



# City of Lawrence

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CITY COMMISSION

MAYOR  
MICHAEL DEVER

COMMISSIONERS  
MIKE AMYX  
JEREMY FARMER  
DR. TERRY RIORDAN  
ROBERT J. SCHUMM

June 4, 2013

## A. STUDY SESSION:

The Board of Commissioners of the City of Lawrence met in study session from 3:30 p.m. - 5:30 p.m., in the City Commission Chambers in City Hall with Mayor Dever presiding and members Amyx, Farmer, Riordan and Schumm present.

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 Dever presiding and members Amyx, Farmer, Riordan and Schumm present.

## B. RECOGNITION/PROCLAMATION/PRESENTATION: None

## C. CONSENT AGENDA

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

1. Approved City Commission meeting minutes from 05/21/13.
2. Received minutes from various boards and commissions:  
Community Development Advisory Committee meeting of 04/11/13  
Mental Health Board meeting of 03/26/13
3. Approved claims to 207 vendors in the amount of \$1,842,663.19, and payroll from May 19, 2013 to June 1, 2013 in the amount of \$1,954,856.35.
4. Approved the retail liquor license for City Wine Market, 4821 West 6<sup>th</sup>, Ste: N.
5. Bid and purchase items:
  - a) Set a bid opening date of July 2, 2013 for the pool painting project at the Lawrence Indoor Aquatic Center.
  - b) Awarded the bid for the Comprehensive Rehabilitation Project at 1607 Wedgewood Drive to Schmidt Contracting, Inc., in the amount of \$16,190 for the



Base Bid, \$1,400 for Alternate #1, \$1,000 for Alternate #2, and \$3,400 for Alternate #3, for a total contract price of \$21,990.

- c) Awarded the bid for the Comprehensive Rehabilitation Project at 2728 Fenwick Road to Schmidt Contracting, Inc., in the amount of \$15,800 for the Base Bid and \$8,600 for Alternate #2, for a total contract price of \$24,400.
  - d) Approved the purchase of 16 Motorola MW810 Mobile Data computers for the Police Department from Topeka FM as a sole source vendor off the State of Kansas contract for a total of \$73,238.10.
  - e) Awarded the bid for one fully automated front load refuse truck for the Public Works Department Solid Waste Division, to the low bidder meeting specifications, Truck Component Systems, for \$181,346.
- 6. Adopted on first reading, Ordinance No. 8734, enacting revised scrap metal dealer registration requirements.
  - 7. Adopted the following ordinances on second and final reading:
    - a) Ordinance No. 8867, governing motorcycle headlamps, amending Chapter 17, Section 17-119 and enacting Section 17-119.1 of the Code of the City of Lawrence, KS.
    - b) Ordinance No. 8868, pertaining to the unlawful discharge of a firearm inside the City limits.
  - 8. Initiated a text amendment to the Lawrence City Code, Chapters 16 and 20, regarding fence code regulations and refer the amendments to the Planning Commission for a public hearing at a future date.
  - 9. Authorized the City Manager to enter into an agreement with Bartlett & West for engineering services in the amount of \$49,912.80 to design the regional detention basin for stormwater runoff at the former Farmland Industries Plant site, Project No. PW1330.
  - 10. Received an Amended Petition for the Cider Building Area Community Improvement District, increasing special assessments to fund the removal of utility poles in the alleyway located between the 800 block of Pennsylvania Street and Delaware Street, in addition to undergrounding utilities along Pennsylvania Street. Adopted on first reading, Ordinance No. 8871, amending Ordinance 8834, and authorizing the creation of a Community Improvement District.
  - 11. Authorized the Mayor to sign a Release of Mortgage for Ronda J. Miller, 214 Lawrence Avenue.
  - 12. Approved as "signs of community interest", a request from First Southern Baptist Church to place a sign in front of the church at 4300 W. 6<sup>th</sup> Street, promoting the Churchwide/Neighborhood Carnival on Sunday, August 11, 2013. The sign would be placed for two weeks, starting July 28 and ending August 11.

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

David Corliss, City Manager, presented the report.

**E. REGULAR AGENDA ITEMS:**

1. **Received public comment regarding 2014 City Budget.**

David Corliss, City Manager, introduced the 2014 City Budget.

Mayor Dever called for public comment.

Elizabeth Hernly, Lawrence Children's Choir, said she loved going to choir. It helped her meet new people and get out in the community.

Jane Greggs, Executive Director of the Lawrence Children's Choir, said regarding the Social Services Review Committee, the committee didn't reject their proposal, but just didn't look at it because they were funded through the Special Recreation Budget last year therefore they referred the proposal to the City Commission to look at it independently. She said they served students from preschool to grade 10 and public and private schools. Students were diverse as the community. They also served 10 communities outside of Lawrence, and visitors to Lawrence come in and spend money. They needed money because the Kansas Arts Commission was disbanded. They were asking not for a handout but for some help until they could transition. The awards the City gave last year went directly to scholarships. They awarded over \$13,000 in scholarships last year. Their fundraising efforts focused on general funding. The City directly helped 32 students with free tuition, uniforms, and tickets to concerts. She asked that the commission look at the research she provided.

Jerry Jost said his son had been a member of the choir for 4 years. His son had learned to be a role model, learned confidence, improved his stage presence and grown in musicality. He had learned cooperation and been an ambassador for our community. He had also learned about citizenship.

Marian Hupel said she was present to address the K10 connector proposal. This service essentially served students going to Johnson County or coming from Johnson County to KU. She said Lawrence voters voted overwhelming for transit a few years ago, but didn't vote for

money for Johnson County transit. There were many improvements and priorities that hadn't been funded. Busses only ran once an hour and there were requests for Sunday service. She said a route would be needed for Rock Chalk Park. A permanent transit hub was also needed in which a current study was being performed. Once a list of locations was provided, it was important to settle on a permanent location. In looking at who asked for funding, Johnson County just spent 10.7 million on amenities, with a 2 million dollar local match. A transit terminal and 15 transit stops were built for their 700,000 passengers per year. They spent 2 million dollars for bus stops and they didn't allocate enough money for the service. The 2.8 million passengers in Lawrence would love those amenities, and the City owed those passengers to keep our transit funds here. That's what they voted for.

Mary Beth Bialeck said she represented the Lawrence Police Foundation. They were founded in 2011 and supported, assisted and encouraged the Police Department in their funding and collaboration of their projects. She was present to address a new police facility and thought that it was long overdue in addressing the needs of the police department. The police department was located in six different locations. Both main facilities needed a lot of major repairs. A few weeks ago a roof fell in and obviously, a lot of repair work needed to be done. A few weeks ago the police department held a needs assessment meeting and outlined some of the deficiencies for the department. Their space was 52% deficient. She asked how a police department could possibly operate efficiently running between facilities. Those people served and protected the community every day and she asked how that could be done with all the hindrances LPD had now. She asked the City Commission to please fit the new police facility into the City's budget and to make it a top priority. The west building was separate from patrol, the parking wasn't available. The Lawrence Enforcement Center (LEC) was owned by the county and there were security issues, leaky roofs, undersized locker rooms, and just a lot of problems.

Laura Routh said she was present to speak on behalf of the Community Sidewalk Task Force. Their goal was to improve pedestrian access and safety through the community. They wanted the Lawrence community to be truly walkable. The city needed to prioritize the elimination of sidewalk gaps, and to address repair and maintenance needs. In the 2014 budget, they would like the city to designate a line item for sidewalks, whether through reallocation of existing resources or new funding sources. She said they welcomed the City Commission's attendance at their meetings.

Schumm thanked people for their comments and said earlier they talked about the budget for over an hour regarding those issues.

Dever said the commission appreciated people coming and giving their input. The children's choir, police, transit, and sidewalks were all things he would like to know more about, and asked staff to prepare information on those items for future discussion.

2. **Received staff report regarding lighted tennis courts at Centennial School.**

Dave Corliss, City Manager, introduced the item.

Mark Hecker, Assistant Parks & Recreation Director, presented the staff report.

Amyx said if those courts were lit, he asked if the City would pick up the maintenance on those facilities.

Corliss said it would depend on the agreement with the school district. There would be general cleanup and eventually there would be major maintenance, most likely 50/50. The City would probably have 100% cost maintenance on the lights. They haven't come to an agreement and haven't talked to the school district about this item in some time.

Dever said they had no idea if the school district would allow the City to light those courts?

Corliss said the last time they talked to Dr. Doll it wasn't an issue.

Riordan said there was an agreement among the neighbors and the school, but the City wasn't a party to that?

Corliss said correct.

Dever asked what the agreement was for.

Corliss said it was titled "Settlement Agreement" which set out some of the neighborhood's concerns and authority regarding what could happen on different school district sites that were improved and allowed the school district to proceed. The plaintiffs were challenging the ability of the school district to proceed with the construction then dismiss their lawsuit based upon settlement agreement.

Dever said they agreed to allow lighting.

Corliss said yes, and it was allowed under the City's Special Use Permit on that property.

Dever said they entered the settlement that the lights would be allowed.

Corliss said yes. Not all the neighbors were plaintiffs.

Dever said Hecker's study indicated that was a 9 court minimum based on the United States Tennis Court Guidelines (USTA)

Hecker said yes, based on their website.

Dever asked if Hecker was present when the original request came forward when they were citing the number of courts the City should have based on the City's population and that Lawrence was short on courts, but Hecker indicated that was not the case.

Hecker said there were a multiple of authorities they could go through to find numbers, but everyone qualified their numbers based on whether it was a high use tennis facility or just recreation use. He said 9 courts were probably too low for the size of Lawrence, but didn't know if the City was short courts.

Dever said the City currently had 15 courts available to the public.

Hecker said yes.

Dever asked if the City had 6 lighted courts that the City had control of.

Hecker said yes, but there was a need for a large lighted facility.

Dever asked if Hecker was not discouraging the need for the courts.

Hecker said no. He agreed with the Tennis Association that that need was present. It was a matter of where to put it and where it fit.

Dever said if the City moved forward with Rock Chalk Park being on the west side of town, what Hecker indicated was that it was a good thing based on the location because of the lack of lit courts or courts in general.

Hecker said lit courts and courts in general. There weren't a lot of courts on the west side and Rock Chalk would address that need.

Mayor Dever called for public comment.

Craig Jacob said he wanted to talk about the agreement and a different interpretation. Whenever they met with elected officials and their representatives they expect truthful statements. When they first met with the school district they were told the courts would only be for practice. Then the School District was going to build a stadium. Then they were told the schools had no use for lights. In a meeting with Parks and Rec they were told there was no way to have lights that wouldn't have any spillover. They were then told there was an agreement with the city to have lights. After a lawsuit, the lights were agreed to meet the standards of the SUP. At no point was the neighborhood in favor of lights, but they had tried to minimize the impact. Since there was no agreement between the city and school, and the school didn't need lights, they felt there should never be lights at that location.

Dan Coleman said his home was an investment. They loved their neighborhood. In the 8 years since they bought their home, a playground had been turned into tennis courts, a parking lot, and a baseball field. They had crowds, busses, lights, and loud speaker noise in their neighborhood. The LHS improvements brought many changes. They appreciated the tennis player's position and understood. The courts at the rec center were a perfect solution. Improving the courts at Centennial didn't make sense financially. Public demand didn't call for 16 lighted courts. From a planning perspective it didn't make sense. They didn't want to move

and didn't want their house to become a rental property. This was a community issue. There was a great solution in the rec center plan. He asked that this not be added to their neighborhood when they had already adjusted to so many changes.

A woman said she moved to Lawrence from North Carolina and loved this community. She lived in her house for 32 years. She said they were suffering and were uncomfortable because the daylight was never ending. They worked hard to pay their taxes, but were losing their rights.

Deborah Kirk said they bought their property two years ago. When the baseball and soccer lights were on it was insane and it felt like an ET landing site. The lights completely covered the east 2/3 of their home when they were both on, and now they wanted to light the tennis courts. Because the courts were raised, it didn't matter which side they were on. She said Rock Chalk Park would be coming and that would solve everything.

Mark Gridley said the difficulty was that he had a three year old. When the baseball or soccer lights were on, and her bedroom windows didn't even face the lights, he had to put cardboard on the windows. There was no place to go in his house when there was a game because a person couldn't get away from the loudspeakers. He thought his neighbors had already said it clearly. He asked if there was any way to say this was over if the Commission decided not to have the lights now?

Bob Triansky said he lived directly behind the softball field. The potentially cracking of the courts was an issue. Some of the discussion was that it was dangerous to install lights on that surface. That seemed to be shortsighted. It would be a shame to wreck those courts for the high school students. The second issue was the nature of lighting problems. The lights had never been right with respect to glare. City staff worked to make sure they met the photometric plan, but the lights still shined directly into their living rooms. They accepted that because the number of games was limited. Tennis would not be limited and would be every night. It was

unreasonable when there were alternatives, especially given the costs to light those courts. It was not practical and not fiscally responsible.

Conrad Henderson said he lived on Alabama Street for 37 years. He had seen many changes in the neighborhood, but the biggest was building new athletic fields. The changes continued to affect their neighborhood to this day, including the lighting. During late games he was literally driven out of his living room even with his blinds closed. Fortunately this didn't happen often because those fields were limited to LHS usage. His neighbors were faced with a greater invasion of light because tennis courts would be used nightly. There were better solutions. He recommended putting permanent lights at the new athletic complex.

Betty Alderson said three basic questions came up over and over: traffic, noise pollution and light pollution. As soon as the football stadium was constructed all of those things became an issue. Band practice was now at night instead of the morning. High schools didn't need lighted courts. She said she saw no reason city funds should be spent for a private association to have lighted courts that would disturb the neighborhoods.

Robin Michael said she wanted to start by saying her heart went out to the neighborhood and she could empathize. Their big thing was that they didn't want to be intrusive and wanted to find a compromise, not losing the support for their sport. They were a public organization, were recognized by the USTA, and had hundreds of members. They used to have 22 courts which now were dwindling down to 6 once Robinson was demolished. They needed those courts for league play and social play. She didn't want to sound greedy. They were thrilled with Rock Chalk Park but compared to other communities this community was pretty far behind. Norman Oklahoma had 22 lighted courts at Park and Recreation sites. There were 10 courts at Oklahoma University, and a number of lighted courts at schools. A total of 46 lighted courts for a population of 93,000. There were comparable numbers from other communities. The compromise they were trying to make was to light the courts in a way that was less intrusive with no spill lights.

Tom Buller said he was adamantly opposed to lights in that area. They had suffered a lot in the last few years. The last time there was a lighting proposal for that park, the lighting engineer said it would be as bright as this room until ten at night. It was an undue burden to place on people. Rock Chalk was a great option.

A woman said it had been a long road for everyone. Lawrence Tennis Association was a public organization. They were going on their fourth season without lights. Even if they lit the courts it wouldn't solve the problems of the other fields. Tennis was less intrusive. She received a couple of bids for lights for \$146,000. No spill lighting could be directed only to the courts. As for the school district, they were still for the lighting, because the high school only needed 6 courts and added 2 for the association because they were moving 8 courts over from 19<sup>th</sup> Street. In the settlement agreement, they all agreed it read with the conditions in which the lights would be built. Today there were only three pairs of lighted courts.

A woman said all of the lighting diagrams were for courts at street level and hadn't been tested on raised courts.

Tom Harper said he wanted to focus on justice. It was a quality of life issue. It was a bad design and planning to put the courts at that location in the first place. He thanked the tennis association for bringing this up because it brought them together as a neighborhood. Someone else asked earlier if there was a way to put this to bed. He said he would really like to end this issue. If it could be ended, they would keep coming back in opposition.

Evelyn Haughlin said the south side of her house faced the courts. She opposed the lights. It was a quality of life issue. It was important for the tennis association folks to put their selves in their place. If they had this right across from their house they would understand and would be disturbed by the relentlessness of the lights and other issues. Tennis would go on whenever there was nice weather. People would be there every day of the week and would be hard for the neighborhood to bear. He was not going to hesitate to bring money up. The tennis courts had already affected property values. It was unfair for a small subset of the population to

affect the quality of life in the neighborhood and property values. When the soccer lights were on, he could read a book in his front yard at night. He had no confidence that the lights would be managed in a good way.

Dever thanked the tennis association for trying to get back what they felt they had lost, but the neighbors felt like they had been adversely affected. It was a conundrum. He thanked everyone for their respect.

Amyx said regarding the SUP, he asked what exactly was the condition relating to the courts.

Scott McCullough, Planning and Development Services Director, said the requirement at the time was for a photometric plan. The lighting wasn't part of the initial construction, so the condition generally spoke to providing the plan and reviewing it at a future time. As staff started that review the concerns grew based in part on what they observed at the other lit fields, and were reluctant to light the tennis courts. Essentially that photometric plan was put off to the future. Staff hadn't reached a point of being comfortable with the plan. It was a glare issue coming from the lights crossing the courts into neighbor's windows and yards.

Amyx asked if there was a condition or not? He asked if the Commission was at a point where they should review the SUP.

McCullough said the SUP didn't approve lights in concept. What staff found in working with Parks and Recreation and the vendors for the lights was that as the City's code directed staff to review the lights, it offered ways to mitigate the impact of lights. Some of those things were through screening mechanisms, lighting, earlier cut-off times. He said staff had gotten to a point where they believed that if they were to recommend to the Commission, lights at the location, it would be so limited that it might not be a benefit to the public because staff was looking at recommending whole months without the courts being lit to provide a break to the neighborhood. He said going back to the SUP and amending a condition, putting a condition on

that SUP would add a layer of process for the district or any other party to come back and ask the question again.

Amyx said he was the only member of the current commission that was present when the SUP was approved. The commission talked about all of those issues. He understood the applicant couldn't meet the lighting condition. He said they should consider this lighting matter as a land use issue. He said he voted in favor of it originally, but couldn't be done if the applicant couldn't meet the lighting standard. He said he had some soul searching to do.

McCullough said staff believed the approval was granted with the condition that those lighting plans would be reviewed later and approved only if the plan met the code. The code on outdoor lighting was not as objective as they hoped would be because it brought in that element of mitigation. He said for many properties, even for Rock Chalk Park, they talked about mitigation and it ended at a time period less than what the code guided staff to. On any outdoor lighting recreation site plan or process usually had an element of mitigation to it, to address those impacts because it brought an impact to adjacent property owners. He said staff was always going to bring back the lighting issue to the City Commission which was part of the original approval and review of those mitigating factors.

Amyx said McCullough's recommendation right now was that the problems couldn't be mitigated.

McCullough said there were challenges due to the topography and closeness of the neighbors.

Amyx said he felt really bad for the tennis association and the neighbors and apologized for all who were involved. Based on the information the City Commission had now, regarding whether lighting should be permitted now or ever in the future, he had a problem supporting it.

Farmer said in many situations there was hope to find win-win situations, and essentially right two wrongs. In the value of justice, both sides had been wronged. It was a scenario of making a decision and not about taking a side. It was about going with what was felt from the

information that was currently provided. The Commission needed to try to right the wrongs for both sides. He said he felt for the neighbors. He went to Centennial Elementary but it was not the same anymore. The tennis association had their lights taken away.

Schumm said he didn't think there was an injustice. The tennis association needed 8 lighted courts and they were giving the association those lighted courts. The neighbors shouldn't suffer anymore. They were at the top end of their ability to fund those things. He said he thought it was a great compromise and not an injustice whatsoever.

Dever said the solution of 8 courts at Rock Chalk was a solution to the injustice of losing the courts at Centennial. The tennis association had a number of years without lights. The two questions were whether they were willing to infringe on the neighbors with the lights and how those lights would be paid for.

Riordan said looking at the facts made it difficult. Both sides had good arguments. There was no money for this though. There were social issues that needed to be met. There was an alternative that was adequate, but 16 courts would be nice. This issue had to be looked at independent of the other light spillover issues. He said it hadn't been adequately answer regarding light spillover at that location. He said it was unfortunate that they had to decide one way or the other, but they had to go against the lights.

Amyx said he had still been in support of the decision years ago regarding lights, but based on the information tonight and the lack of land use conditions at the site he couldn't be in support.

Dever said he wished the neighborhood could support the lights. It was a shame they built the courts without putting those courts to full use. He said he didn't want to waste additional resources trying to light those courts if they couldn't prove that it could be done the right way. The Commission could direct staff to prepare an amendment to the SUP to disallow lights once and for all. He said this lighting issue was going to keep coming up and asked how it could be resolved.

Corliss said the commission could direct staff to look at the SUP conditions concerning lighting and deny the lighting request.

**Moved by Amyx, seconded by Riordan,** to direct staff to look at the SUP condition regarding lighting at the courts, and deny the request for lighting. Motion carried unanimously.

3. **Receive request for free transit service to/from the Lawrence Community Shelter.**

Robert Nugent, Public Transit Administrator, presented the staff report.

Mayor Dever called for public comment.

CJ Brune said she became a volunteer driver at LCS in 2011. She said there seemed to be a misconception about the facility at Franklin Circle being a remote facility. The shelter was not a service provider. Residents needed to be able to make court appearances, utilize health and mental health services, fill out paperwork at government offices, interview for jobs, and fill out applications at the housing authority. Shelter residents needed adequate transportation to get to those services. It was hard to imagine any other bus stop in Lawrence being comparable. This was a standalone request. The bus passes currently must be requested two days in advance for certain purposes only. Yesterday during the rain two people requested passes for appointments that came up only that morning. That was what a free entry stop would address. There was a concern about a free entry leading to people being dropped off in the community with no way to get back. That was precisely what happened now. Lawrencians were a creative and caring bunch. In this instance they were not asking for additional funds. Budgets were tight. They were seeking a solution to a problem that had no additional expense. Busses would stop there anyway.

Brad Cook said he supported the request. He realized there were many funding requests. Transportation was an important factor for homeless people with barriers to achieving success in their lives. Some services wouldn't come to the shelter and people needed to travel. He thanked the Commission for their current funding of bus passes for the shelter.

Rachel Schwaller said she was not a member of the shelter and was just a citizen. She thanked the commission for their support of the shelter, including the funding for bus passes. She said after being moved out of downtown which she didn't mean that as a criticism, the residents found themselves as outsiders physically. Money was being extorted from the homeless by making them pay to get back into the community. The Homeless Issues Advisory Committee (HIAC) minutes reflected many of the arguments in favor of the proposal. This was to say nothing of emergencies that were missed, and children's events that couldn't be accommodated. She said Nugent's information lacks specifics that they would like to know, such as what type of operational difficulties would occur and how much would it cost to have a free entry stop? More bus passes were not a reliable solution, but just a black hole of spending. More money thrown at the problem wouldn't help. In the end this wasn't a transportation issue or money issue, it was a moral issue. The situation was morally repugnant, making people pay to reenter their community and making it harder for them to meet their needs.

Steve Ozark said he met a man at the shelter who liked to bring kids from the shelter to town to do activities. With the new facility the location was unfortunate due to the transportation issues. It was a ten mile round trip walk. He would propose trying this free stop and save the \$8000 for bus passes. He felt that it really was fairness issue. He said everyone did their best to help other people. It was easy for him to see people in a different light. A lot of people were suffering and it should be considered to be an honor to serve them. It was also a safety issue for people walking to and from the shelter.

Theresa Wilkey said it seemed cruel to have a bus go out to the shelter and not let those people use it.

Loring Henderson said they could solve this problem if we had ten more CJ Brunos, but they didn't. Almost everybody moved out to the new location. Serving those people meant they had a bigger transportation problem than they thought. He thanked Nugent and the city for getting the shelter the bus stop. They had help from various agencies on the transportation

issues. They also had their own van, but it was going to cost a lot because they were constantly running that van. He said they had tried to be creative with a very large client load. When they designed the shelter for 125 beds, they thought that would serve the homeless on freezing nights, but they filled those beds up every night. A lot of that was the large increase in homeless families.

Schumm said presently the City funded the Shelter and other organizations with \$8000 in bus passes and asked if that amount was sufficient for a year.

Loring said that was split among 7 agencies, the shelter gets about \$2200 of that. It was not sufficient. They have had some people donate money for bus passes.

Schumm asked what percentage of clients could use the bus for a legitimate reason. He asked if that was basically everyone out there.

Loring said everyone had legitimate reasons. A few of them have transportation, cars that were clunkers that may have been living out of. He said maybe a dozen out of 125 people had a car.

Schumm said the Shelter gave out 10 bus passes a day, or 5 round trips.

Henderson said yes. They reserved a few bus passes for case managers throughout the day to give out for emergencies.

Riordan asked how many passes were needed for a day.

Henderson said he didn't know, maybe 30-40.

Riordan said when the shelter moved, his wife, a social worker, said it wasn't going to work because of the transportation issue. He said if Henderson were to give out reusable passes, would that work.

Henderson said he would like that but it would be hard to keep track of.

Riordan said if the Shelter received \$10,000 at this point, it probably still wouldn't be enough money.

Henderson said probably not. He said the shelter was a good facility and good location. If they had been downtown there would be other issues. This was the issue they were faced with at this location.

Riordan said it was probably in the best location but transportation was an issue.

Robert Schwaller said with the free stop idea, he recognized the transit department would have an issue with it, but it would be manageable. It seemed to be worth exploring what costs the free stop would have if the busses were already running out to the shelter. It seemed that maintenance of the busses, because of increased passenger use would be a factor and more gas because of the increased load, but he didn't see how the free stop would drastically alter that budget. Especially compared to \$10,000 extra dollars for bus passes. This was more than an issue of transportation, but people that needed to be in the community. A free stop was a very good option among a set of not great options.

Marian Hukle said she would like to stop hearing the word "free." None of this was free. There was mention that KU students ride free, but they didn't and paid huge fees. Really what this should be called was "a city sponsored stop." If having 50 passengers a day, the cost shifts to the transit system that loses \$50/day. She said she was not against addressing the issue, but she wanted the terminology to be used properly. She said they would be shifting the costs to transit, losing the funds from the fare box.

Schumm said when Nugent stated that bus line 5 picked up around 50 riders a day for 6 days a week. He asked if that was counting in those passes.

Nugent said that adds a whole other evaluation. They weren't that advanced, they just count the passengers.

Corliss said bus line 5 did include the passes, they only counted the riders.

Schumm asked for elaboration on the philosophical differences.

Nugent said it was a fare based system versus a free system. Once you create an element of a free system it snowballs. One reason they didn't check ID's on campus was that it

would take so long. It took time to load and unload. The more you ran behind the more services you had to put out there to stay on time.

Schumm asked if there are other systems in the US that used fare based and free based systems at the same time.

Nugent said some systems had free zones, such as downtown. It was usually based on volume. A lot of times they were paid by a downtown association. There were also completely free systems which were very expensive. The cost of operating had doubled overnight in other communities that went to free systems.

Schumm said that was for completely free systems.

Nugent said yes.

Schumm said other than the increase in ridership, were there other aspects to be concerned with. He said they were discussing one stop and if it were at no cost to the person riding the bus to get on, then they would still need a bus coupon to return to the Shelter.

Nugent said that was correct, but their supervisors committed a lot of time, especially at that stop because they had issues with people that wanted to board that only had 50 cents. He said if they let those people board for free at that location, they would have the same issue in a number of places in the community.

Schumm said he presumed the other issue Nugent was worried about was what happened if some other agency or group thought they had similar circumstances and wanted a free stop.

Nugent said he agreed, a number of groups think they were unique and every agency probably was unique, but everybody would be looking for a free stop too. He said part of his concern was that when the next person came and asked for a free stop, he asked how they would evaluate the next request. They all had unique needs.

Dever said this was an agenda item that hit home. He sensed some indignation from people. The transit system existed because the City of Lawrence, Federal Government and

citizens subsidize it. He wanted to be sure that the transit system was around for a long time, that was why they agreed to a sales tax to pay for it. He said he cared about the shelter and moving was important for many reasons. The bus system existed to serve people in need of transit. He said the commissioners wanted to help the homeless people or anyone who was in need of transit, to get to places in this community. He was concerned about the long term health of the system. He said the City could have a free system where everyone boards free but then they would need to get back which created a burden for the bus drivers who were faced with people who thought they could get a free ride back. He said it was not shifting money, but it was about managing the whole system. He wanted a fair and equitable system. He said he didn't know what the problem was about talking about passes. It was wrong to provide people a ride out for free but not back. The City Commission held up their end of the bargain in making sure the bus went back and forth to the shelter. This was a very serious issue and didn't know if there was a perfect solution.

Corliss said the City didn't budget for more passes, but there were some contingency funds that could be used to make it happen. There was some level of flexibility. There was a qualitative difference between that and providing six figures.

Amyx said if the City provided 50 passes a day for about \$16,600, he asked if that would take care of the problem right now.

Henderson said he didn't have the numbers now, but anything helped.

Dever said the City Commission needed to talk about the whole problem.

Amyx said providing those passes met the need at one location right now and didn't put the bus drivers in a difficult situation.

Farmer said this was what he did every day. He understood the slippery slope it created when classifying bus stops as "free" bus stops. He understood the fear and it was the same fear that they had when giving people food and shelter. That fear of people taking advantage; but that was not the case. The City had a responsibility to take care of people in a fiscally prudent

and responsible way. It was the same philosophical difference that would allow the City to have a free stop on Jayhawk Boulevard. He said his proposal was what if they took that money and rather than taking that money for bus passes, had some sort of card and those folks check out a card at the Shelter's front desk, and that person could get where they needed to go and get back. The City was basically funding it and wouldn't have to worry about it being a free stop and wouldn't need to find the \$20,000 for funding.

Riordan said Loring already said the card idea wouldn't work because it would be hard to be responsible for that card.

Henderson said a person could put that card in their pocket and you might not see that person for a few days. It made him a little wary that it couldn't be managed properly.

Farmer said he was taking about a little ID card.

Riordan said that card was worth money. Someone could sell the card and he asked how that could be controlled. He dealt with people all day and 25% of his practice was on Medicaid. Desperate people did desperate things and it might be more of a problem than a benefit. He asked how many times a person came back from a hotel with the key in their pocket by accident. He suggested studying this item to see how it could work.

Farmer said if they were going to have that issue, they would have it with KU ID's. The issue he had was that they were saying that those people would do that, and they just didn't.

Dever said he wasn't hearing that. He said he talked to someone today that someone tried to sell them a KU commuter pass, so it happened.

Riordan said all people did interesting things when in need. He said in his office he always made sure there were two people when there was cash being exchanged to make sure people didn't steal. He wanted to solve the problem without causing more problems, and he wasn't convinced a card would work in this situation.

Amyx said there were people who needed a ride now. He suggested issuing more passes on a temporary basis and continuing to study the issue, having HIAC look at it.

**Moved by Schumm, seconded by Riordan**, to authorize staff to fund the shelter \$15,600 annually, prorated for this year, for bus passes, and direct staff to continue to analyze the issue. Motion carried unanimously.

The commission recessed for a short break at 9:13 p.m.

The commission returned to regular session at 9:24 p.m.

4. **Consider authorizing staff to apply for the 2013 COPS Hiring Program (CHP) grant for funding assistance with School Resource Officers. The grant would be for three years with grant assistance amount of \$875,000 and City share would be \$462,189.**

Captain Paul Fellers, Lawrence Police Department, presented the staff report.

David Corliss discussed the budget implications of accepting the grant.

Amyx asked what the strengths were of the community in the process.

Fellers said it was a competitive process and they looked at city revenue, the department budget, and the number of sworn personnel. Last year, when they received notice that they did not receive the grant, there was no explanation.

Amyx said at the end of their participation the City would continue funding the program.

Fellers said yes.

Corliss said there were also likely geographic distribution considerations that went into the grant review process.

Mayor Dever called for public comment. None was received.

**Moved by Schumm, seconded by Farmer**, to authorize staff to apply for the 2013 COPS Hiring Program (CHP) grant for funding assistance with School Resource Officers. Motion carried unanimously.

5. **Receive update on contract negotiations and infrastructure costs on Rock Chalk Park.**

David Corliss, City Manager, presented the staff report.

Charles Soules, Public Works Director, and David Cronin, City Engineer, presented the infrastructure estimates.

Dever asked about staff's confidence in their estimates. He asked Cronin to explain succinctly the biggest difference between the original costs and what was seen now.

Cronin said the quantity on the original estimate was not the entire site, but was 80-90%. Also, the finer details on the landscaping, signage, striping in the parking lot, minor things that added up to more, but he felt confident in unit costs. Staff would inspect the work and measure the quantities. The site grading included moving dirt and rock excavation. In February, staff didn't have all the information they did now on the topography. Those were the major items that made up the additional costs.

Schumm said he understood that the biggest single difference was the improved parking lot and it was showing a much more durable lot coming in about \$900,000 more for 1500 spaces.

Cronin said that was correct. Staff recommended six inches of concrete on dirt originally. Since the City was going to own the project, staff wanted it to be economical for 30-40 years. They added aggregate and treating the subgrade, which tremendously helped the life span of the parking lot especially with having busses and large vehicles parking in the lot. The City was getting a great value out of the parking lot structure.

Amyx said the total for the project was 12.2 million. If he took out the tennis courts and trails prices, then he could compare that balance to the 8.3 million in the original estimate.

Corliss said Amyx could take out site prep and tennis courts, but in the original estimate staff did not have the extensive landscaping that was being proposed and a number of additional soft costs further itemized. He said they had the engineering, but not all of the other soft costs itemized with the earlier estimate.

Amyx said if he took out about 1.8 million for the trails and courts, it left about 10.4 million, then he could compare that to the 8.3 and add the additional concrete.

Cronin said also a little additional parking area. The original estimate was for 80% of the parking, now it was 100%. A couple of small lots were not included originally.

Dever said the City was paying for more parking.

Amyx said in looking at unit costs, he asked if Cronin believed those cost were in line as well as the quantities.

Cronin said he did not have exact numbers on some of the quantities. Staff measured the areas but had not validated the exact quantities that were on the site plan. The unit costs were the primary consideration. The quantities were in the ballpark that he felt was on the site. Staff came up with general ideas from the plan for estimation purposes.

Dever said the final install product would be measured and ran against the unit prices. Those were not-to-exceed costs as well.

Cronin said the quantities were in line with what they would expect for excavation.

Riordan asked if the citizens of Lawrence were getting a reasonable cost for this project.

Cronin said yes. As far as the economies of the work and adding an additional couple inches, it was a good investment.

Farmer said those costs were not-to-exceed costs.

Dever said yes.

Farmer asked if it was a not to exceed total or not to exceed quantity or unit cost.

Dever said the total amount to be paid would not exceed 24.5 million of which 12.290 would be toward those non-building related activities.

Farmer said it looked like all the soft costs, 2.19 million dollars, were essentially being written off as a donation. The City's straight infrastructure costs were essentially 10.3 million.

Corliss said any of those numbers could be moved around, but that was one way to get at that number. He said with the donation the City's additional check would be written to the contractor to build the recreational center, the architect, the Endowment Association for the land as well as infrastructure costs, after going through all of the itemized cost. He said the City would also get a donation from the Assist Foundation.

Amyx asked who would be auditing those receipts.

Corliss said Cronin and Soules, and the Utilities Department, as well as anyone else who staff thought appropriate, such as our horticulture manager. Staff would measure the quantities and would see what was actually at that location.

Amyx asked about the construction management fee.

Corliss said the 2.5% was in line with industry standards. That figure was in the agreement with BA Green for their construction management responsibilities at the library.

Farmer said with the 2.5% management fee, two weeks ago they discussed the fee being up to 10%

Corliss said it was an appropriate fee.

Schumm said in the fee before, there was the interest for financing the project because the person installing the infrastructure would bill the City at the end of the project. He said in the soft cost there was \$309,000 of interest as well as legal fees lumped together originally and now those costs were broken out.

Corliss said the engineering fees were about \$525,000.

Cronin said generally staff saw 8-10% for \$10 million of infrastructure, and now they were seeing about 5%.

Corliss said the rest of the memorandum showed the discussion about the numbers. He said he would be happy to respond to questions. The remaining action item was to authorize the City Manager to execute the construction contract with Gene Fritzel. The Commission had already authorized him to sign the development agreement.

Mayor Dever called for public comment.

Joe Harkins said on a personal note, he retired from 50 years in public service and in those 50 years he conducted several hundred public hearings and he never developed enough of a defense mechanism not to feel injured by criticism of him or his agency. He had attempted to try and temper his criticism of other public officials. He said his criticism of the Commission

was that this portion of the project should have been bid. He said what the Commission was doing, while it had been done by good staff members, was educated guess work. The City was at a point where they should take those numbers and get bids. He said his guess was that the cost of the project would be significantly lower. He said that was not going to happen though. He requested that the City Commission not complete the general agreement based on the 2.45 cap because that left too much room for the contractor to move around. The development agreement should have that same level of specificity and place the risk on the contractor. It was not prudent to skip the bidding process, but there was still an opportunity to write a good contract that would protect the interests of the City. Instead of talking about a 2.45 million dollar cap, talk about caps on the general costs, site grading and each of the specifics. If any changes were proposed, rather than working with that huge range, they would have more strict oversight. He was not present to criticize any more than he did. It was not that he suspected the Commission's effort or intent, but thought the Commission could have done a better job.

Schumm said those were estimates and a cap, but the City would only pay on the verified invoices.

Harkin said he understood that, but he also understood that it worked both ways, that if real costs came in at \$60,000 instead of \$50,000, the contractor would want the other \$10,000 somewhere else.

Dever said wasn't it the City's job to validate the numbers.

Harkin said his confidence level was somewhat shaken by the process.

Kirk McClure said he was very concerned about the process he had watched. His concerns were cost containment and cost shifting. This project originally was 25 million, the land and the soft costs stayed the same at 1.7 million. They were told this was a 19.9 million dollar building and 3.4 million would be the City's share of the infrastructure cost that would be shared with the athletic association. A lot of community expressed great concerns about how the project was being put together and called for the building to be bid. The bid came in at 10.5

million on what should have been a 19 million dollar building. That was a drop that stretched credibility. Cynicism runs rampant on this project. What had happened now was that the 8.3 million in infrastructure costs had become 10 million with a total of 12.2 million. Fortunately, some of that cost would be softened if the Assist Foundation donation happened. He said the City's share was 3.4 million, but were now shouldering the entire 12.3 million. He said the City needed to exercise cost containment, but it had not happened. Cost shifting was the other problem. Originally it was 8.3 million of share infrastructure and the taxpayers would pay 3.4 million and the athletic association would pick up the remainder. He said if he was reading the estimates correctly, the athletic association was getting essentially close to a free walk and taxpayers were picking up nearly all the infrastructure costs that would not be covered by the Assist Foundation donation. That wasn't fair to the taxpayers and was not the deal that was sold to them. He recommended the City Commission direct staff to get clear cost containment. Instruct staff to renegotiate with the other parties and have the athletic association pay their reasonable share of the infrastructure.

Dever said the definition of cost containment was a \$25 million cap. He felt uncomfortable that the City's estimates were off on the rec center, but more than likely our infrastructure costs would come in low as well. It was kind of difficult to go back and renegotiate everything now. It looked like the City would be spending 22.5 million, which was about 10% less.

Schumm said the City received estimates from two architects and a company that eventually bid. They looked at other projects around the Midwest that came in at similar costs. The bids that came in were substantially lower. As far as he could tell the project became a very high profile project that attracted bidders and there were a few items where the commodities came in substantially lower. It seemed like the timing worked out so that a tight bid package situation came in. That explained to him that it was a good legitimate set of bids. Based on the prior agreements they were going to pick up infrastructure costs up to a total of \$25 million. Now

it looked like the total would be 22.5 million. He said he was not going to change the rules and go back on what they agreed on originally. He knew this would be a fine facility and a real value to the community. He was not ashamed of what was accomplished and he was very proud of it.

Farmer said if an improvement needed to be made to the facility that was not in the cards, he asked if the City would not pay more than 22.5 million.

Dever said if the City asked for a change, the City had to pay more for it, but if there were any changes on site or with the amount of work that was done with the quantities that were off, the City would not pay any more than the cap that was agreed on which was 22.5 million with a 2 million dollar donation. He said they hoped to pay less based on the real quantities and costs. He asked Farmer if he meant if the City asked for a change or if there was a change necessary.

Farmer said if there was a necessary change.

Dever said no there were no change orders.

Schumm said there had been a lot of betterment to the plan. There were improvements to the landscaping, parking lot, and signage. There was a lot of betterment detail that wasn't there two weeks ago.

Farmer said the City would not pay an amount to exceed 22.5 million.

Schumm said only if the City asked for a change to the project.

Farmer said for those folks that were mistrusting of the process, it was prudent to clarify that the City would not pay more than 22.5 unless the City wanted to make some big improvement.

Dever said only for owner requested improvements.

Famers said a lot of pride would be taken in this building and the City was going to get a nicer facility just based on that.

Dever said the City was a tenant in-kind of the larger parts of the land which was owned by KU Endowment. He said part of the deal was to play by their quality and material type rules.

He said hindsight failed to mention that part of the deal of everyone working together was building things to a certain standard. He said the City didn't ask for this relationship, but it was provided to the City when the City thought the original estimate was \$18 and 20 million dollars.

Farmer the City would not pay an amount not to exceed 22.5 million and it was 10% less than what the City thought they were getting a deal for.

Dever said it was the deal the City agreed to.

Farmer said the City was getting a great deal and were getting this facility for way less. He said it was allowing the City to partner in an unprecedented way with the University of Kansas in a way that the City never partnered with KU before which hopefully would set a precedent in which the City could build upon in the future.

Schumm said if they had gone to our other site, Gateway, there was only enough room for the rec center. At that point, they would be buying infrastructure for themselves, but now they are sharing those costs. If they were at the other site, the City would still have 100% of the infrastructure costs. Because it was a shared aspect it was more economical for everyone.

Dever said that concrete was going down somewhere and it was better to have it together rather than at two sites. The City was getting a better deal than originally negotiated. The City Commission needed to direct staff as to how to move forward. He said there were a couple of options. They could analyze this data further or move forward with awarding the bid.

Corliss said staff had been authorized on the development agreement. The next step was to authorize the City Manager to execute the construction contract with Gene Frtizel on the rec center. He said he thought the language was to direct the city manager to execute the completed construction contract and direct the City Manager to execute other agreements outlined in the staff report.

Schumm said staff worked on those numbers for well over a week and heard from the City's engineer that staff was fine with those numbers.

Amyx said he would continue to have concerns about this project. He said the vote that he would be making had no reflection on anyone.

**Moved by Schumm, seconded by Riordan,** to direct the city manager to execute the completed construction contract with Gene Fritzel Construction as the lowest responsible bidder, and to direct the city manager to finalize other agreements as outlined in the staff report. Motion carried 4-1 with Amyx dissenting.

Dever said he also wanted to thank the Selfs and the Assist Foundation for their unprecedented donation. He said he could not recall in his seven years of service anyone donating 2 million dollars to the City. He welcomed that addition to this project and thanked Self for his investment to the Lawrence community and to the health of our children.

**F. PUBLIC COMMENT: None.**

**G. FUTURE AGENDA ITEMS:**

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

**H: COMMISSION ITEMS: None.**

**I: CALENDAR:**

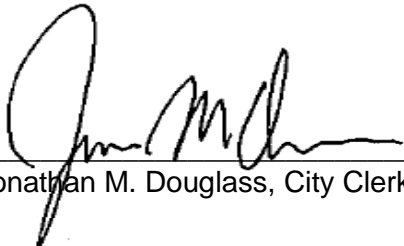
David Corliss, City Manager, reviewed calendar items.

**J: 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 Amyx,** to adjourn at 10:28 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON JUNE 18, 2013.**

  
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Jonathan M. Douglass, City Clerk