



# City of Lawrence

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## CITY COMMISSION

**MAYOR**  
ARON E. CROMWELL

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

September 27, 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 Schumm, seconded by Amyx** to approve the consent agenda as below. Motion carried unanimously.

- 1 Received minutes from various boards and commissions:  
Parks & Recreation Advisory Board meeting of 09/13/11  
Public Health Board meeting of 07/18/11
2. Approved claims to 206 vendors in the amount of \$1,876,395.46 and payroll from 09/11/11 to 09/24/11 in the amount of \$1,822,194.20.
3. Approved licenses as recommended by the City Clerk's Office.

Drinking Establishment License for Oriental Bistro & Grill, 1511 West 23<sup>rd</sup> Street; the Class A Club License for American Legion, 3408 West 6<sup>th</sup> Street; and, the Retail Liquor Licenses for The Wine Cellar, 2100A West 25<sup>th</sup> Street; Mass Beverage, 3131A Neider Road; 23<sup>rd</sup> Street Liquor, 945 East 23<sup>rd</sup> Street; and Jensen Retail Liquor, 620 West 9<sup>th</sup> Street.

4. Approved appointments as recommended by the Mayor.

Board of Zoning Appeals/Sign Code Board of Appeals: Appointed Jonathan Holley (760.0963) and Anthony Perez (766.6633) to positions that will expire 09/30/14.

Human Relations Commission: Appointed Katherine Pryor (841.2044) and Katrina McClure (218.2986) to positions that will expire 09/30/14.



Retiree Attraction Task Force: Appointed the following individuals: Judy Wright, Kathy Clausing-Willis (505-6134), Rosemary Chapin (864.8491), and Susan Esau (330.1941).

Traffic Safety Commission: Appointed Cody Howard (785.424.3831) to a position that will expire 04/30/14.

5. Bid and purchase items:
  - a) Set a bid date of October 25, 2011 for Bid Number B1143, Project UT1003CS, 23<sup>rd</sup> Street Bridge Replacement Utilities Relocation.
  - b) Set a bid date of October 25, 2011 for Bid No. B1144, TV Inspection Van and Closed Circuit Television System (CCTV) Replacement for the Utilities Department.
  - c) Set bid date of October 25, 2011 for the 2011 CDBG Weatherization Program at various addresses throughout the City.
  - d) Awarded the bid for General Wastewater Pumping Station Improvements (Bid No. B1135; Priority Group II of Project UT0919CS) to the low bidder, Wildcat Construction in the amount of \$624,740 and authorize the City Manager to execute a Construction Phase Engineering Services Agreement with Professional Engineering Consultants in the amount of \$30,862 for Priority Group II of Project UT0919CS General Wastewater Pumping Station Improvements.
  - e) Approved the revised Change Order No. 2 for Project No. UT1004CS with Insituform USA in the amount of \$182,500 for CIPP Rehabilitation, for a new contract total amount of \$1,135,782.75.
6. Adopted on second and final reading, the following ordinance(s):
  - a) Ordinance No. 8670, for Comprehensive Plan Amendment, (CPA-10-8-10), to Chapter 14 – Southeast Area Plan, to reference and reflect the accepted Preliminary Alignment Study for 31<sup>st</sup> Street and to update the plan to reflect changes since adoption.
  - b) Ordinance No. 8671, establishing a Neighborhood Revitalization Area at 1000 Massachusetts Street
7. Approved the extension request for the Special Use Permit (SUP-5-7-09) for the addition of a drive-thru to Wakarusa Market Place Shopping Center, located at 1520 Wakarusa Drive. Submitted by Block and Company, Inc., property owners of record.
8. Authorized spending authority from the 2008 infrastructure sales tax in an amount not to exceed \$50,000 for Project No. PW1115, 2011 Overlay Program Phase 2 for the following locations: W. 14<sup>th</sup> Street from Tennessee to the alley west of Ohio, and northbound lanes of Iowa from Bob Billings Parkway/W. 15<sup>th</sup> Street to approximately 500 feet south towards Irving Hill Overpass.

9. Authorized the Mayor to sign KDOT Supplemental Agreement No. 1 to accept Highway Safety Funds for Project No. PW1012, Iowa Street Reconstruction, Harvard Road to Irving Hill Road.
10. Authorized the City Manager to execute a License Agreement permitting Hillcrest Neighborhood Association to install a sign and landscaping in the right-of-way at 9<sup>th</sup> Street and Highland Drive, which would be maintained by the neighborhood association.
11. Authorized staff to submit a KaBoom playground equipment grant application to replace playground equipment in John Taylor Park, 200 N. 7<sup>th</sup> Street. The estimated city match for the grant would be \$15,000.
12. Authorized the City Manager to execute a Memorandum of Understanding with Douglas County Senior Services for implementation of the Safe Winters Walkway program.
13. Approved a request from Lawrence Memorial Hospital Endowment Association to tie pink ribbons around lamp posts on Massachusetts Street (between 6<sup>th</sup> and 11<sup>th</sup> Streets) and Clinton Parkway (between Iowa and Kasold Streets) from October 2 – 31 to raise awareness of National Breast Cancer Awareness Month.

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

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

**D. REGULAR AGENDA ITEMS:**

1. **Conduct public hearing to consider the vacation of an access easement at 1829 Riverridge Road, located in the south end of Lot 1, Block 1 of the Final Plat of Riverridge Addition No. 3 between 1706 and 1804 Golden Rain Drive, as requested by David D. Davison, 1829 Riverridge Road.**

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

Mayor Cromwell opened the public hearing.

No public comment was received.

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

**Moved by Amyx, seconded by Carter,** to approve the Order of Vacation of an access easement at 1829 Riverridge Road, located in the south end of Lot 1, Block 1 of the Final Plat of Riverridge Addition No. 3 between 1706 and 1804 Golden Rain Drive. Motion carried unanimously.

2. **Consider adopting on first reading, Ordinance No. 8672, prohibiting discrimination on the basis of gender identity in housing, public accommodations, and employment within the City limits of Lawrence, Kansas.**

Toni Wheeler, Director of the Legal Department, presented the staff report.

Mayor Cromwell called for public comment.

Mark Griffith, Owner of Griffith Companies, asked the commission to consider relatability. Employees had to be relatable to customers and clients. For example, the employees at Vangent had to be relatable only on the phone, not in person. It makes no difference how the employee is dressed. On the other hand there are companies like his that required building relationships of trust with clients because they handle their money. Sales agents need to appear relatable to clients. An ordinance that requires businesses to hire regardless of relatability impaired how businesses conducted their business. He encouraged the commission not to limit the rights of businesses by requiring them to associate with people they don't choose to.

Greg Ward said he always wanted to talk about relatability. He ran a sales and service business that relied on going into businesses and relating to customers. It would infringe on his business if he does not have the ability to choose the people he thought would represent his customers well. If a male employee showed up in a dress and lipstick he would not want to send him to represent the business. Also, what would happen if he determined that for performance reasons he needed to fire an employee who happened to be transgendered. He would then potentially have to defend himself against a baseless lawsuit.

Greg Cromer said he was concerned that this debate was approached inappropriately by bringing the ordinance basically signed, sealed and delivered. He said the Human Relations Commission process was neutered because they had previously voted against adding gender identity. He said there had not been any cases of discrimination based on gender identity in Lawrence. He said the problem with the issue was that it was based on perceptions. It went

against logic. You were creating a special class of people based on psychological problems. He said this was confusing and difficult to enforce. He encouraged commissioners not to vote for this.

Donna Lippoldt said she noticed there was a religious exemption as long as it was not public, but she asked what church was not public? She didn't think that exemption was valid. She said she had gay friends who were very protective of children and she considered that this ordinance would put children at risk, but not by the GLBT community. She said there are predators in our culture and the city would be open to litigation if predators took advantage of the law to lurk in places they shouldn't be.

Mayor Cromwell asked Wheeler to explain the religious exemption.

Wheeler said it appeared in two sections of the law, public accommodations and housing. She said it allowed religious institutions to limit their goods and services to people within their religion in regard to housing and accommodations.

Cromwell asked if employment was a service.

Wheeler said yes. If they wanted to limit the people they allowed into events they would be allowed to do that.

Schumm asked if that also pertained to other organizations, and what are they.

Wheeler said the exemption extends to non-profit fraternal organizations such as sorities, Kiwanis Club, fraternities and other similar organizations.

Reverend William Dulin said he didn't like to see ordinances passed that favored certain communities of people that are already protected by the Constitution. He said this ordinance put the community on the road to moral decay.

Jason Barnhill, said he was speaking as an individual and not as a Human Relations Commissioner. In 2009 the vote was 6-3 against, and another vote was also against. His answer to the question of why the amendment was not passed was because there was not enough evidence to support it. He said there are many enforcement agencies that could take

complaints. 8 months after the vote he found that no complaints had been filed with the Human Relations Commission or law enforcement. To his knowledge, as a mediator, he was not aware of any case of discrimination based on gender identity. The commission, and his vote, said there was a lack of data to support passing this as an amendment. He felt the HRC had been circumvented.

Sean Westin shared a statement of his congregation, Plymouth Congregational Church, in support of the GLBT community. He said not all Christians and churches rejected the transgendered community. He said they recognized that the separation of church and state was important, and he didn't believe the ordinance should be adopted based on their belief in God, but that they recognize there are different interpretations of Christianity.

John Mathews said Wheeler had mentioned consistent identification with a gender, but he did not see that reflected in the ordinance. He said the ordinance was clear that a man dressed as a woman could enter a women's locker room or restroom and be protected from prosecution. He said the ordinance impacted small businesses greatly and could lead to them being sued. In Lewiston, Maine, Denny's had been taken to court and had to open their restrooms to whomever wants to use it. He said this was a bad law.

Liam Lair said he moved here because Lawrence was progressive and liberal. When he came here he found he was not protected based on his gender identity. He said there had been talk about relatability and transgendered people were very relatable. The law said equally qualified people had to be considered equally, not regardless of qualifications.

Kathy Dawn Daly said she believed that discrimination based on transgendered status was the same as discrimination based on race or sex. She said the issue of confusion about whether someone was male or female was irrelevant because discrimination based on sex was illegal. She said she did not think that religious people should be forced to accept other people's beliefs or non-beliefs. She said transgendered people were not perpetrators of sex crimes. Those were crimes and all kinds of people had created those crimes, and talk of that was fear

mongering. She said fear of being sued over discrimination was overblown because there were not many cases of discrimination based on gender identity.

Katherine Pryor said protection of transgendered people was key to economic development. We had an opportunity to make a choice to grow our economy by being accepting and attractive to the “creative class” described by Richard Florida. These innovative individuals have the resources to open companies that are the type we want in our community. They recognize the gay index as an indicator of a community that they want to be a part of. She said it was time to embrace our identity and values as a liberal and open community.

Jay Hurtig said he had a few questions. He asked who decided if a person’s gender identity was consistent. That seemed like an ambiguous part of the law. He did not want to be misunderstood, he did not believe the people that would be protected by this law were predators, but the people who were predators would use this law as a loophole. Who would be able to challenge their claims? It was unenforceable. There is no way to defend yourself against such a claim of discrimination. He said it was unclear whether a business would have to provide separate restrooms.

Wheeler said businesses would have to provide a valid business motive, and could thus designate which bathroom its employees used. There are not Kansas cases on this point. Courts in other jurisdictions said employers still had the ability to make those designations regardless of laws protecting transgendered people.

John More said he was against the proposed ordinance. Current federal law does say you cannot have sexually stereotyping. This has been fought many times and in each case it is a federal law and we don’t need an ordinance here in Lawrence for protection. The definitions were vague and unclear.

Lori Wagner said transgendered people were already using the bathroom and it was not a problem. How can someone say there are OK with GLBT community and not transgendered people? She wondered why religion was a protected class but not gender identity. She said as a

lesbian she was proud to live in Lawrence because she was protected here. We should offer that same right to transgendered people.

Lisa Day said she felt it was wrong to offer protections to transgendered people. She said the ordinance if enacted would force religious businesses to hire people against their beliefs. She asked for moral and economic reasons to reject the ordinance.

Jeremy Adkison said sexuality and transgendered status was not a choice. It is something people are prewired to be. This law exists all over the country. There had not been cases of predators using these laws as loopholes. Mistreating people is an affront to God and to man. This would make a better community. People keep talking about the lack of discrimination, but if it happens there is no way to report it because it is not currently illegal.

Donna Swall said PFLAG was a strong supporter of protections for transgendered people.

Forrest Swall said the position taken by the Lawrence Unitarian Fellowship was in support of the ordinance. They called on the Commission to protect gender identity in the city's ordinance. The Unitarian Fellowship of Lawrence was one of the welcoming and affirming congregations in Lawrence. Prevailing societal prejudices had excluded GLBT even in the church and recognition of that led to the adoption of the welcoming congregation statement. Fear of discrimination was dehumanizing and was well founded. Affirmative action of the commission would go a long way to mitigate that fear. He said we should rise above this fear.

Stephanie Mott said she was born in Lawrence and had had worked and lived in Lawrence for about 35 years total. She said she was the foremost expert in transgendered issues in the state of Kansas. She said the same book that said gender identity was a mental disorder also said fear of large stuffed animals by children was a mental disorder. There are statistics about transgendered people: 41% of them had attempted suicide, 19% had been denied basic medical care, 20% were homeless at at least one time. This is not because there



was something wrong with them but because they found it too difficult to live with the discrimination they faced.

Lisa McFarland said she was against the ordinance. As a minister she believed the Creator wanted us to love everyone. She said if there were cases of mistreatment of transgendered people she would be glad to defend them against mistreatment, but just because they are mistreated does not mean what they are doing is right. The ordinance would lead to moral decay. She said she loved people but we could not publically legitimize their behavior.

Rebecca Mills said she was transgendered. She grew up with a Baptist grandmother who was very God damning against blacks, gays, freaks, etc. She said there had to be protection and notoriety. The beatings and rapes and stuff that is not on record was embarrassing.

Leo Barbee said he was not homophobic. He had a brother who was homosexual who died 17 or so years ago. He loved his brother but disagreed with their behavior. It seemed to him that all of the things presented as reasons to adopt the ordinance, it seemed like it was almost a done deal. This was the third time to take up this issue. The GLBT community refused to accept the votes. Somewhere we ought to say enough is enough. Somebody has to be courageous enough to say we are not going to pass this law. They are already protected. He would stand up to protect anyone who was mistreated.

Michael Murray said it was important that we treated everyone fairly. When we made laws to regulate all human relations we lost some of our humanity. It has been said that the transgendered community are not sexual predators. He did not think anyone was saying that, but that someone who was a sexual predator could use the ordinance to their advantage. If there is any class of people who should be favored higher than others it had to be children. We should have a bias toward protecting young children. He said the law was unclear at the time and could only be clarified through litigation. He said litigation was expensive for governments and businesses and would incur certain costs. Those costs turn into more unemployment.

Jeannie Barry said people against this were not using fear, they had legitimate economic and legal concerns that should be brought out at this time. She didn't think anyone believed transgendered people were sexual predators, but the law could be used by predators. Churches were open to the public, and she asked if the ordinance applied to guests of the churches who were not members.

Wheeler said the question of guests was not expressly addressed by the ordinance. The exemption is intended to allow the church to control the activities within the church.

Barry said as a female she did not want to have to come to the City Commission and ask that only females with female anatomy should be allowed in women's restrooms.

Melinda Gaddy said she had never encountered any kind of anatomy in restrooms; that is why there are stalls. She had never encountered any case studies of predators using access to women's restrooms. Research showed that individuals who were members of unprotected communities suffered many things such as increased rates of anxiety, depression, substance abuse and suicide. She said the prevalence of suicide is higher in areas where the status is not protected.

Danya Goodman said she wanted to talk about gender identity disorder. It was only defined as a disorder if it created problems for the individual. It only becomes a disorder when it becomes distressing, which happens when people suffer discrimination. Being transgendered in the absence of gender identity disorder is not a pathology. People who are transgendered were already using restrooms without any issues.

Rachel Gadd-Nelson said she supported adding gender identity to the protections. She said everyone had a gender identity and she said she hoped the commission would do the right thing and adopt the ordinance.

Avery Dane read from a letter from a mother of a transgendered child. The author said she loved her son and the people who suffered the most were the transgendered people who were separated from their families who were not accepting of their transgendered child. She

said loving “the least of these my brethren” was a Christlike attribute. A statute like this is in accordance with my faith. As long as a person is living their life as they like, the government has no reason to allow discrimination against them.

Joseph Jarvis said he had experience discrimination based on his sexuality after posting on Craigslist that he and his partner were leasing an apartment and receiving hateful comments. He said he knew two people who were not able to be trans at work but only outside of work. Another told him of harassment and assault in a restroom. Discrimination does exist. When good people are willing to discriminate that is a sign that the minority needs protection. Statewide laws existed in Iowa and Colorado. If rural farms could operate under this law then cosmopolitan Lawrence certainly could. Predators were not waiting on this ordinance. Other laws applied to predatory behavior.

Rose Armstrong said this was not a political issue it was a moral issue. In God I trust. In the beginning God created man and woman. Vote this down. This is not a political decision it was a moral decision.

The City Commission recessed for a 10 minute break at 8:20 p.m. The Commission resumed the meeting at 8:30 p.m.

Amy Hammer said at one time or another all of the protected classes in the ordinance were considered unrelatable. She said she had done therapy with sexually abused people, discriminated against people, and people with ordinary human problems. Both clients and personal acquaintances who were transgendered had experienced discrimination and didn't report it because there was not legal protection. She said children were not often abused in public restrooms. Children were in more danger in their own homes and in their churches.

Gloria Gardner said she had been sent into Lawrence to intercede. She said Jesus said he came to bring life and bring it more abundantly. She said she was for what God had sanctioned and ordained from the beginning. She said God was good unto all. He is one who should be feared and she believed that we could eliminate a lot of problems if we didn't pass

laws that put our young people in trouble. The prayer of the righteous availeth much. If you don't pass any law, God's law will still be in force and will come to pass.

Mary Miller said she had been weighing in her mind the pros and cons of the ordinance. It would embrace values such as inclusion and would embrace transgender people. Employers had a responsibility to hire the most qualified person. The result of not adopting the ordinance would be to formally recognize a class of people as inferior. She had noticed that if a male has transitioned to a female and force them to use the male restroom they were often the victims of violence. She said her transgendered child had been well treated by law enforcement. She said the arguments in favor of discrimination against transgendered people were the same arguments used in favor of discrimination on the basis of race and sexuality.

Janet Lowther said early in the discussion tonight it was said that there had been no complaints by transgendered people. This is because they are a smart lot. They are not going to waste their effort reporting discrimination for which there is no recourse.

Joel Colvert spoke on behalf of Maureen Murray who had to leave to care for her children. If the law is justified, where is the data? There is none, yet here we are discussing this law. After multiple attempts to pass it and multiple negative votes, this meeting was disrespectful to those people who had spent time and effort on this. Mr. Colvert said that he had come to Kansas on a football scholarship at St Mary's and now studied physics at KU. As physicists they did not have the luxury of going against nature. Thoughts do not define truth but they do impose their will on other people. It was terribly wrong to do this.

Hilda Enoch said she was really dismayed that twice the Human Relations Commission, which she thought was set up to protect minorities, voted down this ordinance of gender identity. This is a group that has come before you telling you of their suffering discrimination. The moral issue before us was to see that nobody is excluded from the basic rights that people have for a home, a job, being secure out in public. She urged the Commission to pass the ordinance.

Karen Ward said that she was against the ordinance. The Legal Director had not been able to discuss many of the issues that were raised. The answers needed to come and be discussed. The ordinance was bad for Lawrence.

John McFarland said as a pastor he was ordained to represent Jesus Christ even in a place like this, and as a citizen of Lawrence. He said he prayed for public officials. God is the one that sets up commissioners and brings them down at his pleasure. He praised God to live in the United States, where rights to free speech were endowed by our Creator. In the past decade secular sociologists from China and India had concluded that the source of our successful civilization was our Judeo Christian values. The irony of course is that the West has been sprinting away from our heritage. To enjoy the right to speak, but to ignore the one that is the source of those rights, is to invite his disfavor. God assigns our gender, we cannot, and you cannot.

Charla True said if this were a huge issue there is an office in the city we can go to lodge the complaint. She said this was a religious issue, not a civic issue. She read Romans 1:26. She said as Christians we believe the word of God is inerrant. We are probably not doing a good enough job declaring the good news of the gospel. She said she had been discriminated against due to her being a Christian. She never made a complaint about that. We are not born with leanings toward fornication. We choose to disobey God's laws. There is already on the books simply equal which already addresses this. She said she meant no disrespect but the transgendered community felt they were fair to everyone but it was not fair to expect that appearance does not affect hiring decisions. She displayed an image of President Obama dressed as a woman and asked if people would vote for him like that.

Scott Criqui said he worked tirelessly for the community and was a Human Relations Commissioner. He had voted to recommend adding gender identity to the ordinance. After the vote failed he worked to get to know transgendered people and their struggles and successes. He would still vote to include gender identity today because the people he knew did not deserve

to lose their jobs and businesses and homes due to their gender identity. It was the fair and just thing to do and it would allow everyone the opportunity to thrive.

Dan Coke said he was a minister and worked on the campus at KU. He said he wanted to comment on the statements about transgendered people using the restroom already. If that was true why are we having this conversation? He said it was true that transgendered people were wired, but they were physically wired to be the gender they were born with. He said the idea that this would be related to the civil rights movement was laughable. Martin Luther King Jr. fought against making distinctions between people. The things that are irrefutable and unchangeable are the things that we should base laws on. Things that can be changed or chosen should be left to the individual otherwise they take away the freedoms of the whole.

Rich Lorenzo said many people were wasting individual resources to be here discussing this issue for the third time. Federal law throughout the nation prohibit discrimination based on sex, whether a person was male, female or in transition. The ordinance protecting gender identity relies on an objectively unverifiable characteristic. The federal laws take care of this already.

Joshua Charles said in a court of law what stands is fact and evidence. Our founding fathers and courts had determined that characteristics like religion, race and sex are objectively verifiable. Gender identity is subjective and should not be put into the law. Hearsay does not stand in the court of law. Those of us who have claimed the name of Christ have not always done the best at representing him, but he said God does not accept only what you accept of yourself, but as what I intend for you.

Eric Sader said that the reason for this ordinance was discrimination. You do not have to decide whether gender identity is moral or immoral but only whether discrimination is okay or not. What we are talking about is whether it is okay for us as a community to say it is okay to make someone jobless, homeless and shun them from the public sphere.

Rachel Leland said she thought this was a very important issue affecting our families and community. She was opposed to the ordinance and said it was subjective.

Kristin Strom spoke against the ordinance.

A man asked the categories which were protected in the ordinance.

Wheeler read the protected classes from the ordinance.

The man said those things were objective and this ordinance addresses a behavior and employers should be allowed to make decisions based on behavior.

Natalie Stroup said that greater than 50% of people who are transgendered will die at their own hand or someone else's. That is powerful evidence of discrimination. We need to create an environment where children can be who they are.

Cromwell said he appreciated the public comment we had received.

Carter asked about the bathroom issue. There is not verbiage about consistency in the currently written ordinance.

Wheeler said that was correct but the definition said the gender identity was a factor and identity was not frequently changed.

Carter said perhaps we should add that language in to clarify.

Wheeler said that could be added if the Commission would like to. The City of Manhattan had altered their original ordinance along those lines.

Schumm said with regards to other states with similar laws on the books, did Wheeler have an opportunity to review their issues regarding how to identify if someone is transgendered? The question is how do we know that we have a transgendered person and how does an employer, school principal, or minister know what? Has that issue been worked through to the satisfaction of the courts in other jurisdictions?

Wheeler said she thought other communities had struggled to come up with a definition that made the gender identity clear in every case, because people expressed their gender identity in different ways. The language in the ordinance now is close to what other jurisdictions

have adopted. There is a desire to make the definition very precise but it is difficult to do that in a concise way due to the nature of the issue.

Amyx asked if the ordinance is challenged based on this change, would it be just the gender identity portion or the whole thing?

Wheeler said it could happen in different ways. A lawsuit could challenge the ability to pass the law, or the law itself.

Amyx asked if a challenge was successful what would happen to the rest of the ordinance.

Wheeler said there was a severability clause saying that if any section of the ordinance were found invalid the rest of the ordinance was not necessarily invalidated. A number of other communities use a local law like we have.

Schumm said with regards to Kansas City, Missouri, who has had their law on the books for a couple of years, do we know what the experience rate they have in terms of handling cases, and has the law been challenged?

Wheeler said she knows only what was contained in the correspondence received regarding that ordinance. She said the case load as a result of that law had not been unmanageable. She said she was not aware of challenges to that law and it being upheld in court.

Carter said one of the last speakers said it well, that we are here talking about discrimination. Oftentimes we get so much feedback that it is hard to remain focused on the real issue. The moral question was irrelevant to the question tonight, this was only about discrimination. He said one of the issues raised, that of predators using the law as a loophole, he didn't see that as a major concern but he thought verbiage regarding consistent expression of gender identity could be added. He said during the campaign he didn't think he would support this ordinance because he thought it was already covered. It could be argued that there is not enough evidence or data, but since gender identity was not covered currently that may be a



meaningless question. This was not granting special rights it was ensuring safety in our community. When deciding where to live many people would look at this type of ordinance, and he believed in the economic and culture impacts of having an inclusive community. People were looking at that. This spoke volumes about the attitudes of people living in the community to people who were considering coming to the community. He said he received the letter from the Kansas City councilwoman and noted that there had been a slight increase in complaints and no real increase in costs or resources. Language to clear up the restroom issue could be included but he was not obsessed with that. The comments on this being the wrong time economically to do this were irrelevant, this is about discrimination. The Human Relations Commission was a recommending body, not a deciding body. He said he shared the concerns for children that people had expressed. He said he could not imagine a teenager going through those years dealing with transgender issues. He said he guesses a high percentage of the suicides were likely teenagers. He said a protective code may not be necessary but for the harsh and unkind actions of others. He said he strongly supported adding gender identity to the city code.

Amyx thanked everyone who made comments to him. He said he worked in a little business downtown that he sometimes called the town square. People offered him comments and information on a variety of topics. He said tonight there were 48 speakers and it was close to an even split in favor and against the ordinance, and he appreciated all the comments. He said we ask people to serve on recommending bodies and we ask them to do a lot. During his time on the Planning Commission Hugh and his colleagues had been asked to do a lot. A majority of the time the City Commission agreed with the Planning Commission. Similar to the Human Relations Commission we asked them to make recommendations. It was the determination twice from the Human Relations Commission that there was not sufficient evidence at the time to support addition of gender identity to the ordinance. He said after all the information he received, we were asked to make a decision and we used all the information to

make the best decision we can. He said he always takes public opinion into account, and looks at the recommendation of staff, and the recommendation of the appointed advisory boards. He said he did not believe it was the time to add gender identity to the ordinance.

Schumm said it had been a sincere and serious endeavor. He thanked Toni Wheeler for working with difficult subject matter with not much legislative history to fall back on. He said he had been asked several times this week what he was going to do, and he always said that he could not allow discrimination. This is a question of discrimination and he could not condone any kind of discrimination. He was not afraid of some of the issues that had been raised tonight like restroom accommodations and employee relatability. One of the speakers said it well that this was the first step in general acceptance of transgendered people. Twenty years ago the inclusion of gays and lesbians in the human relations ordinance had been discussed. It was voted down 3-2 and he felt uncomfortable about it more and more each day. When it came back he voted in favor of it. In the last 20 years the community had grown. This was a parallel event tonight, helping us understand and facilitate transgendered people. He said he was going to support this ordinance.

Dever thanked everyone for coming and this had been an interesting and educational meeting regarding an important issue. He said he welcomed subsequent comments on the issue if people wanted to contact him. He said that the fact that the Human Relations Commission recommended against this weighed heavily on him because they had worked hard on the issue. He said the complexion of the commissions change over time, but the ball is in our court and the buck stops here at the City Commission. He said he was not qualified to debate the issues of choice and behavior. He thought the existing law, as a businessman and employer, that he had the right to hire and fire for legitimate business reason. We are already protected by state law in that regard. He said the bathroom issue was a question, and he had children, and it was an issue people used to justify their position on the gender identity issue. The argument had been used as a lynch pin over years, but historically the concerns had not

played out over time. He realized that this was a social, ethical and religious issue for some people. He said 15 states had laws like this on the books, and over 100 local jurisdictions, and even the American Bar Association. The lack of reports of discrimination did not equal a lack of issues because transgendered people currently didn't have a leg to stand on. He said he looked at the evolution of human rights in our city and society, and he saw that people chose other things that were protected, like religion. Whether gender identity was a choice or not, it should be considered for protection as well. If it is about protecting the children, how did we know if one of our children wouldn't have a gender identity issue in the future and we needed to protect them. He said he was in favor of adding gender identity to the ordinance.

Cromwell said the reality of this was that to most people this is a moral issue, either that discrimination is immoral or that the behavior is immoral. The law is on the book to protect bad behavior in bathrooms and people could sneak into bathrooms and do bad things as it is. There are ways to deal with that. It wasn't that long ago that the same arguments were made regarding homosexuals and bathrooms. When he was in high school there were no openly gay kids. They were there, but they were in an environment where it was not safe for them to be themselves. This issue enabled him to have one on one conversations with people he had not had an opportunity to talk to before. When people told their stories about the persecutions and suicidal thoughts and things they dealt with growing up, it was clear that they were discriminated against. This was about discrimination, not morality. He appreciates that he had an easier path than some of these people growing up and he thought they needed protection. The Human Relations Commission was appointed by the mayor and they make recommendations, and it is up to this body to decide whether they agree or disagree with their recommendations. He appreciated all of the work put forth on this by the Legal Department and the hundreds of respectful comments he had received. He appreciated everyone's point of view but adding gender identity was the right move for the city.

Wheeler said that language regarding the “persistent sense” of gender identity could be added, or staff could look at other options.

**Moved by Schumm, seconded by Carter,** to adopt on first reading, Ordinance No. 8672, prohibiting discrimination on the basis of gender identity in housing, public accommodations, and employment within the City limits of Lawrence, Kansas, amended to include language regarding “persistent sense” of gender identity. Motion carried 4-1 with Commissioner Amyx in dissent.

Corliss asked if the second reading of the ordinance should be on the consent agenda next week.

Cromwell said yes.

**3. Receive performance audit report from the City Auditor on Financial Indicators.**

Michael Eglinski, City Auditor, presented the staff report.

Schumm asked if there is currently a financial recap document that is prepared on a monthly or quarterly basis that gives us an idea of our current financial performance.

Corliss said staff gets together monthly to review those numbers and the Commission receives periodic updates. The data is mixed regarding the different revenue sources.

Dever asked Eglinski to help him understand the parking fund issue, and why we are bouncing around so much. How do we change so much from year to year?

Eglinski said he didn’t look in depth at that, but that the expenses include capital costs and depreciation.

Dever asked if we are depreciating surface lots in addition to the garage.

Corliss said we would look at that. We have not traditionally spent from the parking fund for capital costs, we spent from property taxes.

Dever said 5 of the 7 comparison cities were cash positive in parking funds. Maybe they have much higher fines or different structures, but it jumped out at him.

Corliss said we would take a look at it. We do not have a parking department but we have various departments doing things related to parking including Police, Municipal Court, Public Works and Parks. We would get the commission more information on that.

Carter asked if the comparison cities included capital expenses.

Eglinski said yes.

Corliss said we would follow through on the recommendations on multi-year forecasting and capital improvement planning. We already did a capital improvement plan for the infrastructure sales tax.

**Moved by Schumm, seconded by Dever** to receive the audit report and direct staff to work on the recommendations. Motion carried unanimously.

4. **Consider approving policies regarding transfers from the City's enterprise funds to the general operating fund, establishment and review of user fees, and the general fund balance.**

David Corliss, City Manager, presented the staff report.

Casey Toomay, Budget Manager, presented the transfer policy.

Schumm asked for an explanation of the levels of increase in the amount of the transfers.

Corliss said we had looked at roughly what we were looking at in the projected revenue increases in those funds.

Carter asked if we had gone to the 7% number before.

Corliss said the franchise on private utilities was capped at 5% by state and/or federal law. The use of streets by the water utility was much more significant due to the historical location of waterlines under streets, much more than the other franchises.

Carter asked what other communities did.

Corliss said we had to drill in a little to see what is included. For example, streets and curbs are a significant part of stormwater infrastructure and since the initiation of the stormwater

utility we have had a transfer to the general fund to pay for some street maintenance. Another option would be to spend directly out of stormwater for street maintenance rather than transferring the funds to the general fund.

Dever said he wanted to talk about the general overhead allocation. Also he thought it was important to touch on the interlacing of the water, sewer and solid waste activities and how they relate to the infrastructure. The curbs and gutters were an integral part of the stormwater system, the streets were part of the solid waste system, etc. It should be clear to show that these things are interrelated and there is a symbiotic relationship. He thought the policy was not quite on point for the average person but he understood those relationships and thought it could be clearer for the average person.

Corliss said other communities had fees for solid waste. Wichita for example charges a per truck cost to the private solid waste haulers in recognition that the street wear and tear was a real cost of doing business.

Mayor Cromwell called for public comment.

Bobbie Flory, Lawrence Homebuilders Association, said she could offer some informal comments. She thanked the city for developing the policy. She said the city should be reimbursed for the administrative costs and other services, but she disagreed with the concept of the city taxing itself. She also disagreed with the concept that the city utility benefitted from public safety, parks and recreation, etc. when those departments also had offsetting benefits from having the public utility. She said she would like to see excess revenue used for capital improvements or rate reductions.

Cromwell said we had some good food for thought and we were on the path to some good policies.

Carter asked about the revenues over expenditures in the utility funds.

Corliss said they stayed in the enterprise funds, in their fund balances. He said there were examples where projects done for economic development purposes benefitted the utility

because the projects were done with property tax dollars and not rate payer dollars, so there is a relationship there. Maybe the best thing to do is to take comments from the Commission and bring this back for future consideration.

Cromwell said we would see it again.

Ed Mullins then presented the general fund balance policy.

Carter asked if some of the fund balance was non-cash inventory.

Mullins said some cities did, but not us.

Corliss said we do want to get this policy adopted tonight if possible to be compliant with GASB.

**Moved by Dever, seconded by Schumm,** to approve the policy regarding general fund balance. Motion carried unanimously.

Cynthia Wagner, Assistant City Manager, presented the user fee policy.

Amyx asked if the user fees would be reviewed every five years.

Wagner said yes.

Amyx asked if that would be done by staff or the City Commission.

Wagner said staff.

Cromwell said we could take a look at the user fee with the transfer policy.

Mayor Cromwell called for public comment.

Bobbie Flory spoke in support of having a policy.

**Moved by Schumm, seconded by Amyx,** to receive the draft user fee policy and direct staff to bring it back for future city commission consideration, incorporating City Commissioner comments. Motion carried unanimously.

**E. PUBLIC COMMENT:**

None.

**F. FUTURE AGENDA ITEMS:**

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

**G: COMMISSION ITEMS:**

Cromwell said the industrial zoning categories we have now have some issues. IG allows you to have noxious uses, which are usually the issues we see conflicts over. IL, which is pretty much the only other option, has retail and has some stigma that it is not really industrial. It may be preferable to have some kind of super heavy industrial and an industrial that would have most of the uses we typically think of as industrial.

McCullough said the process would be to bring an initiation of a text amendment. That could be ready as early as next week to initiate and then it would get the process rolling with stakeholders and the Planning Commission.

Cromwell said we wanted to have enough time for notice to everyone.

Corliss said it may be appropriate to have it as a regular agenda item to talk about the general issues before it is sent to the Planning Commission.

McCullough said we could plan for the week after next if that is preferable.

Cromwell said that was his preference.

Amyx asked whether applications in the pipeline now would be considered under a new zoning category.

Cromwell said he didn't have any particular property in mind, it was just an issue in general.

Schumm said we may want to use a new zoning category at Farmland.

Carter said from a Planning Commission standpoint it could reduce the amount of conditional zoning and also reduce some of the animosity from the neighbors.

Cromwell said there were some objectionable uses in IG that could be taken out.

Amyx said an individual talked to him regarding South Kasold. There are posts coming up at some of the intersections preventing left turns. He asked how long that would go on.

Soules said it would be a while, but it was supposed to be done before Thanksgiving.

Amyx asked if it was still necessary to prevent left turns.



Soules said the issue is that it is one lane and someone waiting for a left turn could cause traffic to back up considerably. He said we hadn't had too many accidents and no injuries because the traffic control was working well.

Corliss said there would still be some finishing work like seeding, but the road should be open for traffic by Thanksgiving.

**H: CALENDAR:**

David Corliss, City Manager, reviewed calendar items.

The Commission discussed canceling the November 29th City Commission meeting and having an abbreviated meeting at 5:00 p.m. on Tuesday November 22nd.

**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 Schumm,** to adjourn at 11:02 p.m. Motion carried unanimously.

**APPROVED:**

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Aron E. Cromwell, Mayor

**ATTEST:**

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Jonathan M. Douglass, City Clerk