



City of Lawrence

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CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

October 4, 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. Recognition of the Hiratsuka 20th Anniversary Delegation.
2. Proclaimed the week of October 9 – 15, 2011 as United Way Week.
3. Proclaimed the month of October as Meet the Blind Month and October 15, 2011 as White Cane Safety Day.
4. Proclaimed the month of October to be Community Planning Month.

B. CONSENT AGENDA

Vice Mayor Schumm asked that consent agenda item number 4, licenses, be pulled from the consent agenda for a separate vote.

Commissioner Amyx asked that consent agenda item number 7, Ordinance No. 8672, prohibiting discrimination on the basis of gender identity, be pulled from the consent agenda for a separate vote.

Commissioner Carter asked that consent agenda item number 9, golf course fees, be pulled from the consent agenda for separate discussion.



It was moved by Schumm, seconded by Amyx, to approve the consent agenda as below, with the exception of items number 4, 7, and 9. Motion carried unanimously.

1. Approved City Commission meeting minutes from 09/13/11.
2. Received minutes from various boards and commissions:
 - Sales Tax Audit Committee meeting of 03/15/11
 - Planning Commission meetings of 08/22-24/11
 - Sustainability Advisory Board meeting of 08/10/11
 - Historic Resources Commission meeting of 07/21/11
 - Mental Health Board meeting of 08/30/11
 - Hospital Board meeting of 08/17/11
3. Approved claims to 170 vendors in the amount of \$8,131,790.51
4. THIS ITEM WAS PULLED FROM CONSENT FOR SEPARATE DISCUSSION.
Approved licenses as recommended by the City Clerk's Office.
Drinking Establishment Licenses for 715, 715 Massachusetts, Tortas Jalisco, 534 Frontier Road and R Bar & Patio, 610 Florida Street. New License (formerly Jet Lag Lounge) for Conroy's Pub, 3115 W 6th Street: Ste: D. Caterer License for New School Catering, 2223 Haskell Avenue. Retail Liquor License for Haskell Liquor Store, 1910 Haskell Ave. No. D1. Class B Club License for Brandon Woods Club, 1501 Inverness.
5. Approved appointments as recommended by the Mayor.
Retiree Attraction Task Force: Appointed Doug Gaumer.
6. Bid and purchase items:
 - a) Set a bid date of November 01, 2011 for Bid No. B1148; Purchase of Submersible Wastewater Pumps required for Priority Group I pump stations included in Project UT0919CS General Wastewater Pumping Station Improvements.

- b) Authorized the purchase of new cardio equipment for the Community Building and Holcom Park Recreation Center using vendors from the 2011 State of Kansas joint purchasing agreement.
- 7. THIS ITEM WAS PULLED FROM CONSENT FOR SEPARATE DISCUSSION. Adopted on second and final 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.
- 8. Approved Site Plan, SP-8-52-11, for a sidewalk hospitality area for Fuzzy's Tacos Restaurant to be located at 1115 Massachusetts Street. Submitted by John W. Records for Qandil Properties, LC, property owner of record. Approved sidewalk dining and hospitality license for Fuzzy's Taco Restaurant, 1115 Massachusetts Street.
- 9. THIS ITEM WAS PULLED FROM CONSENT FOR SEPARATE DISCUSSION. Approved changes to fees charged at Eagle Bend Golf Course, effective January 1, 2012.
- 10. Authorized the City Manager to execute appropriate agreements with the Kansas Turnpike Authority (KTA) for the use of KTA property at Lawrence exits/round-a-bouts for landscape improvements and appropriate signage.
- 11. Authorized Staff to Negotiate an Engineering Services Agreement with Black & Veatch for Project UT1102KA Kaw WTP Raw Water Intake.
- 12. Authorized Staff to advertise Request for Proposals R1110 and R1111 for Engineering Services for Projects UT1201 - 2012 Electrical Improvements Program and UT1202 - 2012 Mechanical Improvements Program.
- 13. Authorized the City Manager to execute a License Agreement with AFAD, Inc., d/b/a Briggs Automotive Group, allowing it to use the City Rights of Way at Four Wheel Drive and West 29th Terrace for the placement of approximately 350 feet of fiber optic cable in accordance with the terms of that License Agreement.

14. Authorized the Mayor to execute a Cooperation Agreement with Social and Rehabilitation Services (SRS) for the State of Kansas and the Board of County Commissioners of Douglas County, Kansas agreeing that the City will pay \$225,000 in ten payments of \$22,500 to provide temporary funding assistance to SRS.
15. Approved as signs of community interest, a request from United Way of Douglas County, to install banners at various locations from October 1 – December 16. The vinyl banners will be 5 ft x 2.5 ft and will be displayed on the outside of United Way Community Partner buildings.

Vice Mayor Schumm stated that he had a conflict of interest on one the licenses. He left the room at 7:02 p.m. **Moved by Amyx, seconded by Carter**, to approve the licenses. Motion carried 4-0 with Schumm abstaining. Schumm returned to the room at 7:03 p.m.

Moved by Dever, seconded by Carter to adopt on second and final reading Ordinance No. 8672, prohibiting discrimination on the basis of gender identity. Motion carried 4-1 with Amyx in the negative.

Regarding consent agenda item number 9, golf course fees, Ernie Shaw, Interim Director of Parks and Recreation, presented additional information regarding fees, rounds, and justification for the recommendation to change the fees.

Carter said the fee reduction was around 30% and put us below the competition. He asked if the increased rounds offset the decreased revenue.

Shaw said that many of the costs were the same whether we had people on the course or not, so increasing the rounds increased revenue without increasing costs.

Carter said the additional memo answered his questions.

Dever said it was nice to see us trying to encourage people to use the product we were offering.

Amyx thanked staff for trying to be competitive and increase the rounds by having an affordable rate. He said we would see a lot more people play the course and see what was there.

Mayor Cromwell called for public comment. None was received.

Moved by Amyx, seconded by Carter, to approve changes to fees charged at Eagle Bend Golf Course, effective January 1, 2012. Motion carried unanimously.

C. CITY MANAGER'S REPORT:

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

D. REGULAR AGENDA ITEMS:

1. Consider land use information related to recently adopted code amendments for Congregate Living and Multi-Dwelling Structures. (Requested by City Commission at its July 12, 2011 regular meeting)

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

Cromwell asked if any of these basements are finished.

McCullough said we would have to do a review of our site planned properties but we didn't have that information right now. Currently it was based on gross square feet, and crawl spaces were not included.

Schumm said regarding item number 2, he asked how many houses would meet 3800 or 4000 square feet.

McCullough said we didn't have that tonight but we could get it.

Dever asked how we arrived at the fact that these buildings had full basements.

McCullough said this was based on appraiser data. We had informed stakeholders that this was only a starting point to understand the implications. It may be that some actually fall above or below the threshold.

Dever asked if that was the County appraiser and whether they had info on basements.

McCullough said we had asked them to call that out to the best of their abilities.

Schumm asked if this was only based on the main floors and not attics.

McCullough said it could be used in the criteria.

Amyx said one of the things we had done was create a special situation for the 89 homes identified. When looking at the definition, what was the intent of the Planning Commission? Does it concur with what you are using in this part of the code?

McCullough said we had not taken that question specifically to the planning commission. It was never really about the number, it was about protecting the structures. The inability to comply with parking standards may have incentivized razing those structures.

Amyx said looking at structures of 3500 sq ft or larger, what had to go into them to make them livable?

McCullough said to stay true to the code it would be 3500 whether the basement was used or not. It was really a guide to understand which properties could use the parking standard of .5 per bedroom.

Mayor Cromwell called for public comment.

Candice Davis said she disagreed with the intent McCullough referred to. She said she spoke tonight on behalf of the Oread Residents Association. Many of the members were landlords and landladies in addition to residents. She said over the years it had been the Oread residents living in the neighborhood that put time and resources into solving the problems experienced in the neighborhood. Homeowners living in the neighborhood added stability. The residents' concern was the density that was developing with boarding houses. The rental use seemed to be in violation of the definition of family. Three years ago Oread residents took it up to update the antiquated code on boarding houses. It may have been a good idea years ago when students didn't have cars and meals were provided at boarding houses. This is no longer the case. Since the original boarding house code had lower parking requirements it incentivized the creation of boarding houses. She said to imagine having on your block houses with 8 or

more unrelated individuals. She said there was an error in the last amendment that needed to be corrected. One in five houses were affected at the 3500 sq ft standard because it included unfinished space.

John Brewer said he wanted to speak in support of the recommendation. We were worried about defending parking spaces while we could.

Debbie Milks said she supported trying to fix the parking issue by not letting it get any worse. There have been grandfathered buildings for many years. She said she lived in a less dense neighborhood and there were still parking issues. She saw parking in front of fire hydrants and police all the time had to clear people out from in front of them.

Sophia Lowe said she bought her building because it was zoned residential office and was within walking distance of downtown. She had watched the construction of boarding homes over the past 10 years. What happened was that the basements became 4 bedrooms and a laundry room, and the attic became maybe 3 more bedrooms, and suddenly you have 10 or more bedrooms. The problem with having 10 bedrooms and 5 parking spaces was that the problem was exponential when it happened at numerous properties. "Boarding House" was a misnomer because there was no on site house manager or food. These were just large groups of people socializing and partying. Parking on the street is difficult and she asked that the commission endorse the amendment to have one parking space per bedroom. She supported the amendment to decrease the 20% of buildings eligible for fewer parking spaces.

Tom Harper said he thought it was great to look at this again. Now we know there are 83 possibilities of having a boarding house in Oread and that was good to know. Was the intent to make Oread denser? That was the outcome the way it stands – denser, less parking, lower quality of life. As a realtor we typically don't count unfinished basements as livable, usable space. This was a complicated problem, but the way it is framed right now just doesn't make sense.

Gwen Klingenberg, Lawrence Association of Neighborhoods, said this discussion took place because the residents wanted to protect the very large houses. They wanted to find a use that would keep them from being demolished. Now we were looking at 20% of the houses being converted. LAN supported starting at 4000 sq ft, which was only 3% of the houses. The Planning Commission didn't have the information the City Commission has now regarding the percentages of homes affected.

KT Walsh, East Lawrence Neighborhood Association, said they supported removing attics and basements from the calculation when calculating square footage. This would go a long way to reduce parking pressures.

Dennis Brown, Lawrence Preservation Alliance said parking was always a central issue at the Planning Commission discussions. Staff had raised concerns that with the really large older houses if you maintained the 1 space per bedroom standard you would end up with backyards that were nothing but parking. He was surprised that the standard went all the way down to .5 spaces. When you consider that twenty percent of the neighborhood met the 3500 sq ft now clearly we were being too generous. He supported not including basements or attics in the calculations, or sending this back to the Planning Commission only to discuss the parking.

Rob Farha said when this started the theme was to stop the proliferation of boarding houses, but only one had been site planned since then. There were examples where buildings were rebuilt and the parking stayed the same or went less.

Shane Munch said the issue was not the residents of the Oread but was KU activities when it came to parking. Parking before 8am and after 5pm and on non-game weekends was available. Parking was not available during class hours. Boarding houses were a great solution for students to live near campus and downtown. This was a perception, not a data driven, issue. The focus should be more on how to control the day traffic coming to the university, to make more parking available to the residents.

Carol Von Tersch said that she was here to encourage you to direct staff to interpret the code as outlined in option 3. She showed a graphical representation of the Oread Neighborhood. Only 7 blocks in Oread had parking on both sides of the street. 43 had parking only on one side. She said if there were four boarding houses on a block there were only 5 spaces left for the other 13 or so houses on the block. She said this showed the effect of having 20% boarding houses in Oread.

Kyle Thompson said his block already had 2 boarding houses, but if you looked at the map most of the houses north of the university were bungalows. The impact would be more along Tennessee, Kentucky and Ohio, and the number would be more like 40% in that area. He supported option 3 in the staff memo, not including basements and attics

James Hix said he had sold all of his properties in the Oread Neighborhood because he saw the political decisions going in a bad direction. He said when he was there were not problems with parking. Many times he had decreased the number of bedrooms to add modern amenities like kitchens. The decisions happening in Oread were going to lead to foreclosures and a neighborhood destroyed by well meaning people.

Rick Cupper said you forgot that of the 20% potential boarding houses there were already people living there, and in many cases as many as would live there if it were converted to a boarding house. All of these people making noise only make up 6-7% of the entire neighborhood. He didn't want to see them go, but if students and parking bothered them they were in the wrong place.

Marci Francisco said she had lived in Oread for the past 40 years. She said it didn't make sense to have different standards for boarding houses than apartments or for redevelopments. What was not addressed were the exceptions, and what the Planning Commission meant by that. They meant very large houses, not any house that could become a boarding house. She was concerned that there were comments about this being an attempt to save large houses. That was not the intent. We were looking at a way to establish parking

standards so there wouldn't be an incentive for one over the other. This change encourages density throughout the neighborhood and not necessarily in the areas we want to see it. It makes sense to step back, send this back to Planning Commission or adopt staff recommendation 3, then go back and work on the overlays.

A woman said this was a story of glass half full vs half empty. Only 20% of previously qualified houses could be converted to boarding houses. Not all houses among this 20% leant themselves to conversion and not all owners wanted to convert. 80% of the houses having 1 space required vs .75. Investing money in a house to bring it up to standards was not easy and investors had to be careful and take it seriously because it took so much money to do it. The intent was to save large structures. The definition of gross square footage was discussed and clarified in previous meetings. She encouraged commissioners to reject any change to the standard that was already very restrictive.

Serena Hearn said she used to live in Oread when she first moved here 13 years ago. She had loved the houses in the neighborhood. She said people had been incredible investors in the neighborhood. She displayed photos of homes that had been rehabilitated through great investments. She said 20% of houses that could possibly get the benefit of less parking would go a long way to helping people who put enormous amounts of money into rehabbing the houses. Her deep concern was that without the ability to have less parking it was not going to be viable to invest in the homes. She said if there are only 20 spots on the road, those are taken every day, and if the concern is that more people were parking, there were not going to be more. Has anyone done a study of what concreting the neighborhood to create more parking would look like? There were already problems with water and flooding. There are 960 foreclosures in Lawrence right now. She said she would write with more details about what landlords did to benefit Lawrence.

Cromwell said we were talking about changing the parking requirement for future homes that would be converted to boarding homes.

McCullough said it would be possible for existing home to come in and increase the number of bedrooms to take advantage of that also.

Cromwell said we were talking about work that has been done in the past, their parking requirements were done, their investments had been made, there would not be a rash of foreclosures because the standard wasn't changing for the existing boarding houses.

McCullough said he didn't calculate whether Oread gained or lost potential for parking. We have calculated the offsets. You were actually changing the .75 for all properties, in some cases up to 1 and in others down to .5. He said the only boarding house done since this amendment had not maximized the bedroom potential vs the parking.

Schumm asked where the 3500 sq ft number came from.

McCullough said there were discussions of different sizes, but 3500 was settled on as a reasonable sized structure after Planning Commission and City Commission discussions.

Amyx said we were still talking about 89 structures and the question was whether or not we needed to count the basement or attic square footage. Was it the intent of this body to allow that to be used in the calculation. He said he believed that with the action we took, we had to decide what that intent was. He said investments had been made based on the number of people who could live there. He thought we were down to deciding whether to include basements and attics, and whether the planning commission would hear this and make a recommendation back to this body.

Carter said he was on the Planning Commission when they went through this. The minutes reflected a lot that had been said on the fact that the focus was on saving large homes. He also did not disagree with Francisco about the intent being to prevent more congregate living. He said there were both intents at work. Out of the 20% of eligible homes, he couldn't imagine half of them converting, so he thought the worst cases scenarios were a little overblown. He said he felt comfortable that the intent was to protect the large structures and he thought that had been accomplished in the language. He said ultimately the Oread

Neighborhood Plan with overlay districts that showed some places where congregate living would be good, that was the direction we were going. There were unintended consequences to trying to zone out behavior. We really do need to address the behaviors, but not through zoning. He said the unintended consequence was stopping investment, and he didn't want to see that. Maybe this could help the stakeholders and groups get together and work together on behaviors. He said he had met with representatives of the university and discussed town gown relations as it came to behavior and quality of life in the Oread Neighborhood. Efforts to work together would have a greater effect than fighting over issues like this amendment. He said he was okay as it was right now. The solution is to stay focused on the plan.

Amyx asked if Commission Carter could tell him about the intent of the Planning Commission regarding the 3500 sq ft and including basements and attics.

Carter said he didn't think that was discussed. If we told staff to change the calculation and it took the percentage down to 2%, he could say that was not the intent of the Planning Commission.

Schumm said it didn't sound like they had the data at the Planning Commission regarding the number of homes affected.

McCullough said no, the discussion had been about a reasonable size worth saving.

Schumm said it seemed there was an intent to save larger homes, and not clog the neighborhood with a lot of parking. The unknown was the overlay zones, so there were a lot of moving parts. When you start including the basement in 3500 sq ft, that is not a really large home, it is maybe just a little more than average in Oread. He didn't think 3500 including the basement was a very large home in the scale of grand homes we are trying to save. He would favor not counting basements with the caveat that we dealt with the issue as we discussed overlays. It seemed like 3500 counting basements was a little too generous. He was not satisfied that only 3% of structures needed saving, and not satisfied with 20% either. He said he

was not afraid that investors would run from Oread, because they had been discussing this issue since he was previously on the Commission.

Dever said there had been a switch in the marketplace where congregate living was going on in places outside Oread. Things had been changing a lot and some landlords and property owners had been trying to create a product people want. We needed to be on top of the changing market. There was a lot of change occurring. He didn't want to try to manage bad behavior by managing parking spaces. He said there were people who wanted to live and have their friends over and there were people who wanted to invest and live in their own homes. There was a problem with managing by a number when we didn't know what it really meant yet. It was difficult for him to move this forward. He was not convinced that he had an answer and could override the Planning Commission recommendation. He said we were not in a position to use a number to achieve a goal here. This needed to be studied more than we have. There is enough information that needs to be evaluated, including the impact of paving over areas for more parking. He said there was a reason to let the body that made the rule up to take a look at it.

Cromwell said he wasn't sure what more information they would have by having Planning Commission take another look at it. This was about preserving investment and balancing it with neighborhood concerns. This was probably an attempt to regulate something much greater than parking. There are people who don't want boarding houses and others that do and they are both right. He appreciated the investment that had been done and thought that changes to future boarding houses would not affect current boarding houses. He thought there were perhaps fewer houses that would be eligible. Preservation of these homes was an issue whether it was brought up at the Planning Commission or not. He said he felt comfortable that maybe the number should be somewhere between. 20 seemed like a lot and 3 was awfully small. Maybe it was time to let Planning come up with something better.

Amyx said after reading all of the information he didn't think there would be an influx of development in the next few weeks and if we wanted Planning staff to take a look at this and tell us what their intent was we could do that. He didn't think that was ever really discussed. If we were to ask the Planning Commission to tell us what was their intent to use in calculating the size of the structures. If it is actually going to be living space then I think you count it. If not, I don't know why you would consider it. He said we had to correct one problem now before the overlay district process. He thought we should be very careful and we need to be more clear in what those definitions are going to be. He said he thought we should correct problems that we started. He said send it to the Planning Commission.

Cromwell asked what they would be asked to consider.

Amyx said to analyze the 3500 sq ft, and what all was to be considered in that.

Cromwell said he would add to that analyzing the new data and looking at whether that number would still be the same.

Schumm asked if staff had each of these homes on a separate valuation sheet, and whether we could ask for breakouts for everything about 10,000 ft. 8,000 ft., etc. and see where the natural breaks are. Maybe we could see clearly what the big structures were. HE said he wanted to know what the real intent of the PC was, to save big structures, control density, or both.

Carter said his concern was that if we sent this back we would go through it at least three times. He said he had his eyes on a better fix. As far as direction to go back to staff, not so much figuring whether basements should be included, but more about what the percentage of affected structures should be. The ultimate fix would be the overlay districts. An awful lot of time had been spent. The amount of hours spent to chase our tails on this was significant. If it's going back he would like to know what the amount of stock we are trying to save is, and whether basements should be included.

Dever said when you had a rule you needed a definition of adherence to the rule or not. We have to consider giving exact instructions to the Planning Commission of what we want them to look at. Let's get a definition of the 3500 square feet. If we are going to have a number let's have a clear way to determine that number. That would improve rather than muddle the market conditions.

Carter said if the commission wanted to change the number of homes impacted, that he was okay with the 20%. We were not going to see a proliferation. Let's focus on the neighborhood plan and the overlay districts.

Cromwell said he thought the consensus was to send it back to Planning Commission with direction to analyze with the data of the square footages of the homes that would qualify, if that number is what they would still settle on.

McCullough said the things for PC to consider are analyze intent of the 3500 sq ft and basements, review new data and outcome of 20%, review different parking thresholds, and review the intent, whether it is to maintain housing stock or prevent congregate living.

Carter said the last one was concerning and he didn't think it could be settled on.

Cromwell said he was okay with not discussing the issue of why.

Corliss said the issue of why was important, but it was different to different groups of stakeholders and commissioners. This was not initiating a text amendment.

Moved by Schumm, seconded by Dever, to direct the Planning Director to discuss with the Planning Commission the following items related to code amendments adopted in January 2011 regarding boarding houses:

- Analyze the basis for using 3,500 sq ft as one criteria to be eligible for .5 parking space per bedroom requirement and whether basements and attics should be used to account for the structure size;
- Review new data compiled by staff and confirm whether the outcome/implications of the code amendments are desired;

- Review other structure sizes (ex. 4,000, 5,000, 6,000, etc) to determine if the outcome on the Oread neighborhood is more or less desirable compared to the current 3,500 sq. ft. code standard;

Motion carried 4-1 with Carter in the negative.

2. Consider staff recommendations regarding enforcing occupancy limits for unrelated persons in single-family and multi-family residential districts.

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

Mayor Cromwell called for public comment.

Eric Kirkendall said he was a homeowner and a landlord. He said it had been his experience that the vast majority of landlords wanted to operate legally. Outlaw landlords did more damage to the city of Lawrence than anybody. He displayed an article about one of these landlords and he believed vigorous action needed to be taken against them. He thought it would be hard, but important, not to penalize the other 98% of landlords trying to do the right thing. He knew it was hard but hoped the city would try to do that.

Joe Reitz said he was here on behalf of people involved in Family Promise. He said they have been going for three years and doing a great job and not costing the city a thing. He said there might be unintended consequences of the ordinance. One of the affects was driving up the costs of housing and creating more homelessness. He said he understood this applies whether the house was house was owner occupied or not.

Jimenez said we were speaking tonight about licensed rentals, which were not owner occupied.

Dever said if he lived in a house and rented out rooms, he would not be regulated by this.

Jimenez said no.

McCullough said you could still be over occupied by having too many unrelated people. The recommendations today are applicable in the rental registry ordinance.

Reitz outlined a few scenarios. Two families had their own homes and fell on hard times and one family moved in with the other. Would that be a violation?

McCullough said that could be a violation of the unrelated persons code. That was the way the code stood today. We did put some reasonableness to the context to try to understand the situation and get the owner into compliance.

Reitz asked about a foreign exchange student over 18 years old.

McCullough said it depended on how many people lived in the home.

Jimenez said we had not come across that situation.

Reitz said there were unintended consequences to the statute as he read it.

Debbie Nall said she had been heartsick since a code enforcement officer had showed up at her home and said she was out of compliance. This was a desperate cry to the commission for a change to the ordinance that helped no one and hurt many. She said she should have said no to many people in need because she was in violation of the ordinance. She knew there were displaced Joplin families living with friends in Lawrence even though it violated the ordinance. She said she had always tried to live the golden rule, but it was illegal under this ordinance. The ordinance told her to say no to the schools, Bert Nash, the churches and others who asked her to help people in need. She said every one of the 200+ people who had lived within her home over the years had felt like family. This was an ordinance against helping people who aren't blood relatives. She said she wanted to ask "who am I to say no to?"

Deborah Snyder said she supported Jimenez's suggestions but had some questions. She said the one section about a 24 month period with the owner not changing, did that mean that the offense that may occur in over occupancy or any of the other 5 violations that may occur, does that 24 months apply if the home changes ownership.

McCullough said as proposed it was 24 months of continued ownership. He thought we could detect if something was going on to circumvent that inappropriately.

Snyder said her concern was that with the sale of a home the tenants don't change, and that the clock starts over even though the new landlord inherits the problem.

McCullough said we would have to restart the process.

Jimenez said it was also discussed making the tenants liable for the offenses. We could potentially put language in the code to that affect.

Snyder said the fines proposed were not reflective of the costs in staff time. Once a property has had a rental license revoked, is there a process where any further work by staff could be assessed to the owner. The fine was limited and you still had to continue the process.

McCullough said the fine was framed by state statute and was a deterrent more than a cost recovery.

Arly Allen said a supreme court decision had said boarding houses etc. represented urban problems; noise traveled with crowds. Quiet places were legitimate land use considerations. Police power was ample to protect family and youth values and other things that were a sanctuary to people. This was a standard by which we could measure ourselves to protect single family zoned areas. He said he agreed with the changes proposed with a couple exceptions. There is no method of enforcing the ordinance if the owner lives out of town. Right next to him was a house with 5 students and an out of town landlord. It is rather difficult to get them to obey our zoning laws. Some cities have ordinances requiring local agents to manage the property. Also there is a question of non-inspection of owner occupied rentals. Inspections were a safety feature. Not requiring inspections creates a potential problem with people exposed to hazards.

Tom Harper said he was really happy when he saw this come up. We have spent years discussing this problem and it was so frustrating. When it was in your backyard it was a huge issue for your quality of life. In these meetings it has always been said that it is hard to enforce.

It seems like this could be a huge victory. He said he had four single family rentals, and it was not a hardship to play by the rules. He said he trusted staff to make judgments regarding special circumstances. There was no sense in hurting people in special need. He asked commissioners to carry this through. He would like to see multi-family rental inspections.

Schumm said a landlord suggested to him that this ordinance would make him responsible for irresponsible tenants. He asked Harper if he thought that was a true problem.

Harper said he was in town and he watched his properties and he cared about what went on. He said he told people up front that 3 meant 3 and he didn't tolerate problems. He said he sometimes scares people away. He said he doesn't feel like a babysitter he just does his work up front.

Gwen Klingenberg said Lawrence Association of Neighborhoods supported the proposals. LAN supported inspections which were a health and safety issue. She said she had lived in a home as a student that shouldn't have had anyone living in it. This was another tool to protect safety of residents and neighborhoods. She said the ordinance on unrelated individuals had helped. It had been a great start. She said she could understand the concerns about taking people in who were in need. Keeping neighborhoods stable was very important.

Caroline Crawford, Sunset Hills Neighborhood Association, said the overflow of fraternity houses and various other groups of kids had ended up in her neighborhood and they supported enforcement of the proposals Jimenez outlined.

Betty Alderson said she had been battling this for at least 15 years. She had called Brian on many occasions and he did what he could. To her knowledge the house next door had never been inspected even though the basement was rented and it had no egress. Sometimes we tip toe around things and let the 2% of bad landlords ruin everything for others. We need to have this ordinance enforced so we can get to the person who doesn't respond. It is a problem with the out of town ownership. Please remember that every homeowner is a major investor and if we are only concerned with people who buy properties for income production we miss out on a

lot of people we should be concerned with. Problems were not isolated to Oread and other neighborhoods close to the university, including parking. This was something that could make our community more attractive and neighborhoods viable.

Candice Davis said she was pleased that the Commission was interested in improving the blight code and other codes. Brian had worked hard at looking to make these codes more effective. She said it was important for safety. To count occupants the inspector had to be able to get in. She said she would like to see inspections expanded to multi-family as well.

Rick Kupper asked whether Oread was single family.

Cromwell said no.

Kupper asked whether the home rented by Serena was in Oread.

McCullough said no.

Kupper said in Oread if there was a single family home with six bedrooms how that works.

McCullough said in single family it was limited to 3 unrelated, in multi-family it was 4 unrelated.

Kupper said there had to be dozen of houses in Oread with 6, 7, or 8 people. Are they illegal.

McCullough said they could be if they were not site planned and approved as boarding houses.

Schumm said it appeared to him when talking about 30 days to resolve an over occupancy in a single family dwelling, his understanding of eviction was it took a 30 day notice to legally evict them. Was that correct?

Jimenez said we never went shorter than 30 days and usually went longer. We were not heartless and we realized this required someone to move. He said we usually went a little longer than 30 days. We were reasonable in working with people who are making progress.

Schumm asked about the fines and if we recommended no more than \$2500 fine.

Jimenez said that was the maximum. There was some leeway for the prosecutor and judge to dictate what the fine ended up being. We would mostly go the court route with habitual violators, and we could look at higher minimums. Legal thought we shouldn't go higher than \$2500.

Schumm said his interest was in compliance for every dwelling, and he had an interest in addressing habitual misbehavior. He thought the fine needed to be great enough to make it illogical for someone to do it again after being convicted once.

Randy Larkin, Staff Attorney, explained misdemeanor fine schedules as outlined by state statute. We needed to stay within the state guidelines. He said a progressive situation could be adopted, but he was leery of going beyond the Class A state misdemeanor.

Carter asked about owners living out of town and how that could be addressed.

Jimenez said that was a big problem. We did have a proposal previously that would require a resident agent. One of the options which other cities have done is to define a certain distance from Lawrence a property owner could live without needing a resident agent. They haven't revisited that in a few years. We could still file a complaint against an out of town owner.

Randy Larkin said there were two processes, administrative and criminal. We have trouble drawing people in from out of state or out of country to appear in court. It is easier if there is a resident agent to serve them and require court appearances.

Schumm asked if there is a way to have a lien or other encumbrance put on a property for nonpayment of fines.

Larkin said we would have to have jurisdiction over the person and bring them into court first.

Amyx asked if a piece of property ends up before the governing body and the license is revoked, who can live in the property, just the owner?

McCullough said it could not be rented. It would have to be owner occupied or sold.

Or vacant, Amyx said.

Carter said if we went back to our habitual violators over the last year or two, could we consider those first violations.

Larkin said probably not, we would need to start with a clean slate.

Carter said depending on the situation, the starting point for the fines was very minimal compared to rental rates. He said violation of occupancy codes could be grounds for eviction or passing on the fine, and landlords could find a way to keep tenants behaving well. He said the fine had to have some bite and should be higher than \$250. He thought having a resident agent was good too.

Dever said he agreed. He didn't want to add extra costs but if not having a resident agent made it difficult to enforce we needed to look at it, at least for out of state or country. He was in favor of moving forward with this.

Amyx said there were some very good landlords in Lawrence. We have all understood what was supposed to happen in the past but the bottom line is that we need to do something. Some of these will end up before this body, and this body will not be a heartless body. We have to consider hard situations all the time. We can talk about where the fine should begin and end but we had to give the judge some latitude. A local agent is fine, but do we want to put that responsibility on the owner and tenant if no violations have occurred previously. These are the rules currently on the books and we are just making them enforceable with some changes to the language. This body would be involved with these procedures. His main concern was taking care of the concerns Joe and Debbie brought up, but it came down to understanding how a neighborhood should work. This was a reasonable solution.

Schumm said a resident agent was reasonable. Kansas businesses had to have them. The fine should be a minimum \$500. That is only one month's rent for a bedroom. It is not a deterrent. You have to make the economics work against violator. They are taking the equity out

of the homes that people are living in. It is not unreasonable to have a much higher fine to deter habitual violators.

Cromwell said this was an issue with many facets. One of them was safety. He had seen neighborhoods complaining all over town. This isn't an isolated problem. It's not just rentals it is also owner occupied homes. It had to be dealt with. We definitely need to require a resident agent. That is something easy and inexpensive. He said he had to do it with his business. These fines were still minimal compared to the costs we incur and the pain the neighbors suffer. We have rules and they have to be followed. We need to make it easier to enforce the rules. The rules have been clear and understandable. He said he was in favor of starting at \$500 and going up, and requiring an agent. That was something we needed to get at. This was not easy to enforce and he heard about it all the time.

Carter said he would suggest giving leeway to go to \$2500 on the fines dealing with habituals.

Cromwell said the judge would have discretion to fine people appropriately from \$500 to \$2500.

Schumm asked if there is a violation and the violator asks for a hearing at the city commission level, and we find them guilty, are we revoking the license or putting them on probation.

Jimenez said either but when staff brought a case to the commission they would likely be at the point of seeking revocation. Probation would probably be used earlier.

Schumm asked if there was also a fine.

Larkin said that would be separate, it would be a municipal court issue. The City Commission would consider license revocation.

Schumm asked how they end up in municipal court.

Larkin said a complaint would be filed and criminal process initiated. Administrative and criminal processes could be pursued separately or together.

Moved by Amyx, seconded by Schumm, to initiate a text amendment to correct a matter of inconsistency between single and multi-dwelling districts related to over occupancy and the definition of Family, and to include a definition of “Occupancy” in the Development Code; to direct staff to submit an ordinance for the commission’s consideration that would increase the current \$500 minimum fine and \$2500 maximum fine established in Section 6-1309 of the City Code related to Rental Licensing; to direct staff to establish practices that employ the enforcement measures of the Rental Licensing Ordinance, including placing rental structures (and their owners) on probation and revoking licenses when compliance matters are not resolved; and to direct staff to review the resident agent issue and bring back a recommendation for city commission consideration. Motion carried unanimously.

E. PUBLIC COMMENT:

Marci Fransisco said she was very interested in saving houses. She said she also wanted to thank staff, who had been very helpful in working with the neighborhood. She said the parking standards affect multi-family units and boarding houses and she wanted to clarify that.

Arly Allen thanked the city for their actions tonight.

F. FUTURE AGENDA ITEMS:

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

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 Schumm, seconded by Dever, to adjourn at 10:33 p.m. Motion carried unanimously.

APPROVED:

Aron E. Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk