



City of Lawrence

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CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

July 12, 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/PROCLAMATION/PRESENTATION

1. None.

B. CONSENT AGENDA

It was moved by Amyx, seconded by Carter to approve the consent agenda as below.

Motion carried unanimously.

1. Approved City Commission meeting minutes from 06/28/11.
2. Received minutes from various boards and commissions:

Aviation Advisory Board meeting of 04/07/11
Public Incentives Review Committee meeting of 03/29/11
3. Approved claims to 181 vendors in the amount of \$3,527,937.25
4. Bid and purchase items:
 - a) Awarded Bid No. B1132 for Kaw Water Treatment Plant Sludge Collector Drive Replacement to the low bidder, Blaze Mechanical, for \$55,639 and authorized the City Manager to execute the contract agreement.
5. Adopted on second and final reading, Ordinance No. 8640, to rezone approximately 4.6 acres from RS7 (Single-Dwelling Residential) to RM12D (Multi-Dwelling Residential), located at 25th Terrace and O'Connell Road. (PC Item 4a; approved 7-0 on 6/20/11)
6. Approved extension requests for the following Site Plans:



- a) SP-04-14-09: A 9,000 sq ft commercial building for construction sales and services and associated parking area at 700 Connecticut Street, a 17,562 sq ft lot. Submitted by Paul Werner Architects, for LFF LLC, property owner of record.
- b) SP-06-54-06: Glenwood Apartments, a 131 multi-dwelling residential development, located at the southeast corner of the intersection of Eisenhower and Wakarusa Drives on Lot 13 Glenwood Addition, approximately 10.6 acres. Submitted by Paul Werner, for Glenwood LC, property owner of record.
- 7. Accepted dedication of easements and rights of way for Preliminary Plat, PP-4-4-11, for Kasold Water Tower Addition, approximately .5 acre containing 1 lot, located southeast of the Tam O'Shanter and Kasold Drive intersection; approved a waiver from Section 20-811(c) which requires a 6 ft wide sidewalk along arterial streets and a variance from Section 20-810(d)(4)(i) which requires 150 ft of right-of-way for a principal arterial. Submitted by the City of Lawrence, property owner of record. (PC Item 9; approved 8-0 on 6/22/11)
- 8. Approved License Agreement for Use and Maintenance of driveway in Naismith Street right-of-way. This agreement is in association with SP-3-15-11, Natural Food Grocer at 1301 W 23rd Street.
- 9. Accepted the applicant's request to withdraw TA-3-3-11 regarding a text amendment to Chapter 20, various sections regarding creation of a new multi-dwelling residential zoning district, RM64.
- 10. Authorized the City Manager to provide notice to Berkeley Plaza, Inc. to extend the lease for the municipal court building (1006-1008 New Hampshire) for an additional three year period and to execute an amendment to the lease.
- 11. Received the 2010 Tax Abatement Report.
- 12. Authorized the City Manager to verify and affirm the Petition for Eminent Domain, styled In the Matter of the Condemnation of Land For State Highway Purposes, Debra L. Miller, Secretary of Transportation of the State of Kansas v. Thomas, et al. for acquisition of property interests for the 23rd Street Bridge Replacement Project.

C. CITY MANAGER'S REPORT:

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

D. REGULAR AGENDA ITEMS:

- 1. **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 06/28/11.**

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

Schumm said we talked earlier about a fence along on the street side of the sidewalk. He thought that before the initial planting filled out in the first couple of years the owner may end up having to replace the plantings constantly because they are getting trampled. He said from a safety standpoint he observed that when lots of people gathered they didn't always pay much attention.

Mayor Cromwell called for public comment.

Paul Werner said they debated the fence. Sometimes a fence just provided something for people to lean on. He said some kind of temporary fencing might work. He said he thought the proposal was a good alternative.

Amyx asked about the condition of the sidewalks currently.

Werner said they were in pretty good shape. They had looked at the sidewalks and whether they ought to run irrigation under a sidewalk but it all looked pretty good.

Cromwell said the main point was safety. Looking at the proposal it looked like they had done what they can to prevent people from being on the street. He thought we could give them the benefit of the doubt and still have the opportunity to revisit this later.

Schumm asked if we could require a fence at a later date as a condition if needed.

McCullough said it would be easier now. A condition could be written such that if staff found that the landscape was getting trampled or not maintained a fence could be required to protect the landscaping.

Schumm said he was in favor of such a condition.

Amyx asked if the second reading of the ordinance would contain the other conditions as outlined in the staff report.

McCullough said yes.

Moved by Carter, seconded by Schumm, to approve Special Use Permit (SUP-3-2-11) for a bar or lounge use located at 1344 Tennessee Street 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, with an added condition that the Planning Director could require a fence if it was found that the landscaping was being trampled or not properly maintained. Motion carried unanimously.

2. **Consider Text Amendments, TA-3-4-11, to the City of Lawrence Land Development Code, Chapter 20, Article 6 & 7, regarding revisions to the district criteria and development standards in the Planned Development Overlay District. Adopt on first reading, Ordinance No. 8641, for Text Amendments (TA-3-4-11) the City of Lawrence Land Development Code, Chapter 20, Article 6 & 7, regarding revisions to the district criteria and development standards in the Planned Development Overlay District. (PC Item 2; approved 5-2 on 6/20/11).**

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

Amyx asked which height they would go from if a number of different RS properties back up the subject property.

McCullough said that was one of the issues identified. Making it district standards rather than having variables could be a better option.

Amyx said in his neighborhood there were homes of various heights because they were on the hill.

McCullough said it would have to be a very site specific determination.

Dever asked for clarifications on the setbacks based on the height.

McCullough said in Article 6, the code requires today that if a 20' tall home with a 5' setback existed, a building next door would have to be no more than 20' in order to get the 5' setback. If it was over 20' the setback would have to match the height.

Mayor Cromwell called for public comment.

Paul Werner said they agreed with staff's recommendation. The key for PD was that it was essentially rezoning. Someone had to ask for it and the commission would see the preliminary development plan. He agreed with the conditions and separating Article 6 out.

Gwen Klingenberg, LAN, said they supported the recommendations. There were a lot of issues that didn't get looked at previously. There were existing cases that caused destabilization

of neighborhoods where a single family home next to RM or commercial had become rental rather than owner occupied.

KT Walsh said she was pleased to see commissioners at the SRS meeting. She asked how binding the statement of intent was.

McCullough said the enforcement vehicle was the development plan. The statement of intent was intended to give the planning and city commission enough information to judge the project.

Walsh said she supported pulling Article 6 out.

Alan Black, League of Women Voters, said they supported the recommendation that Article 6 be pulled out. Their concern was the relationship between height and setback. The concern was for privacy of people living in single family homes with multistory buildings looking down on the backyard. He said they wanted to make sure that was considered whenever there was an application.

Cromwell said it was clear there was additional work to be done on Article 6.

Moved by Schumm, seconded by Dever, to overrule the planning commission recommendation, approve Article 7 amendments and return Article 6 amendments to the Planning Commission as a newly initiated text amendment, and to adopt on first reading, Ordinance No. 8641. Motion carried unanimously. Motion carried unanimously.

The Commission recessed for 10 minutes at 7:15 p.m.

The Commission returned to regular session at 7:25 p.m.

3. Consider authorizing publication of the 2012 Budget Summary and establish August 2, 2011 as the public hearing date. This establishes the maximum budget authority and property tax mill levy for the 2012 budget.

David Corliss, City Manager, presented the staff report.

Cromwell said he did not like the wording regarding the Santa Fe Depot.

Corliss said that was only his recommendation.

Cromwell said the City Commission would be the body to decide that.

Corliss said that was his intention and the memo was only meant as his recommendation.

Amyx asked if the \$200,000 was an area that Corliss was recommending could be permanently cut.

Corliss said yes.

Dever asked if it was possible to defer the .2 mill increase for the library.

Corliss said the increase kept the library flat because they have been spending down reserves.

Dever said the memo read that the increase would be used in preparation for the transition to the renovated library. He asked if we would be better off doing .5 all at once in 2013.

Cromwell said he understood that the increase was needed for operations in 2012.

Corliss said the library's revenues had been flat or down because they are entirely property tax dependent. The city gave them permission to spend down some reserves. If we don't increase their mill levy they will get less money total than the last two years.

Schumm asked how much .2 mills is.

Corliss said \$163,000.

Dever said we had been providing about \$80,000 per year to make up for the decreased valuation.

Corliss said that was a fair statement.

Casey Toomay said their expenditure total increased slightly in 2010 and 2011.

Schumm said we are projecting a cash balance of \$118,000 for the library at the end of the year.

Corliss said that was city's library fund. The dollar amounts of property tax revenues don't exactly hit the projections due to delinquencies, etc, and the balance allowed the library to

receive their budgeted revenue. He said one of the reasons to go ahead with the .2 now was so that the .5 was not such a big hurdle next year.

Dever said he assumed all other items in the recommended budget are the same other than the changes mentioned in the memo.

Corliss said yes. The first thing he wanted to address was the mill levy. Later the utility and sanitation rates would be considered. The rate ordinances would be ready for consideration on August 2.

Carter said other than these recommendations he thought there were some other items.

Corliss said no, but the memo did give some additional options that he was not recommending, including the link to the memo of previously identified potential cuts.

Mayor Cromwell called for public comment.

Carey Maynard-Moody, Depot Redux, thanked the Commission for past support of their project. She said she was concerned with the wording of the memo but was heartened by the Mayor's comments. She said they had tremendous momentum and public support, but what was really important was Amtrak support. BNSF was not going to save that station. She encouraged the commissioners to find ways to keep the doors open on the project. Amtrak made the city a terrific offer this week, and she worried that it would go to another community.

Rick Robinson said the thing that concerned him was that we were playing a shell game with our money. We were supposed to increase money for street maintenance through the sales tax, and it was just playing with our money to zero out the general fund money dedicated to street maintenance. He suggested that the Commission just post the budget at 1.5 mills. It takes courage to be leaders and not leave a cushion. The Commissioners should do what is best for the city and not the commissioners' reelections. Grants and revenues are all taxes no matter where the money came from. He asked whether the additional officers were replacements or additional officers.

Cromwell said we were talking about increasing the size of the force.

Robinson asked if you could quantify that the number of officers would reduce the crime rate.

Cromwell said that can be demonstrated.

Robinson asked if any of the officers worked for outside agencies such as the state or federal investigative agencies.

Cromwell said he appreciated the comments but that Mr. Robinson's time was up.

Cromwell said there were several items that could be discussed at this point.

Dever said he thought the reductions individually made sense, and on the whole he was impressed with our ability to cut the mill levy increase. He thought there was a lot of focus on areas where we could tighten our belt a little bit. He agreed with increasing court fees. He hoped in the long run we could have a flat levy with the exception of the voter approved increases. He said he was comfortable with the changes that were made and thought it was a great effort.

Amyx said the mill levy for the library expansion should happen since it was voted on. Tonight we were setting the maximum mill levy and the .2 mill increase could be worked on to reduce it before August 2. We can't thank the city employees who work for the community enough. We make an investment in our employees and they give tremendous support to the community and the city commission. It would be the City Manager's responsibility to meet the City Commission's goals. He said there probably other areas to find the .2 mills. He suggested that the 1.9 mill figure be published. We had to ask what the real effect of cuts would be. He said we shouldn't be looking at laying people off or cutting longevity. He would love to see the levy at 1.7 but we had to have a point to start at tonight.

Corliss said he wanted to make sure Commissioners remembered that even with these changes we were still deficit spending. We were still in a very tight situation because we were 2 million dollars in the hole at 100% expenditure levels.

Carter said his concern was that on the latter three changes proposed we knew the outcomes, but he was a little more concerned about the consequences of the rec fund mill levy

and the impact on maintenance and future projects. With the SRS office closing there was no question about the impact on the police department. This wouldn't be an increase, it would really just be maintaining. He said he wasn't in favor of establishing less than 2.13 tonight.

Schumm said he respected the city manager's recommendations. He said each and every year we can change things, so changes were never permanent. We could reverse changes at any time. There would be consequences and the city manager was offering caution. However, nothing precluded us from making changes.

Corliss said his responsibility to make sure the commission made a very conscious choice. He said nothing is permanent, but he knew that by adding officers to general fund we also needed to add resources to the general fund, otherwise when it came time to pay their bills in 2013 we would need new resources.

Schumm said one thing from the study session that he took interest in was the fact that we were looking at replacing two fire apparatus.

Corliss said what we presented today changed that.

Schumm said we were talking about the infrastructure sales tax fund.

Corliss said yes.

Schumm said based on the memo tonight we would go with the quint truck and the hazmat gets pushed out again.

Corliss said in the future years the money would need to come from other sources. He thought the hazmat could be pushed out a year. He said we were putting money into street maintenance at the same level. We would have to issue more debt for the fire apparatus. Additional sales tax revenues could help with fire apparatus purchases and reduce future debt.

Schumm said he wanted to make sure we don't short our first responder obligations, but on the other hand that we spread out expenditures where we can to lessen the burden on the tax payers.

Cromwell said it had been mentioned that this was a difficult job. Everybody on the City Commission was intimately concerned with providing city services but also keeping tax bills at a reasonable point. The amount of correspondence received this time of year was amazing. He said they had heard that they expect services to be at the level they are now and that their taxes don't go up. Right now we were looking at a .2 increase beyond the library. We have increased our police force by .5. Maybe we could get closer and try to eliminate that .2, but if we end up with a .2 increase we will have increased the money spent on public safety while keeping most everything else the same. We have talked about Parks and Rec taking a \$200,000 hit, which was a 2.2% hit on their budget. He thought we could maintain core parks and rec services and be okay. We were accomplishing a lot with only a .2 increase above the voter approved library levy. This also comes on the back of years of no mill levy increases. He said he was in favor of going with the 1.9 mill increase maximum and trying to get down even further.

Amyx said Carter brought up the recreation fund. He asked what the recreation department is going to look like with the \$200,000 cut.

Corliss said we didn't know but we wouldn't have the same ability to take on new projects. The department had lost 9 positions already and had taken on new projects such as the Carnegie and the Burroughs Creek Trail. He said he didn't know specifics about what would have to be cut, but we had a professional staff that would do a great job.

Schumm asked if the \$200,000 cut limited our ability to take on new projects or would it affect current programs. He said he was okay with not taking on new projects, but he was not okay with not taking care of what we have.

Corliss said we might have to defer some maintenance, but he didn't think there were any major maintenance issues that wouldn't be addressed. He said it would reduce our flexibility to expand park land and take advantage of land prices. He said he tried not to present options that are so odious that the commission couldn't consider them.

Dever said part of the additional expenditures this year were for compensation, merit pool rather than cost of living increase. He said he viewed the way we tried to compensate people was a year to year and not permanent increase. He asked for clarification.

Corliss said there were 3 or 4 compensation issues. There was a COLA which was not recommended for non-union employees. COLA and merit may be considered for unionized employees. Merit pool only was recommended for non-unionized. In his mind COLA and merit pool were both additions to the base pay of employees which would carry forward. They were not bonuses or one time payments. He said he looked at the increases as “permanent” in this sense.

Dever said the increase was permanent but the fact that salaries were increased wasn't a permanent thing from year to year. Increases were considered every year. The permanent change was the base pay.

Corliss said he agreed.

Carter asked regarding the rec fund mill levy, even with the \$200,000 decrease we would respond to routine maintenance.

Corliss said yes. We would respond to needs and prioritize. If anything was not safe that was a top priority.

Carter said with that said he was okay with 1.9.

Corliss said this was all put in the context that at 100% expenditures we would still be \$2,000,000 in the hole. He said he was trying to convey that they were still really looking for \$600,000 savings at the 98% expenditure level.

Amyx said when you looked at this budget and all the things we would still do as part of this budget, there would be a lot of work done by the city employees.

Schumm said he was fine with the proposal tonight. He asked what the total levy would be.

Corliss said 28.585.

Schumm asked if that was an increase of 1.8 over last year.

Corliss said 1.88.

Moved by Amyx, seconded by Dever, to authorize publication of the alternative 2012 Budget Summary and establish August 2, 2011 as the public hearing date. Motion carried unanimously.

E. PUBLIC COMMENT:

None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

Amyx said last week we discussed the closure of the SRS office. He said he thought it was appropriate that this body send correspondence to the Governor asking for reconsideration of the decision to close the office. He thought whatever we could do at this point was appropriate.

Cromwell said we should enumerate the negative impacts of the decision. When costs were just passed down by the state to the locals it was not a true savings. He said the letter could be coordinated with the County Commission.

Corliss asked if they wanted to see the letter or just authorize the mayor to send a letter.

Amyx said he thought the mayor could just be authorized. Time was of the essence.

Schumm said it was a great idea. He thought a complete reconsideration of the decision was ideal and not a watering down of the functions.

Cromwell said if coordination with the county was too difficult we could each send our own letter.

Moved by Amyx, seconded by Schumm, to authorize the mayor to sign a letter to the governor's office asking for reconsideration of the closure of the SRS Office. Motion carried unanimously.

Schumm said regarding the awkward text amendment from a few weeks ago regarding the Oread neighborhood, the idea was maybe to put it on a regular agenda and see if there was enough information on it. In the end it went down 2-3. He asked that it be put on a regular agenda for discussion. He wasn't sure of the procedure to reconsider.

Corliss said the rules of order would indicate that someone on the prevailing side would need to make that motion. One of the three commissioners who voted against the text amendment would have to make the motion. He said if consideration was desired staff would work with the proponents and opponents to make sure everyone could be at the city commission meeting.

Amyx asked if the additional information would help one of the three prevailing voters decide if they wanted to reconsider it.

McCullough said he could provide a report to the Commission and they could decide whether to reconsider the text amendment.

Corliss said it could be provided on a city manager's report and the prevailing side could decide whether to make a motion to reconsider. Then the item could be scheduled.

Schumm said he thought that was reasonable.

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 9:01 p.m. Motion carried unanimously.

APPROVED:

Aron E. Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk