



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
ARON E. CROMWELL

COMMISSIONERS
ROBERT J. SCHUMM
MICHAEL DEVER
HUGH CARTER
MIKE AMYX

January 3, 2012

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: None.

B. CONSENT AGENDA:

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

1. Approved City Commission meeting minutes from 12/27/11.
2. Approved claims to 169 vendors in the amount of \$1,682,457.86 and payroll from December 18, 2011 to December 31, 2011, in the amount of \$1,822,999.65.
3. Approved licenses as recommended by the City Clerk's Office.

The Drinking Establishment Licenses for Rudy's Pizzeria, 704 Massachusetts; Bourgeois Pig, 6 East 9th Street; Louise's West, 1307 West 7th; Wildes Chateau 24, 2412 Iowa; and the Cereal Malt Beverage License for Border Bandito, 1528 West 23rd, contingent upon departmental approvals.

4. Approved appointment of Elise Higgins to the Lawrence Alliance to a position that expires 11/30/14 as recommended by the Mayor.
5. Bid and purchased items:
 - a) Awarded the construction contract for Bid No. B1156, Project UT0906DS Kaw Water Treatment Plant Large Valve Replacement, to the low bidder Nowak Construction in the amount of \$621,017 and authorized the City Manager to execute the contract.
 - b) Authorized the City Manager to Execute Supplemental Agreement No. 8 in the amount of \$6,808.50 to the Engineering Services Agreement with



BG Consultants for Construction Phase Engineering Services for Project UT0906DS Kaw Water Treatment Plant Large Valve Replacement.

- c) Authorized the City Manager to Execute Supplemental Agreement No. 2 in the amount of \$14,759 to the Engineering Services Agreement with Professional Engineering Consultants for Engineering Services for Project UT1003CS, 23rd Street Bridge Replacement Utilities Relocation.
 - d) Approved the final change order to the construction contract with RD Johnson Excavating for Project UT0810DS Phase II of Watermain Replacement Program; increasing the contract amount by \$35,312.48.
- 6. Accepted dedication of easements and rights of way for Preliminary Plat, PP-10-10-11, for Dan & Trisha Simons Addition, approximately 2.36 acres, 1 lot, located at 444 Country Club Terrace. Submitted by Treanor Architects, PA for Dan & Trisha Simons, property owners of record. (PC Item 1; approved 9-0 on 12/12/11)
 - 7. Approved as signs of community interest, a request from the American Heart Association to place red ribbons on the light posts on Massachusetts Street during the month of February, 2012.

C. CITY MANAGER'S REPORT:

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

D. REGULAR AGENDA ITEMS:

- 1. **Considered approving Text Amendments, TA-3-3-10, to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise process requirements for division of property through Certificates of Survey, Minor Subdivisions and Major Subdivisions. Modifications included reformatting this article/chapter to eliminate duplicative text and to delete terminology not used. Initiated by City Commission on 2/16/10. Re-initiated by Planning Commission on 5/23/11. Deferred by Planning Commission on 10/26/11. Adopted on first reading, Joint City Ordinance No. 8690/ /County Resolution No. _____, for Text Amendments (TA-3-3-10) to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise process requirements for division of property through Certificates of Survey, Minor Subdivisions and Major Subdivisions. (PC Item 6; approved 8-0-1 on 12/12/11)**

Sheila Stogsdill, Assistant Director of Planning and Development Services, presented the staff report.

Mayor Cromwell called for public comment. None was received.

Carter asked if the extensions process changed in addition to the timelines.

Stogsdill said it went to whatever body approved it originally.

Carter asked for comment on the League of Women Voters letter.

Stogsdill said the League had a concern about the wording in the definition “Original Tract” in Section 20-806(b)(1) because it would change the original purpose of creating parent parcels and asked that the definition be corrected to place limits on “boundary shifts” between landowners.

Staff included the League’s request by changing one word from “a” to “one” division, so that it was clear this could only be used one time. She said for instance, when a property did not meet the 20 acre minimum for a “Parent Parcel” and the property owner needed to submit a Certificate of Survey after a divorce occurred, what had once been a single ownership was technically now two separate ownerships. The idea was to have the flexibility to allow that Certificate of Survey to be processed only once so that a property owner was not able to continue to accumulate 20 acres with multiple owners and create additional Residential Development Parcels.

Hank Booth, Chamber of Commerce, thanked staff for their work on this item.

Cromwell said it was good work and good clarifications to streamline and make things easier to understand.

Moved by Amyx, seconded by Carter, to approve Text Amendments, TA-3-3-10, to the joint city/county subdivision regulations in the City of Lawrence Land Development Code, Chapter 20, Article 8 and the Douglas County Code, Chapter 11, Article 1 to revise process requirements for division of property through Certificates of Survey, Minor Subdivisions and Major Subdivisions. Modifications include reformatting this article/chapter to eliminate duplicative text and to delete terminology not used, and adopt on first reading, Joint City Ordinance No. 8690/County Resolution No. _____. Motion carried unanimously.

2. Receive Long Range Planning 2012 Work Program. (PC Item 7; approved 8-0 on 12/12/11).

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

Amyx asked about the idea behind grant funding for the Oread Neighborhood Design Guidelines.

McCullough said the idea was to utilize the consultant to get the guidelines drafted. He anticipated additional processing beyond that point to get those guidelines adopted.

Mayor Cromwell called for public comment. None was received.

Amyx said he appreciated the comments about the sand dredging operations because it was an important part of the work plan. He asked if sand dredging operations would be something this body would be asked to address.

McCullough said he anticipated the Commission needing to address sand dredging operations if they were in the growth area in Grant Township and toward Eudora.

Amyx said a few years ago when he was on the County Commission, he recalled discussion of sand dredging issues and the many concerns.

Carter said it was a great workload and he appreciated the items streamlining the process. He said the City's Innoprise Software was great for accountability of the developers and staff in "real time" and asked if the public would be able to view that information online. Revisiting requirements for things to go back to the comp plan was a positive too. Many of the items were fairly urgent rather than long term projects. In any rate it looked good and it was good to have a plan.

McCullough said some of the information would be available to the public online in real time.

Moved by Amyx, seconded by Carter, to approve Long Range Planning 2012 Work Program. Motion carried unanimously.

3. Receive recommendation from the Public Incentives Review Committee concerning requested incentives associated with the 901 New Hampshire

development project and consider authorizing the City Manager to execute a performance agreement with Ninth and New Hampshire, LLC.

Bill Fleming, Treanor Architects, said the project began in 2010. He displayed slides showing the progress of the project. He said the project went well and he thanked various city staff who worked on the project at different stages. He said they were asking for reimbursement of about \$280,000 that was included in the original TIF budget for public infrastructure costs established as part of the Downtown 2000 TIF project. He said he thought the project was consistent with the intent of the TIF district. The total estimated real estate taxes over 9 years to be received by the city is about \$2.3 million minus the reimbursement requested. He said the “but for” question was met when the original TIF district was formed. Some may argue that there is another political “but for” question, but the legal question was settled. The request had been approved by PIRC and recommended by staff. He said the developer was also asking that if the city is going to use a pay as you go program for cost reimbursement, that it consider including an interest factor in the reimbursement amount because the developer has to front the money for the payment of the development costs. The interest over 10 years would be about \$80,000. The other thing they asked for was concessions on parking, reduced fees for passes for two year and a fixed rate on the next fifteen years. They would like to provide certainty to tenants regarding their parking costs.

David Corliss, City Manager, presented the staff report.

Amyx asked how much money was borrowed originally for the parking garage.

Corliss said the City borrowed about \$7 million dollars and \$900,000 was in TIF reimbursable expenses.

Amyx said to be clear, the developer made infrastructure improvements that the City identified along New Hampshire Street which the City would have done and now the developer was asking to be reimbursed.

Corliss said correct.

Amyx said that money slated for those improvements went into the bond and interest fund and the City used that money to pay debt.

Corliss said correct.

Amyx said of the dollars that were being generated by the development of that corridor, he asked how much, on an annual basis, was going into paying off that debt.

Corliss said the amount was relatively small and the City was not getting much regarding sales tax which was less than \$100,000 on an annual basis.

Amyx said this was the first piece of property that would generate a substantial amount of property tax to help pay-off the debt of the parking structure.

Corliss said it was definitely the largest, almost twice as large.

Amyx asked how much property would be left in the TIF District that could generate money to pay-off the parking structure.

Corliss said under the existing TIF District, only the tract north of the Arts Center was left. Corliss said the debt would be paid off in 20 years.

Amyx asked was it financially feasible to pay-off some of the City's debt of that parking structure.

Corliss said the City was in good shape regarding the ability to pay the debt because paying debt was important. He said one of the reasons he recommended paying that debt over time as opposed to paying it in a lump sum, was that money would be paid out of the general operating fund and not the bond and interest fund.

Amyx said he understood the responsibility the City had for those improvements, but asked if the potential revenue from the development would pay the debt off and in what period of time?

Corliss said the City had 8 or 9 years left on that debt, which were 20 year bonds. Obviously, now that the building was on the tax roles the estimated assessments would help the City get closer to that original projection, but they needed to see that actual dollar amount.

Vice Mayor Schumm asked if there was an estimate.

Fleming said the rough estimate was about \$2.4 million generated over a nine year period for 80% share by the City which contributed to the payment of the debt.

Amyx asked if that estimate was for the nine remaining years.

Fleming said the Downtown 2000 TIF would last for nine more years. The City would always get the City's share of real estate taxes, but after nine years the City would stop getting the 80% share.

Corliss said the City was getting that incremental tax increase over that original base this year.

Vice Mayor Shumm asked if the estimate was \$2.4 million for ten years just in property tax.

Fleming said that was property, sales and parking revenue numbers.

Dever said he had questions about the original agreement and the intentions related. He said a five year term was discussed by which the landowner needed to commence construction of any improvements on the property and a liquidated damage assessment in the event that project did not occur. He asked about the intention of the five year term and was it the intention that if nothing was constructed in that first five years that any benefit being in this TIF District would evaporate.

Corliss said the intent was that the city wanted to provide an incentive for the developer to proceed with the project, but knew they were unlikely to proceed until the developer had a tenant and would not build on pure speculation. It was site planned and was how staff knew the rough numbers concerning the TIF reimbursable expenses and that dollar amount.

Dever said the City gave the developer a five year window with in which they had to begin making improvements on the property, but yet, it was a 20 year term for this TIF.

Corliss said the debt was 20 years and the TIF revenue was 20 years.

Dever said there was a five year window to construct and in the event it didn't occur, there would be liquidated damages, but no incentive other than the TIF proceeds that would go to the developer of that property. He asked if the intention of setting that five year term, would be to not allow the incentive to convey with the property or any further development or was the incentive related to getting this project started to maximize the City's TIF generation.

Corliss said it was more the latter. He said when doing those types of projects you would think that projects would occur, but they had contractual provisions that governed when something did not occur. He said there were significant downturns with the events of 9-11 in 2001 and that slow down particularly in the hotel industry, which was the reason for the original developer's inability to proceed with the project. He said it was the City's intent that this area would redevelop, the uses would not significantly change, and the parking garage would be an important asset.

Dever said wasn't the intention to disallow any TIF benefit from further development if it didn't occur within the first five years.

Corliss said he did not know if staff spent a lot of time talking about the five year term because of the liquidated damage provision. He said staff believed the property was valuable enough that someone would do something at that location because it was prime ground to build on.

Dever said if there was already a mechanism for this TIF and if it resided within the TIF then they were not really approving anything new necessarily because this was the intention for the ground all along and the intent of the agreement was to generate income to help pay for the public improvements.

Corliss said correct.

Dever said there wasn't a clear statement as to how long the TIF was in place, although that duration had been cleared up and whether or not it was the intention of the agreement to disallow any benefit from that TIF in the future. He said he wanted to be sure the Commission

was agreeing to what was basically the implementation of something that was put in place 10 years ago or not.

Corliss said he believed it followed the spirit of the plans. At that time, staff thought the developer in place was going to do this work and it would happen within a reasonable time period, but it did not happen under that contract. It was clearly the City's intent that something like this would happen in that area for the revenue stream and those reimbursable expenses were appropriate for the uses being requested. He said he couldn't point to an account in the City's treasury that stated the money was left in a certain account, but it was in the spirit of what was being proposed and that was why staff supported it.

Dever said the intention of this additional money was not to only pay for the parking garage, but any public improvement associated with the redevelopment of this parcel.

Corliss said it was development related work and not the actual structure itself, but a lot of improvements and in many cases private developers pay for things such as street trees, sidewalks and lights, but it was not inappropriate for the City to pay for those improvements in some circumstances. He said this was coming in a different process than what was traditionally done.

Amyx said in 2005/2006, right after he was elected, the liquidated damage check came to the City, he didn't know the intent at the time, but it had nothing to do with the City proceeding with this deal. The Commission chose not to raise the mill levy to cover costs of monies that were already in hand.

Carter said in paying for those improvements out of the general operating fund versus the bond and interest fund that also wouldn't require the City to raise any taxes. The developer went forward with the assumption along the lines that the "spirit of the plans" was being followed. He said it was recognized there was some value of stretching payments over a ten year period and the interest rates were low. If the City made those payments in a shorter

amount of time, this project, because of the stage it was in, would likely cash flow with more than enough to cover those payments itself.

Corliss said clearly the City would receive the benefit of the property tax revenue. He said the City did not have \$280,000 that he could point to in the general operating fund to pay for it, but had some contingencies in the City's general operating fund where staff thought they could work with \$28,000 a year over ten years. If the City Commission decided that number needed to be changed, staff would find ways to work with that change. He said it was a lot of money that had not been budgeted and thought it was more appropriate to pay overtime.

Carter asked if the taxes from this particular project were already in the budget.

Corliss said the assessed valuation of the building as of January 1, 2011, would be reflected in the property taxes that the property owner paid in December of last year and then again in May 2012 and that revenue would be the revenue that the City operated the 2012 Budget. The county appraiser would decide the value of the building as of January 1, 2012 making some estimate on the income and costs approach. He said that appraised value would become as of January 1, 2012 would be the assessed value number to build the City's 2013 Budget. He said the advantage of the new building was with the 2012 budget because that would be when the City received that property tax payment in December 2012 and again in May 2013. He said that was how those numbers played out and would be that much further along in making debt payments on the parking garage.

Carter said based on that idea, if there was some type of balloon payment in the years 2013 or 2014 where the City knew it was getting a significant amount of this money to pay it off, he asked if the money didn't need to be pulled just from the general operating fund, if the City received those additional taxes coming from the property.

Corliss said the City needed to make a conscience chose in creating the 2013 Budget because the City would be receiving full advantage of the new building and as opposed to using that assessed valuation for the library and the bond and interest fund and general fund, the City

would carve out whatever dollar amount the City Commission wanted to make as a balloon payment. He said right now 80% of that money would come back to the City. He suggested not putting that money into the bond and interest fund where the City had all those expenses for the parking garage, but set the money aside to pay it.

Mayor Cromwell called for public comment.

Tom Peterson said he lived one block east of the project. He said he wanted to comment on the people and the place. He said you were familiar with the College Hill in Topeka, where the retail was vacant and the apartments unoccupied. Taxes were past due and the TIF revenues were short. That is the people, Doug Compton in a Limited Liability Corporation. Regarding the place, the Downtown 2000 TIF was also short of revenues. This was a 9.5 million dollar project and the developer was asking for a quarter million dollars. He said he would argue that this proposal fails the “but for” criteria because it is already built. The developer, Compton, has said he has \$6.5 million in his coffers for the project across the street, so there is no shortfall in funding. He said he didn’t believe Compton and his allies would be responsible on this project. Social services for the poor and elderly were being cut across the state, and here we are asking to provide social support for the rich.

KT Walsh said she was part of the citizens group that worked on Downtown 2000 and it was a wonderful process. We all had to learn how TIF worked. The neighbors were involved in the process all along the way. The process now working with this developer had been very different. The neighbors felt like this was a slap in the face. The “but for” might pass the legal test but it did not pass the common sense test.

Jim Mullins said he was a Field Director for Americans for Prosperity. In March of 2011 he said he came before a City Commission in Merriam, Kansas and asked what a TIF was. The problem was that TIFs were set up for four different reasons which were called economic development incentives. The four reasons were: 1) market failure; 2) blighted areas; 3) bidding wars; and, 4) intergovernmental revenue shifting. He said he liked the performance agreement.

Points could be put in there to protect the tax payer, such as jobs created. The Commission had a duty to look out for the tax payers first. He knew what they had on the PIRC, but he thought some regular old people with common sense needed to be put on there instead of city, county, and school district employees. If we can see that the taxpayers will receive a return on investment we will support it. He asked that the Commission not approve this.

Hank Booth, Lawrence Chamber of Commerce, said he understood that this was a pay as you go program, if they didn't pay the taxes they wouldn't receive the incentive.

Corliss said it wouldn't be accurate to call it a pay as you go TIF because the city paid for the expenses up front. In this project it had a pay as you go aspect but he didn't want the terms to be confused regarding the TIF.

Booth said the aspect of seeing the increased parking for downtown and the benefits of increased retail and residential space downtown had paid off with benefits to the whole area.

Schumm said as a general statement, he had received statements regarding, "Why does this person always get a deal?" His response was that they weren't looking at the people, but at the project. There were a couple of families or groups that did a lot of development in the city so the policies end up applying to those people too. Again someone might ask "Why does this person get a deal?", but the city also received a deal. We are dealing with a project, not a person, and it has turned out to be a nice project. Things are project and policy driven. He said he remembered comments on the 2000 project and people were excited about the revitalization that would occur. He said he was of the opinion that the incentive was to advance the project until it was complete. It was right to use the incentive at this point because it was relevant today on this project. That was not to say that he is forecasting his vote on a project across the street. He is only talking about the 901 New Hampshire project tonight. He thought the project stood on its own merits.

Amyx said he appreciated Schumm's comments. He said as a business owner downtown he appreciated the parking garage. He came on the commission at the time the 5

years expired and the liquidated damages were paid. We did the right thing with those payments at the time. Now we have a request 6 years later and he thought it was hard to say we are going to grant the request in this case knowing we still had to come up with money to continue making the bond payments.

Schumm said his way of thinking was that this is going to cash flow because we'll get more money from the project than the request. This isn't a dividend check, but a reimbursement for the public improvements. It would be a lot easier to have this discussion if the project wasn't completed and we could ask if that request was worth the outcome we would get eventually.

Carter said it comes down to semantics to an extent, and the fact that the funds were moved to bond and interest was the right thing to do but complicated this. He said from an economic development standpoint we should do this. Regarding a couple points made by speakers and in letters to the editor, he heard comparisons to the Topeka project. That project didn't go well, but it didn't go well for anyone. He didn't think this project was comparable to the Topeka project. The other comparison he heard was regarding cutting social services and giving to rich people. He said that was looking at it in a vacuum. The more we can take care of the economy the more we can take care of social services needs in a sustainable way. We are not choosing between social services and a project in this case or any case. We also shouldn't focus on the name of the developer just because they happen to do a lot of work in Lawrence. He was in favor of moving forward to make this happen.

Cromwell said he heard comments that so and so could afford it. This is a commercial venture, a business. Business is supposed to make money. It is not something that is done for fun. It is analyzed and looked at. We have formulas and policies adopted by the city. We have structured it in a way to protect the city. In this case the risk to the city of Lawrence is very low. Pointing fingers at individuals is unfair. You had better turn around and also look at all the good things an individual does. He said he did not like the procedure of receiving an incentive request after the project had started. There was some misunderstanding that had occurred that caused

it to come later. This came to PIRC six months ago and the request had been made before that, and now we were looking at a completed project. He said he hoped it went in the right order in the future. We talked a lot about the parking garage and money spent on that. This project is not going to pay for the parking garage. The garage serves the community and this project. The taxes paid by this project would help pay for the garage and other services around the community. Lawrence paid more for social services per capita than anywhere else in Kansas and projects like this helped pay for that. He said he was in favor of moving forward with the request. It was a great project and the risk to the city was nonexistent.

Schumm said he was not in favor of paying interest and was not in favor of giving special parking privileges. The parking is there, the garage was built to incent development and it had done that. If we just issue a “hunting pass” people can find a place just like anyone else.

Carter said he felt the same way on parking. We haven’t raised rates in some time, but the more development happens will effect supply and demand. We don’t need to commit to fixed rates downtown. That may change down the road. He didn’t see that as a problem for tenants. As far as interest, his only consideration was if there was a way to pay it sooner rather than over ten years, he understood we couldn’t just earmark it. Maybe that was a downside of approving this after the fact.

Dever asked what the net tax benefit to the city was over the ten year period, before any incentive might be given to the developer. He asked if that amount was \$255,000 over ten years?

Britt Crum Cano, Economic Development Coordinator, said she believed the model showed the cash flow in discounted dollars. The City would receive almost \$256,000 net after the incentives.

Corliss asked if that also took out the bond payments.

Crum Cano said she did not think those bond payments were taken into consideration according to the analysis.

Carter said the model stated that the analysis increment would be reimbursed to the developer in year one and remaining year two. It would be present value of that money which would be paid over ten years and the City came further ahead than the analysis.

Dever said regarding the TIF district, 80% of the tax increment would go to the City.

Corliss said yes, approximately 80%.

Dever said the increment between what the property value was and what the current value was based on the improvements.

Corliss said correct, until the time the debt was paid off which was roughly nine years.

Dever asked how that added up to that number. He said there would be \$256,000 in tax revenue incrementally.

Carter said that number was just the portion the City was paying.

Corliss said the analysis indicated that was net after paying \$280,000 worth of payment to the developer over that period, but the City would still come out ahead at \$255,000.

Dever asked where all the money was going. He said if there was this increment value and the City received 80%, that amount seemed low, but he might be missing out on the formula. He said he could not see how those figures were arrived at. He said this was part of the decision making process of what the net benefit was to the City and what this was costing the City.

Carter said Fleming gave some estimates during his presentation of the taxes they thought would come into the City. The total number was far different from the number just stated. He said he did not see a final net.

Corliss said it was the cost benefit analysis and the model showed the cost to the public.

Dever said those new residents could live anywhere in downtown and could already have that impact. He said the model was strictly based on a "but for" analysis when talking about incentivizing a potential project and the cost associated with that project. He said he wanted to be clear because they were talking about \$2 million and now they were talking about

netting \$255,000 minus the incentives and he didn't see how those numbers added up, but if adding those intangible values of the impact of the cost to the City, he completely understood.

Corliss said the cost benefit analysis included the cost of having those people at that location and each individual had contributed a certain dollar amount for City/County/School District services. He said that was the distinction.

Dever said there had been a lot of comment about subsidizing development and not giving incentives to developers and wanted to make sure he understood a few things.

The question of whether or not this was or was not in a TIF District was not the question. If the City did not hand over any benefit to the developer, the City still enjoyed this value of being in a TIF District. He said the City would have a benefit that was created and the City would receive an unnatural benefit from the TIF District which was 80% of tax increment difference.

Corliss said the City received the statutorily required benefit.

Dever said the City created this benefit district with the intent of incentivizing the development and to pay for public improvements other than the parking garage itself.

Corliss said correct.

Dever said then they were not questioning whether or not there was a TIF District, the question was whether or not they wanted to convey the benefit of this TIF to the developer subsequent to the construction or the creation of this improvement.

Corliss said he believed that was an accurate statement. He said the City had a TIF District, but what the City did not have was a redevelopment agreement with this developer.

Dever said there was a TIF District and the City planned on reaping 80% of that statutory requirement. He said there was no question there was a TIF because the City was planning on enjoying the benefits of the creation of this development in an abnormal fashion relative to other improvements in the community.

Corliss said correct. He said when your house and my house appreciated in value the City would not get 80% of that value because it was determined by the mill levy of the different jurisdictions.

Dever asked if it was disingenuous of the City Commission to question whether or not there was a TIF District.

Corliss said there was a TIF District in place, but what the City did not have was a redevelopment agreement with this development. The redevelopment agreement the City had expired because the developer did not perform.

Dever said he understood, but asked if there was any history of this happening in the past, but he could not find anything where the City had any type of implicit agreement with future or current landowners if they pay that fine whether they would enjoy the benefit of that TIF that they owned land in.

Corliss said he did not know of any communities in Kansas where this type of scenario happened, but there might be. He said if this project would have come in three years after the development agreement was signed, this item would have been a consent agenda item to pay the claim and move on, but what happened in this case, while the City still had the TIF District, the City had a redevelopment agreement that went null and void because the original developer did not perform. He said the City had a successor to the title to the property come to the City and state that this area was in a TIF District and asked if they were entitled to reimbursable expenses. He said the city did not have the money because that money was placed in the bond and interest fund because no one performed. He said staff was recommending approval.

Dever said he understood, but there were a lot of things that were said and implied and it was bad timing. He said there was a presumption bad or good that because the City was buying a piece of property it was arguable that the City would enjoy this incremental value of the property; that the City did not forgo that benefit because the City would receive the benefit. He said it was logical to assume that as a developer or landowner, he would enjoy it if the City was

planning on extending that value. He said he understood there was a development agreement in place that expired, but there was also penalty paid for that lack of compliance. He said what he didn't understand was what happened between 2005 or 2006 when the payment was made and what happened when the property was sold and developed. He said they were not arguing if this was not a new TIF District and were planning on enjoying the benefits and receiving several million dollars of incremental value that the City would not normal receive. He said his question was if there were conversations where the same benefit would be provided to the potential developer for the development of public improvements.

Corliss said nothing was talked about until the letter from Fleming as the project was beginning construction, asking to look at that benefit.

Amyx said those were good comments but we still paid the bonds back with that money.

Moved by Carter, seconded by Schumm, to authorize City Manager to execute Performance Agreement. Aye: Carter, Cromwell, Dever and Schumm. Nay: Amyx. Motion carried.

Schumm asked if the Commission needed to do anything with the parking request.

Corliss said only if the City Commission wanted to act on it.

E. PUBLIC COMMENT:

None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

Schumm said there was interest among the public regarding a visit to Iniades, Greece. He said toward the end of July there was a request for a visit by a delegation. He said if anyone wanted to gain more information about the visit it would be at his home at 4:00 p.m. on Sunday evening to discuss it. He wanted people to know about it.

Corliss said we would put it on the meeting list.

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 8:36 p.m. Motion carried unanimously.

APPROVED:

Aron E. Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk