



City of Lawrence

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CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

December 6, 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

Commissioner Amyx asked that item number 7, rezoning Z-9-24-11, and item number 8, Preliminary Plat PP-9-9-11, be pulled from the consent agenda.

Consent agenda item number 13, text amendments TA-8-12-11, was deferred before the meeting until a January City Commission meeting date to be determined.

It was moved by Schumm, seconded by Amyx to approve the consent agenda as below, with the exceptions of items numbered 7, 8, and 13. Motion carried unanimously.

1. Approved City Commission meeting minutes from 11/15/11 and 11/22/11.
2. Received minutes from various boards and commissions:

Sustainability Advisory Board meeting of 10/12/11
Solid Waste Task Force meetings of 09/28/11 and 10/26/11
Hospital Board meeting of 10/19/11
Mental Health Board meeting of 09/27/11
3. Approved claims to 241 vendors in the amount of \$2,818,180.85.
4. Approved licenses as recommended by the City Clerk's Office.



Drinking Establishment Licenses for The Bottleneck, 737 New Hampshire, It's Brothers Bar & Grill, 1105 Massachusetts St., Wa Restaurant, 740 Massachusetts St., Chili's Grill & Bar, 2319 Iowa, Applebee's Neighborhood Grill & Bar, 2520 S. Iowa, Applebee's Neighborhood Grill & Bar, 2900 W. 6th St. and a Retail Liquor License for Cheer's Liquors, 1414 W. 6th St., Suite 104.

5. Bid and purchase items:

- a) Awarded Bid No. B1152; Water and Wastewater Treatment Chemicals for 2012 to various bidders as listed in the bid summary.
- b) Awarded 2012 Coordinated Printing Bid to Printing Solutions, in an amount not to exceed \$22,000.
- c) Authorized the City Manager to execute Supplemental Agreement No. 7 to the current engineering services agreement with BG Consultants in the amount of \$64,751.50 for design and construction phase engineering services for project UT1104DS, Wimbledon Drive Watermain Replacement.
- d) Awarded lease of four (4) backhoes for three (3) years for the Public Works Department and the Utilities Department to Murphy Tractor Co. for \$150,600.00.
- e) Authorized Staff to advertise a Request for Proposals, RFP R1201, for Design and Construction Phase Engineering Services for the 2012-2013 Watermain Relocation/Rehabilitation Program.
- f) Awarded bid for one hybrid aerial lift truck for Public Works Traffic Division to Drake-Scruggs Equipment Company in the amount of \$87,331.
- g) Approved selection and authorized staff to negotiate a scope of services with the team of Bartlett & West/CDM for the Farmland Master Plan.
- h) Revised the bid date for Bid Number B1156, Project UT0906DS Kaw Water Treatment Plant Large Valve Replacement from December 6, 2011 to December 13, 2011.

6. Adopted Resolution No. 6959, authorizing the Mayor and City Clerk to execute a Deed, Bill of Sale, and Termination of Lease Agreement, and to take all other actions necessary to transfer to the project to the Schlumberger Technology Corporation, terminate all interest of the City in the project and carry out the intent of the resolution, all pursuant to retired industrial revenue bonds for the property at 2400 Packer Rd.

7. THIS ITEM WAS PULLED FROM CONSENT FOR SEPARATE DISCUSSION. Approved rezoning, Z-9-24-11, approximately 3.3 acres from RSO (Single-Dwelling Residential-Office) & CS (Strip Commercial) to CS (Strip Commercial), located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27th Street. Submitted by Landplan Engineering for KMAH LLC, property owner of record. Adopted on first reading, Ordinance No. 8687, for rezoning (Z-9-24-11) approximately 3.3 acres from RSO (Single-Dwelling Residential-Office) & CS (Strip Commercial) to CS (Strip Commercial), located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27th Street. (PC Item 2A; approved 8-0 on 11/14/11)

8. THIS ITEM WAS PULLED FROM CONSENT FOR SEPARATE DISCUSSION. Accepted dedication of easements and rights of way for Preliminary Plat, PP-9-9-11, of KMAH and Lawrence 27 Iowa Addition (formerly Meadow Lea Estates), two lots, approximately 3.3 acres, located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27th Street. Submitted by Landplan Engineering for KMAH LLC, property owner of record. (PC Item 2B; approved 8-0 on 11/14/11)
9. Received City Auditor's policy on new Government Auditing Standards.
10. Approved updated request from Bowersock Mills and Power Company for city participation in the installation and maintenance of a rubber dam system. Directed staff to prepare appropriate documents for City Commission approval.
11. Authorized the Mayor to sign Subordination Agreements for:
 - a) Leonard Ford, 1801 Atherton Court;
 - b) Seth Swartzendruber, 4016 Overland Drive; and
 - c) Shala Stevenson, 1238 Prairie Avenue.
12. Authorized the Mayor to sign Releases of Liens for:
 - a) 1229 Laura Avenue – Tenants to Homeowners, Inc.
 - b) 1233 Laura Avenue – Tenants to Homeowners, Inc.
13. DEFERRED. Consideration of text amendments (TA-8-12-11) to various sections of the City of Lawrence Land Development Code, Chapter 20, regarding revisions to the district criteria and development standards for development adjacent to R (Residential) Districts, clarify other density and dimensional standards, Section 20-1701 to clarify or add terms used in the density and dimensional standards table, and Sections 20-211 and 20-212 to make consistent with potential changes in Article 6, and adopt on first reading, Ordinance No. 8682.

Commissioner Amyx said he would be recusing himself from discussion and vote on item number 7, rezoning Z-9-24-11, and item number 8, Preliminary Plat PP-9-9-11, because his family had sold some of that property to the applicant.

Schumm asked if there had been any change to these items since they were heard previously.

Scott McCullough, Planning and Development Services Director, said there had been some tweaks but it was essentially the same.

Mayor Cromwell called for public comment. None was received.

Moved by Schumm, seconded by Carter, to approve rezoning, Z-9-24-11, approximately 3.3 acres from RSO (Single-Dwelling Residential-Office) & CS (Strip

Commercial) to CS (Strip Commercial), located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27th Street, submitted by Landplan Engineering for KMAH LLC, property owner of record; and to adopt on first reading, Ordinance No. 8687, for rezoning (Z-9-24-11) approximately 3.3 acres from RSO (Single-Dwelling Residential-Office) & CS (Strip Commercial) to CS (Strip Commercial), located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27th Street. Motion carried 4-0 with Amyx abstaining.

Moved by Schumm, seconded by Carter, to accept dedication of easements and rights of way for Preliminary Plat, PP-9-9-11, of KMAH and Lawrence 27 Iowa Addition (formerly Meadow Lea Estates), two lots, approximately 3.3 acres, located at 2600 Redbud Lane, 2620 Iowa Street, 2626 Iowa Street, and 2032 W 27th Street. Motion carried 4-0 with Amyx abstaining.

C. CITY MANAGER'S REPORT:

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

Cromwell said it may be a great opportunity to study some issues with the CNG vehicles and it may be nice to reach out to someone at KU to take a look at our experience with them.

Carter asked if we would fuel those ourselves, or if we had talked to the private entity that fueled those.

Corliss said he thought it would be complementary and they often looked for fleet opportunities.

Carter asked if we bid fuel weekly and if we had looked at going further out.

Corliss said we had looked at hedging and the decision was made when we studied it to not do that at the time. We would continue to evaluate it in the future.

D. REGULAR AGENDA ITEMS:

1. **APPLICATION WITHDRAWN PRIOR TO THE MEETING. Consider the following determinations by the Historic Resources Commission concerning the proposed project to be located at 900 New Hampshire Street:**

- a) **Consider making a determination based on a consideration of all relevant factors that there is/is not a feasible and prudent alternative to the proposed project at 900 New Hampshire Street and the that the proposed project includes/does not include all possible planning to minimize harm to the listed properties. The Historic Resources Commission determined (6-0) on October 27, 2011 that this project will encroach upon, damage or destroy the listed historic properties and their environs.**
- b) **Consider an appeal of the HRC determination that the proposed project to be located at 900 New Hampshire Street does not meet the intent of the Downtown Design Guidelines. The HRC determined (6-0) on October 27, 2011 that this project does not meet the intent of the Downtown Design Guidelines.**
- c) **Consider an appeal of the HRC determination to deny a Certificate of Appropriateness for the proposed project to be located at 900 New Hampshire Street. The HRC determined (6-0) on October 27, 2011 that this project will encroach upon, damage or destroy the listed historic properties and their environs.**

Toni Wheeler, Legal Director, introduced the item. Staff has determined that it appropriate to receive the new plan and public comment before returning it to the Historic Resources Commission. She advised the commissioners not to prejudge the plans, keep an open mind, and refrain from making dispositive remarks regarding the plan.

Schumm asked if commissioners needed to disclose ex parte contacts.

Wheeler said not at this time because they were not sitting in a quasi-judicial role this evening.

Lynne Braddock Zollner, Historic Resources Administrator presented the staff report.

Micah Kimball, Treanor Architects, presented the new plan. He said they withdrew their appeal to the HRC decisions but wanted to present their new plans. He said they had met with the neighborhood, they would like to hear city commissioners' comments and public comments. He said the project was an effort to bring density and revitalization to downtown. They were at 81 rooms but were now at 79. It included retail space and they hoped for a grocer. There were two levels of underground off street parking. It was an economic driver and job creator. He displayed photos and renderings of the site. There were roughly 80-100 parking spaces. Parking was not required by the zoning, but in order to serve the project they were trying to park

as much on site as possible. The new plan had a few less rooms because on the fifth floor the height was lowered. The previous elevations showed a horizontal design that reflected the inner composition of the uses of the building. On the 9th Street site there was more intermingling of the materials. The building was stepping down the roof line as it approached the alley, and that trend continued in the new plan. The SW corner had the pool on the top and the one way lane between the hotel and the arts center, which had been changed for the new plan. The building was 79' at its highest point with a reduction to 69' at the alley.

Cromwell asked if this was all the old design.

Kimball said yes. The new plan was reduced to 71'. The signs from the top had been taken from the top and changed to a blade sign. The materials had been changed. The storefronts were made more pedestrian scaled. Per the downtown Lawrence long range plan, infill was a means to increase density downtown. This project did that. The revised plan had a two story step so the alley side of the building was 4 stories. The height was at the corner which was called for by the design guidelines. They lost income producing units and hotel rooms but it allowed them to reduce the height on the alley side. The signage had been changed to a blade sign and the retail was made more to pedestrian scale. From H2020 the block was indicated as medium to high density use. All of the lots on the other side of the alley were commercially zoned. The zoning at 900 New Hampshire allowed them to build to 90 feet. They tried to break down the massing by breaking the building vertically into bays. They had received comments from the neighborhood regarding the walls along the alley and they had added additional openings so it wouldn't just be the back of building with a blank wall. They tried to soften that. He said they are doing materials studies. They need to talk to ARC about appropriate materials. They had tried to address concerns including parking, the alley, mechanical noise, height of building and community involvement. He felt they had addressed parking as well as they could. Regarding the alley, they made revisions to pull the building 2' back off the alley to allow a wider alley. They took all the traffic from the drive into the garage immediately rather than into the

alley. They would screen with gates, dumpsters and plantings. Regarding mechanical noise he felt they addressed it. There was not a bank of condensing units. The hotel units were typical through-wall units which were quiet. Regarding height, the zoning allowed up to 90'. Currently they were maxed out at 74'. They had reduced floor to floor heights as much as possible. They stepped the building down at the alley. They pulled the highest part of the building to the corner. They were within the two story rule for height compared to the adjacent property. They would go for LEED certification on the project. Even if they couldn't get it they would go for a green standard.

Schumm asked how commercial vehicles will service the hotel.

Kimball said there is a loading dock off 9th Street to keep traffic off the alley. It had been discussed making it a no-idle zone.

Schumm asked if it would be screened.

Kimball said yes.

Mayor Cromwell called for public comment.

Phil Collison, ELNA, said they got a little more mitigation with each meeting. One of the damages they saw was headlight intrusion and vehicular traffic on the alley. They recommended removing the drive between the hotel and arts center. There is evidence of a mass burial on the site and they requested an archeological survey. They recommended a 10' setback on the alley and a three story building height along the alley. The courtyard should be at grade. The construction project could cause structural damage to the neighbors as happened during the arts center construction. They recommended language in the building permit regarding damages awarded to the neighbors for a number of years, to be determined by a third party. With these mitigations there could be more neighborhood support. This was a feasible and prudent alternative.

Dennis Brown, Lawrence Preservation Alliance, supported sending this back to HRC. The real question is whether a reduction and redistribution of mass allows the project to meet

historic guidelines. The City Commission's scope of review is more narrow than other items on HRC appeals. If the applicant enters the process with an open mind they will get a good project. The overriding concern of preservationists is how the project transitions to the neighborhood.

Gwen Klingenberg thanked the applicant for the revisions. She hoped when it went back to HRC it would comply with our planning documents. The focus of standards should be to build upon rather than dramatically change the character of downtown. She said she appreciated that the applicant was trying to follow the downtown design guidelines. They are an assurance that downtown will grow as the people of Lawrence want it to. One of the concerns was that the properties along Rhode Island were commercial and would change. It would take a lot to change those buildings because of the historic districts. She hoped at the next HRC meeting they would have a written documentation of how they would minimize harm to the listed properties.

KT Walsh said we were at a critical point for planning the core of our town. It was time to take a step back and look where we do we want the height and where does it not directly abut residential across the alley.

Cindy Yulich, Lawrence Chamber of Commerce, said the chamber had an obligation to speak in favor of business investment. Specific to this project, we believe the business community should and does compromise appropriately. This project was a major investment during a challenging economic time and the chamber supported it.

Katherine Harris said this block was perhaps the last intact historic block in the community. None of the buildings had been replaced. Many of the buildings had historical relevance to the community and she recounted the history of a few of them. The block is full of historic references. Out of the love for our homes in the neighborhood many renovations had been done. \$390,000 in improvements had been done to 7 of the homes. They valued living in a precious neighborhood. Development was vital and inevitable. She requested initiation of an

area plan for the corridor that would meet the needs of downtown and the residential. She didn't want scattershot planning to become the markings on the wall of the historic neighborhood.

John Ralston displayed some renderings of the plans. The footprint is almost the size of the Oread hotel. This is a huge, massive building. It damaged the historic environs of the town. He wanted to be an optimist. It could succeed but it couldn't be so big that it damaged the town. The law regarding preservation was clever. If a developer builds in historic environs it must respect the environs. It was the HRC finding that was the issue. If a proposal harms the environs the developer makes his own predicament. If it causes harm it has to show there is no alternative, none. It is one thing if there is a blighted area. History is not for sale in Lawrence. Once you lose it, it can't be returned. It is not anyone else's job to show there is no alternative. It is the developer that has to show there is no alternative. They had to explore the alternatives. Before there was a law people preserved history, and because it had been taken care of people had found alternatives.

Eva Bradley said she had played in the alley and the lot. She loved the Social Service League and the Percolator and asked the Commissioners not to build the hotel.

Michael Tanner said he was the spokesman for the coalition of street musicians. He had never heard anyone discuss soundproofing of the residences brought into commercial districts. He said he was a street musician and he was facing jail time over noise violations. This had happened in another community and now it was happening here.

Cromwell asked Tanner to keep his comments to the 900 New Hampshire project.

Tanner said street musicians brought people downtown. People came from all over the country to see him. He had seen a big decline in commerce, especially at night and that was concerning. He didn't want to see this town become a ghost town. What goeth around cometh right back at the round to biteth thee in the booty, and that booty was the pirate's treasure. Somebody is responsible for sound proofing these residences. We all want to keep Mass Street a thriving place. People want to come out here and party but they hadn't had a lot to look at

lately. There was a decline in commerce in the night scene because people didn't have much to look at or listen to on Mass. They were going to Kansas City instead. He wants to keep them here spending their money in this community.

Hank Booth, Chamber of commerce, said the chamber as an advocate for economic growth and business had an obligation to speak on behalf of investment and job creation. This represented a major future view of what downtown Lawrence could be. The changes put on the table by the applicant were encouraging. He knew they had reached out to the Social Service League. The December 4 LJW article pointed to census numbers. The area generally downtown and east of the university had been losing population. This development and others like it would draw people living in and near downtown, which would bring more revitalization. Inner city decline was an issue that we had done well with. This kind of investment in our downtown at a down economic time gave us a step up. Seniors are asking for areas to live that are near downtowns with resources for transportation and commercial activities. This is a great opportunity to create downtown resources for a burgeoning senior population.

Ron Schneider, speaking on behalf of individuals living on Rhode Island, said it would be illogical to address the details of the project at this time given the recent changes. The reason we are here is that the historic resources commission acted according to law and found the project would damage the listed properties. Now that the proposed project is withdrawn the next thing is going back to HRC. He didn't know the extent of how dramatic the changes were and how people would respond. He and his clients had not had time to review the changed plans in detail. The question was how this project would affect the nearby properties. He appreciated that the applicant had meet with the neighbors. If there is a desire to resolve this, let's sit down and not rush this. He thought we should use the next week or two for the applicant to sit down with the neighbors and have some real dialogue. The unanticipated consequence of rushing was more delays and controversy. The feasible and prudent alternative was not for the project, it was for the land and the owner. By withdrawing the plan, it is clear that there is a feasible and

prudent alternative for the developer, at least. This could be a number of things other than a hotel. If done right, the HRC can have a good project.

Peter Zacharias said Downtown Lawrence felt a project on this empty lot was overdue and had great potential. Appropriate consideration did have to be made to neighbors and historic concerns.

Sven Alstrom said there was a lot of community concern and he had a lot of sentiments regarding feasible and prudent alternatives. At the May 19 meeting he had opposed the Varsity House. Commissioners had to represent the whole community. He would like to see the spokespersons for the chamber look harder at preserving what was valuable for the community long term. Every design could be improved. He said he was the only recent commission candidate not a member of the Chamber of Commerce. More constraints encouraging sustainability were positive and pushed the value and yield for developers up, which had been proven in other resort and university communities.

John R. Tuttle III said he found a few things disturbing. He read in the paper that Mr. Compton had a similar project in Topeka that caused the public there \$4 million dollars. Looking at the historical and cultural significance, he saw more of what he had already seen, which was a problem. Double dipping was a problem, having commercial downstairs and residences above. There would be a lot of hassles with tenants calling on the bars and buskers who made noise in an entertainment district. It was not communal. It was about the profit of a small handful of people. He said protestors in front of his current project said that Compton had brought in illegal immigrant labor then refused to pay them and called INS on them.

Cromwell asked Tuttle to keep his comments to the project on the agenda.

Tuttle said it was relevant. Quality of life involved the whole community, not just a handful of people. He asked the whole community to dig deep and investigate the people they were doing business with, including the city council and Doug Compton.

Ardys Ramberg said she was pleased when Mr. Booth talked about the census. East Lawrence was not listed as losing population because more and more people wanted to live there. We cared very much about the Social Service League and the Percolator. She said she has relatives in Austin and people spoke about how it used to be like Lawrence. It was important to be careful and not let us become a congested, burdened community to the extent where it became unrecognizable.

Michael Almon said others had compared this project to Hobbs Taylor. When that project came forward it was more massive at the time, and much closer to the residents on Rhode Island. It was ultimately built 175 feet away from the residences. There was a huge buffer. That was a precedent that was well hammered out. We need to consider more appropriate locations for tall buildings rather than just letting it be decided by who buys property where. Putting a project like this immediately on the alley flies in the face of precedent and the downtown design guidelines. He thought the project was brought forth originally as a starting point for negotiation so that the compromise would look good in comparison. A little less bad isn't necessary good. We should look at it through long range planning lenses.

Leslie Soden said she was the president of the neighborhood and said December 15 was too soon. She didn't think she could get it to the entire neighborhood in 9 days.

Dennis Domer said a generosity of spirit pervaded a process that had gotten better and better. It would behoove us to slow down because the process was benefitting us considerably. We should look at the delicate edges of downtown carefully. He said he was happy to see rational proposals and counter proposals. It may have a chance if it is looked at in the context of the six blocks instead of just this lot. He believed going too quickly was a mistake and not looking at a larger context was a mistake.

Bill Fleming, Treanor Architects, said the standard for review after a denial was the feasible and prudent standard. One thing that hadn't been discussed was that you had to look at economic considerations. He said that was one of the reasons the applicant proposed a project

of this height and scale at this location. You don't have to leave common sense at the door. He said we didn't have to belabor that now. Some people had also said why don't you just move it somewhere else. That doesn't solve it. We don't have other properties under contract. This was one of the only vacant parcels. A hotel was envisioned for this area by the D2000 plan. We have a downtown historic district, so it doesn't matter where you move it, you are going to have the same questions. Ultimately it was a question of what your vision for downtown was regarding density and growth. You probably aren't ever going to build residential structures on Massachusetts. This use was appropriate because there was a transitional use. The adjacent neighborhood is zoned commercial.

Schumm said the consideration was to go to HRC next Thursday but we heard comments that delaying that would be beneficial to have more neighborhood involvement. He asked whether that would be beneficial to the development.

Fleming said he did not think so. The issues were clear and he didn't see any advantage to delay for the sake of delay.

Carter said there had been a lot of progress but this plan was just presented tonight. Some of the revisions reflect that you do understand the sensitivity of the issues. He said his concern was that he didn't want this to come back here not being ready if we could get it resolved at HRC.

Fleming said they do have a timeframe to start the project but they didn't want to ping pong back and forth either.

Mike Treanor said he thought they would go to HRC and would get deferred to ARC. If they could go now they would continue having dialogue.

Eric Farnsworth said he was happy that someone brought up the economic angle. How many acres of commercial spaces were we adding downtown and who was leasing this space. Putting a storefront in doesn't create a business it creates a space. Who is going to lease the Borders building, who is going to lease Riverfront when Marriot moves out. When you have

empty space it creates blight. Tight restrictions in other communities lead to higher property values.

Cromwell said the next HRC meeting was December 15.

McCullough said after that it was January 19.

Schumm asked Treanor if he thought the project would go to ARC to fine tune design elements.

Treanor said yes.

Schumm asked how long that would take.

Treanor said at least until the next HRC meeting.

Schumm said that would give time for input on the project.

Tuttle made comments from the gallery.

Cromwell warned Tuttle that public comment was over.

Schumm said he wanted there to be opportunity for discussion between the developer and the neighbors.

McCullough said typically the HRC sees a plan. The process Treanor spoke of can be typical if HRC has found that tweaks are necessary but they generally support the plan. If the HRC sees the project next week and can't make findings to support it they would have to deny it and not send it to ARC. They could also defer it and ask the developer to have discussions with the neighbors.

Schumm said by sending it back Thursday there are options for additional discussion.

McCullough said they would urge HRC to leave open the opportunity to defer and give the applicant and neighbors time to meet, give the applicant guidance, and have it come back to HRC. They could also deny it next Thursday.

Amyx said that December 15 would just be a beginning to the process.

Kimball said they were meeting the neighborhood maybe on Sunday. They would like to get that feedback and comment before going back to HRC. They did request an impromptu

ARC meeting before HRC and that would give them some more feedback. If they can't do that they would go to HRC and hope to get deferral. If they could get those meetings ahead of time they could do more at HRC.

Amyx asked about ARC notice requirements.

McCullough said just the normal meeting notifications. He said the ARC was not there to design a project and advocate for it before the HRC. The design challenges are typically hammered out between staff and applicant before HRC and then ARC.

Schumm said if it goes to HRC, they have the ability to defer and offer to the applicant that they meet with other groups and refine the project.

McCullough said yes and staff could ask them to see it in that light.

Amyx asked if staff could do all this in the time available.

McCullough said this would be a high priority this week and next.

Amyx said HRC refers it to ARC, then back to HRC, then back to City Commission in February.

McCullough said it may not come back to the City Commission if the issues can all be worked out.

Cromwell said TIFs had been raised. We aren't inclined to pay forward on TIFs.

Corliss said the city's first TIF project was a debt financed project, but if there was one here staff would recommend a pay as you go approach without city debt. The applicant had indicated that they would not ask for city issued debt for the project.

Cromwell said we had a project that had made some evolution due to input from neighbors and that was encouraging. It could be frustrating from a development standpoint but we ended up with a better result for the community – the neighbors and the business community. He appreciated everyone's involvement and input. People talk about us not being business friendly, but the reality is that we make sure things get built and we have the best project available for everyone.

Moved by Schumm, seconded by Carter to direct staff to facilitate the revised design of 900 New Hampshire to the December 15 Historic Resources Commission. Motion carried unanimously.

The Commission recessed for a short break at 8:47 p.m.

The Commission returned to regular session at 9:01 p.m.

2. Consider request to authorize the Patrol Rifle Lease Purchase Agreement for police officers (This item was deferred from the 11/22/11 City Commission meeting).

Tarik Khatib, Chief of Police, presented the staff report.

Amyx asked if officers are required to participate.

Khatib said no.

Mayor Cromwell called for public comment.

Jessica Baron said she was concerned about any extension to militarization of the police because we are a peaceful community and we would like to stay that way. She would like to see police forces not going directly to force. There is always room for improvement. One of the arguments is that Lawrence doesn't have a standing SWAT team and response time is slower. There are a couple things wrong with that program. If we don't have a standing SWAT team maybe there's not a need for that type of force. The other argument is excessive use of force. All of the Lawrence Police she had come into contact with were respectful, but she did see that the department thought it was appropriate to bring 30 officers to a park to disperse 8 people. She can't think of a situation where it is appropriate to fire on another individual unless they are actively under fire. She said no police officer had been killed in the line of duty in Lawrence. She did not feel safer knowing that anyone had this type of weapon in her community even if it was a police officer.

A woman said that because we so seldom have need for this type of weapons that means that they are statistically, more likely to overreact.

Jerry Niehoff said the automatic rifles are special weapons. It is a completely different weapon with more ricochet, more penetrating power. Officers need a comprehensive plan on how to deal with particular situations in which an officer will have such a weapon. There needs to be a more comprehensive plan. Carrying a bigger gun doesn't necessarily mean better law enforcement.

Brian Sultana said in Lawrence there wasn't a need for this given our crime rates and means of ameliorating crime. You have three official cases of deaths by shooting in 5 years. This is 106 semiautomatic rifles deployed. There is too much room for overreaction and side casualties. He said he couldn't see there being a need for this kind of weapon in Lawrence.

Mike Packard said we should consider this carefully. This sounds like we are going to war with Missouri or something. He said he saw things in other communities that were excessive.

Michael Tanner said he knew we needed law and order but we also had to have other rights to defend ourselves from government and such. These weapons are very similar to the weapons they had in Waco, Texas when they went in and stormed their community there. It is all about the people's rights to have assault rifles and he didn't think anyone should have assault rifles. Maybe we should have law enforcement like in Britain where we duke it out or go out and shoot free throws or something. He said he was a peaceful person. If the public shouldn't be able to own these rifles no one else should.

John R. Tuttle said this may be a paranoid reaction. The leading gross product on black Friday was firearms. He asked who the police chief was arming against, the citizens? This country is going down the tubes. The only way you guys can keep perpetuating your lies is by arming your police and having them be your thugs. We are a heavily armed society. The only way this is going is toward a revolt. This is way overkill. If there is really an emergency where this is needed we can call Overland Park or FEMA. We don't need to exacerbate the situation

further. America is not a safe place to be anymore because of your corrupt and gluttonous behavior. If you keep it up you are going to get what you are asking for. You will not win.

Jay Kennedy said he no concern with the police having these. All tools can be used for good or bad. Like AED's, they are not going to be deployed on random citizens. There is a continuum of force that is followed. There has been concern about delay in calling out the SWAT team. He said he had two school age children and school shootings were a concern to him. There had been numerous such incidents in the country and in other countries. It would behoove us to have a sufficient number of these rifles and officers that would be able to neutralize a threat.

Amyx asked about the training and when the weapons would be used.

Khatib said all of the officers go through extensive training. The rifle is a more accurate extension of the pistol. Officers have to exercise discretion according to their training with whatever weapon they have to use. The bottom line is whether we are going to be prepared. You can call Overland Park or Topeka, but then you are under their paradigm of policing.

Amyx said we had 3 officers killed in the line of duty.

Khatib said yes, and more recently in 1995 Captain Pattrick had been shot by a bank robber.

Amyx said it came down to trusting our officers. Our officers were well trained. Use of weapons was a last resort. Nobody likes to have this discussion. We had a similar discussion about TASERS a few years ago. He had not seen an overuse of those. They were only used when they had to be. He appreciated the comments and correspondence.

Cromwell said we have these patrol rifles currently, we have training for them. Calling in teams from other communities was not ideal. We police differently here.

Michael Tanner said this was different because officers were taking these home.

Cromwell said that Tanner was disrupting the meeting and if he continued he would be asked to leave. Cromwell said he felt very comfortable with our officers, their training, and this program.

Carter said he heard from some of the speakers that we hadn't had incidents that required these. It only takes one incident to greatly multiply the number of victims killed in our community. He said he was concerned with the safety of our officers and this arms them in an appropriate way. If an incident happens and we didn't have these tools it would be unacceptable.

Dever asked where the funding for this came from.

Corliss said the equipment reserve fund. We do a similar thing for pistols for officers and for computers for city employees. Officers would apply through the police chief and funds from equipment reserve would purchase the rifles, and then payroll deductions would go back into equipment reserve.

Dever asked what happens if an officer leaves employment with the city and owes for one of these.

Corliss said the first claim on their last paycheck would be to pay back the balance.

Dever said he felt TASERS had saved lives. He favored giving professional people the tools they need. There is only a small number of officers on duty at any time. It is important that the officers on duty have all the standard tools they need. He didn't see this as outrageous, it was giving them the tools they need.

Moved by Carter, seconded by Amyx, to authorize the Patrol Rifle Lease Purchase Agreement for police officers. Motion carried unanimously.

3. Consider request to authorize the distribution of Request for Qualifications for construction management services for the Lawrence Public Library project.

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

Carter asked if the cost of the construction management firm comes out of the budget for the project. Also if the cost of a potential library relocation during construction would come out of the budget.

Corliss said yes to both.

Amyx said the CM would work for the city.

Corliss said yes.

Amyx asked if the subcontractors would work for the city.

Corliss said they could work for the city or the general contractor.

Amyx asked how you decide on which projects to use a construction manager.

Corliss said there is not a hard and fast threshold, but the complexity and size of the project was a factor. For a smaller project it doesn't make as much sense. It is a matter of judgment whether we thought we could get a better project this way.

Cromwell said he thought this was the way to go. It was a tough site and tough time line. This would save us time and money and cause us less disruption.

Amyx said he didn't disagree but just wanted to make sure he understood. He asked whether we picked up any liability in having the subcontractors working for us.

Carter said he would lean toward the accountability being on the construction manager. It was important that this be done right. He would like to see the subs contract with the construction manager.

Dever said he was not sure where we were getting savings by letting the large contractors run through the CM because there would be markups. They are not going to do it for free.

Jane Huesemann said you probably want the CM to have the responsibility of coordinating them. There wouldn't be any more fee than if you had a general contractor. They would help the team make the decision of what the costs of having different number of phases,

where to stage, etc. The CM would be an additional cost but would also save on other aspects. There wouldn't be an additional markup above what a GC would have.

Tuttle said no one had stated their names.

Cromwell said Tuttle was disrupting the meeting and asked Officer Neff to discuss meeting protocol with Tuttle. Neff and Tuttle left the room.

Dever asked how the CM makes their money through the construction phase.

Huesemann said through their fee, but it isn't really any different than a GC.

Dever asked how we save money then.

Huesemann said by shortening the time of the project.

Steve Clark said there was a complex evaluation of costs. The construction manager would help us look at how the phasing of the project could be changed to save construction time.

Dever said it was possible the cost could be higher and there were no promises.

Cromwell said the execution would be better, and the quicker we can do this the better and with less frustration. If the subs are coordinated better we have the potential to get a better bid from them.

Carter said there is a more flexibility with a CM than a GC to bid out more aspects of the project to more local contractors. A GC may have more of their subs from outside.

Corliss said that is possible but we don't really know. There would be multiple bid packages. There was a possibility we would see more local participation but no guarantees.

Dever asked about insurance.

Corliss said we would work that out to the satisfaction of the Legal Department.

Amyx said the process would be that a RFQ would go out, a recommendation would be made, the Commission would authorize negotiation of a contract then approve the contract.

Corliss said yes. The bid packages would also come to the Commission. As Jane points out, we want to make sure the CM has the direct ability to control the timing of the work of the subs.

Dever said the CM should be able to control everyone. If the contractors are with the city the relationship is different though and the CM is on the side. There are side things that can occur and we could be pulled into any disputes.

Mayor Cromwell called for public comment.

KT Walsh said as an artist she saw the latest designs for the library and they are beautiful. She had been speaking with the architects and with the arts commission and was waiting on the public art proposals. You want the artists in the design at this point so that you don't get "plop" art that is just plopped down in front of the building.

Michael Tanner said the facilities at the library are fine. The public may have voted on this but it was a bad choice. The money could be more well spent on new administration and employees at the library. He had bad experiences with the staff there.

Moved by Schumm, seconded by Carter, to authorize distribution of RFQs. Motion carried unanimously.

E. PUBLIC COMMENT:

Gwen Klingenberg invited commissioners and the community to the Lawrence City Choir presentation on December 10.

Michael Tanner said in light of the actions taken tonight by the Commission he wanted the public to think of the possibility that there are officers in the world that are criminals. He went to the Plaza in the past several weeks to play. He took a look at Westport and security guys followed him out of Westport and out of their jurisdiction. They surrounded him but he was a lot stronger now and he outran them and taunted them. He said he had video proof that these guys came out of their jurisdiction and terrorized him at his home in 2005. Now you are giving assault

rifles to officers to take home, you just need a little file and a little creativity to make them fully automatic. Who is going to keep these guys in check?

Cromwell said Mr. Tanner's time was up.

Tanner said he was going to show them what the Westport police did to him.

Cromwell said Tanner was obstructing the meeting and asked him to leave. Officer Neff escorted Tanner from the room.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

None.

H: CALENDAR:

Moved by Amyx, seconded by Dever, to approve the 2012 City Commission meeting calendar. Motion carried unanimously.

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 Carter, seconded by Amyx, to adjourn at 10:19 p.m. Motion carried unanimously.

APPROVED:

Aron E. Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk