Carter** to extend the executive session for 30 minutes. Motion carried 3-0.

The City Commission resumed the regular session at 8:46 p.m. No action was taken following the executive session.

E. PUBLIC COMMENT:

None.

F. FUTURE AGENDA ITEMS:

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

Vice Mayor Schumm asked what happens if the County doesn't approve the Rothwell annexation.

Corliss said there were different issues to look at, but the County's approval had to be obtained.

G: COMMISSION ITEMS:

None.

H: 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 Dever, seconded by Schumm, to adjourn at 8:51 p.m. Motion carried unanimously.

APPROVED:

Aron E. Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk