



DAVID L. CORLISS  
CITY MANAGER

# City of Lawrence

## CITY MANAGER'S OFFICE

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### CITY COMMISSION

**MAYOR**  
MIKE AMYX

**COMMISSIONERS**  
JEREMY FARMER  
DR. TERRY RIORDAN  
ROBERT J. SCHUMM  
MICHAEL DEVER

May 6, 2014

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

### **A. RECOGNITION/PROCLAMATION/PRESENTATION**

1. Proclaimed Saturday, May 10, 2014 as the Sertoma Bar-B-Q Cook-Off Day.
2. Proclaimed Saturday, May 10, 2014 as Stamp Out Hunger Food Drive Day.
3. Proclaimed the month of May, 2014 as Bike Month and the week of May 12 – 16, 2014 as Bike to Work Week.
4. Proclaimed the month of May, 2014 as Building Safety Month.

### **B. CONSENT AGENDA**

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

1. Received minutes from the Planning Commission meeting of 03/24/14, Public Health Board meeting of 02/17/14, Sales Tax Audit Committee meeting of 11/07/13 and the Sustainability Advisory Board meeting of 03/12/14.
2. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 269 vendors in the amount of \$43,372,829.07 and payroll from April 20, 2014 to May 3, 2014, in the amount of \$1,871,728.19.
3. Approved Street Vendor License for Torched Goodness for the west side of the 800 block of Massachusetts Street near the center block crosswalk area.
4. Approved appointments as recommended by the Mayor.

Electrical Code Board of Appeals: Reappointed Mel Lisher and Robert Heacock to additional terms that would expire 03/31/17.

Lawrence Douglas County Housing Authority Board: Appointed Bronson Star to a term that would begin 07/01/14 and end 06/30/18.



Lawrence Douglas County Metropolitan Planning Commission: Reappointed Amalia Graham to an additional term that would expire 05/31/17.

Public Library Board: Appointed Kevin Vick and Judy Keller to terms that would expire 04/30/18.

Sister Cities Advisory Board: Reappointed Ken Albrecht, Dennis Christilles, Kelly Herndon, Kathleen Hodge and Jon Josserand to additional terms that would expire 12/31/16.

Traffic Safety Commission: Appointed Jason Hoskinson and Travis Harrod to terms that would expire 04/30/17.

5. Bid and purchase items:

- a) REMOVED FOR SEPARATE DISCUSSION. Set bid date of May 20, 2014 for City Bid No. 1432, City Project No. PW1416 - 2014 Crosswalk Markings Project and Iowa Street Pavement Marking Project.
- b) Awarded bid for Project PW1135 - 6th & Iowa Geometric Improvements, to Bettis Asphalt, in the amount of \$1,933,426.50, provided the contractor could meet the terms established in the contract documents and adopted Resolution No. 7071, issuing \$500,000 of general obligation bonds for improvements at 6th & Iowa Street.
- c) Approved the purchase of 10,000 tons of de-icing salt, from Central Salt for \$501,709.53, utilizing the Joint Douglas County Bid.
- d) Authorized the City Manager to sign an agreement with Airport Development Group for an Environmental Assessment at the Lawrence Municipal Airport, for \$71,966.
- e) Authorized the City Manager to execute Change Order No. 2 to the existing construction contract with Garney Companies, Inc. for Projects UT1201 – 2012 to 2015 Electrical Improvements Program and UT1202 - 2012 Mechanical Improvements Program Contract 2, increasing the contract amount by \$45,501 and extending Milestone 3 by 14 calendar days and authorized the City Manager to Execute Supplemental Agreement No. 2 to the Engineering Services Agreement with Black & Veatch, for \$31,494.
- f) Authorized the City Manager to execute an emergency purchase order with RD Johnson Excavating in the amount of \$30,000 for an emergency sewer repair in the 1000 block of Delaware.
- g) Approved, and authorized the City Manager to execute the Memorandum of Agreement with the University of Kansas for City participation in the construction cost, capped at \$200,000, for waterline improvements required by the reconstruction of McCullom Hall.

6. Adopted on second and final reading, the following ordinances:

- a) Ordinance No. 8980, for landmark designation of 627 Ohio Street to the Lawrence Register of Historic Places.
  - b) Ordinance No. 8982, for landmark designation of 1040 New Hampshire Street to the Lawrence Register of Historic Places.
  - c) Ordinance No. 8981, for landmark designation of 1047 Massachusetts Street to the Lawrence Register of Historic Places.
  - d) Ordinance No. 8983, exempting the Lawrence OnBoard ridesharing program for a period of six months from the provisions of STO 69(a).
7. Approved rezoning request, Z-14-00056, for approximately .126 acre from RSO (Single-Dwelling Residential-Office) District to CN1 (Inner Neighborhood Commercial) District, located at 512-514 Locust St. Submitted by Quentin Cole, property owner of record. *Initiated by City Commission on 3/25/14.* Adopted on first reading, Ordinance No. 8984, to rezone (Z-14-00056) approximately .126 acre from RSO (Single-Dwelling Residential-Office) District to CN1 (Inner Neighborhood Commercial) District, located at 512-514 Locust St. (PC Item 1; approved 10-0 on 4/21/14)
  8. Approved a Special Event Permit, SE-14-00157, for the Kansas Food Truck Festival on vacant property on the west side of the 800 block of Pennsylvania Street on Saturday, May 10, 2014. Submitted by Tom Larkin, Cider Gallery with permission from Tony Krsnich & Ohio Mortgage Investors LLC, property owner of record.
  9. Authorized staff to advertise Request for Proposals R1406 for Lime Residuals Re-use Program.
  10. REMOVED FOR SEPARATE DISCUSSION. Authorized Dawn Fiber to install 1-1/4" conduit and hand-holds in various rights-of-way, per the existing license agreement.
  11. Approved as a "sign of community interest," a request from First Southern Baptist Church to display a banner at the church property promoting a "Churchwide/Neighborhood Carnival" and "Vacation Bible School", from May 26 to June 7, 2014.
  12. Authorized the Mayor to sign a Release of Mortgage for Lori J. Phillips, 2104 Tennessee Street.

Amyx pulled consent agenda item no. 2 regarding claims for a separate vote.

**Moved by Schumm, seconded Dever,** to approve non-Rock Chalk Park related claims to 267 vendors in the amount of \$42,226,487.88 and payroll from April 20, 2014 to May 3, 2014 in the amount of \$1,871,728.19. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

**Moved by Farmer, seconded by Riordan,** to approve Rock Chalk Park related claims to 2 vendors in the amount of \$1,146,341.19. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

Schumm removed item 5(a) for separate discussion regarding setting bid date of May 20, 2014 for City Bid No. 1432, City Project No. PW1416 - 2014 Crosswalk Markings Project and Iowa Street Pavement Marking Project. He said it was brought to his attention that Michael Almon who watched the City's bicycle opportunities for the city indicated there was a chance to restripe a section of 9<sup>th</sup> Street as well as East 15<sup>th</sup> Street into a configuration that would be beneficial to the City's bicycling crowd.

Chuck Soules, Public Works Director, said this item was to set a bid date for the crosswalks and Iowa Street. The additional map for the stripping that Almon had mentioned was to be done in-house and no action needed to be taken. He said staff was going to the bicycle advisory group on May 20, 2014 with this stripping program. He said staff had talked with Almon and it made sense because they were doing the same thing at 9<sup>th</sup> and Emery, but they still needed to look at 9<sup>th</sup> and Maine. The signal would need to be adjusted because of the four lanes in that area. If they reduced it down to 2 or 3 lanes with a turn lane and a bike lane that changed that configuration. All of the stripes had to be grounded off and staff was refreshing the painted stripes. He said staff would talk to the Bicycle Advisory Committee on May 20<sup>th</sup> and the Commission wouldn't need to hold this project up. He said staff could receive bids for the crosswalks and the Iowa Street stripping.

Schumm said when he read this, he saw the map and through it was part of the overall bid package.

Soules said the striping was not part of the bid, would be done internally and staff would work with the Bicycle Advisory Committee and discuss 15<sup>th</sup> Street as well.

**Moved by Schumm, seconded by Riordan,** to set a bid date of May 20, 2014 for City Bid No. 1432, City Project No. PW1416 - 2014 Crosswalk Markings Project and Iowa Street Pavement Marking Project. Motion carried unanimously.

Farmer removed consent agenda item No. 10 regarding authorizing Dawn Fiber to install 1-1/4" conduit and hand-holds in various rights-of-way, per the existing license agreement. He asked what was the rationale for recommending 1 1/4 as opposed to 2 inch conduit.

James Wisdom, Information Technology Director, said it was the Commission's decision whether they wanted 1 1/4 or 2 inch conduit. One of the clauses in the Dawn Fiber Agreement stated it was for the exclusive use of the City. If they were trying to use the fiber for other 3<sup>rd</sup> parties, that was a concern for Dawn Fiber. If they were planning on using the conduit and marketing it in some way, he suggested going for the larger conduit.

Farmer asked if Verizon had fiber on 23<sup>rd</sup> Street.

Wisdom said there were 288 strands of fiber on the north side and 144 strands on the south side.

Farmer asked if Verizon paid for the fiber, conduit, and the hand holes or did the City.

Wisdom said Verizon paid for the conduit, hand holes, and installation, but KU paid for the fiber

Farmer said the City was under an agreement that the City had to basically absorb those installation costs.

Wisdom said the biggest part of the expense was the labor to install the conduit. The conduit was in the range of 50 cents a foot. The labor was what Dawn Fiber wanted to include in trade for the right-of-way.

Farmer said, but the City didn't do that with Verizon on 23<sup>rd</sup> Street.

Wisdom said no.

Farmer asked why not.

Wisdom said Verizon had more money to work with. He said to his knowledge Dawn Fiber was still working on getting their budget together to do the project. He said Verizon was under a deadline and had to get from Topeka to the Kansas City area between Memorial Day and Labor Day.

Farmer said he felt they should go with the 2 inch fiber. He said he would be interested in looking at setting some sort of policy because he had gotten a few emails from folks about how Verizon paid for the conduit, hand holes and how it was inconsistent with what they were doing with Dawn Fiber. He said they needed to be consistent so they didn't get themselves into a pickle in relationship for what they did for one company and not for the other. He said he understood Verizon probably had deeper pockets than Dawn Fiber, but he didn't know that would be a good reason why they should make an exception for one organization and not the other without having a policy in place.

Wisdom said there was already a signed agreement and didn't know how that agreement would be affected, but Randy Larkin, Senior City Attorney, could probably answer that question.

Schumm asked if Wisdom was recommending 1 ¼ conduit. The difference between 1 ¼ and 2 inch conduit was almost \$83,000. The question was that if staff saw a need in the future, the need for more conduit capacity and certainly if the answer was "yes" then now would be the time to put in larger conduit even though there was a price tag. It seemed he wouldn't want to preclude any of their opportunities right now because those cost would double or triple to go back and lay more conduit. If they could indeed leverage their fiber for some kind of additional service to the City, that made sense too.

Wisdom said there were two schools of thought. One was that they were installing this fiber and if they did it with the 2 inch option which had 432 strands, they would gain about 50% more fiber, but they could also gain that same number of fiber using electronics on each end

and they could multiply the fibers that were already there or that would be installed, probably at much less cost if they had to have more fibers.

Schumm said that would be for the City's use.

Wisdom said correct. If they had access fiber they could line it up with a division way multiplexing where they could make each fiber 10 to 20 more. It used different color of lights for each individual path.

Schumm said because the City was not quite sure where it would be a year from now with fiber, how it was going to be divided up, who was going to be the carriers at what points along the truck way. He said with the final mile and all of the rest of the different areas, might it be possible in a single conduit that they would have 3 or 4 competing companies that would own their own fiber as well as in the City owning fiber in that conduit or would they share fiber.

Wisdom said both could be done, Dawn Fiber could have their own if they had their own right-of-way agreement.

Schumm said he was talking about all of the fiber in the same conduit.

Wisdom said if it was the City conduit that was an agreement requirement, but it was up to the City Commission in deciding who would lease it.

Schumm said the City was going to have so much fiber than it needed and a major carrier was going to have so much fiber that they need to light up all of the houses and businesses, but might there be other entities that want to have access to the fiber in the same conduit and would that preclude that from happening because the conduit was too small as opposed to a 2 inch conduit.

Wisdom said it came down to the number of fibers and the proposal included 144 fibers. He said the City had 18 buildings they would like to pick up along the way. He said 11<sup>th</sup> and Haskell and the 2 Fire Stations was why he was recommending to go ahead, but if it was something the City Commission wanted to pursue in the 2 inch conduit. He said his concern was about the clause in the contract about letting other competitors use the fiber that was

designated for the City and was something that the City Attorney's office would need to expand on.

Schumm said he was suggesting there might be additional fiber other than the contracted fiber and the City's fiber, but he wasn't sure of the legal agreement either.

Wisdom said they wouldn't actually go through the same conduit. One of the things staff wanted to do, whatever decision the City Commission made, staff wanted to know the decision upfront because the best thing to do was to install the fiber. He said even if going to 2 inches, it would be difficult to pull 288 strands of fiber. He said he had some contractors say it could be done if doing it at the same time and had some contractors that said it couldn't be done. He said that was something that needed to be clarified.

Schumm said when putting in the conduit, he asked if all the fibers would be put in all at the same time, or could they add fiber.

Wisdom said if they had a 3 inch conduit and the industry used fill ratios. He said they had to leave slack in case there were problems, it could be pulled back. He said there had to be some capability that the fiber was loose enough to work with the fiber in the future. If installing the fiber now and tried to pull another fiber later, there was a good chance that it would cause a lot of disruption for the people that were using the fiber currently, on a 2 inch conduit.

Amyx asked if it was Wisdom's recommendation to keep the 1 ¼ conduit for the City's use only and not consider adding other companies at a later date.

Wisdom said yes. He said other companies could connect with WOW, AT&T or someone else. He said Kansas Fiber Network had something at 5<sup>th</sup> and Tennessee and that was what Dawn Fiber was connected to. He said he was okay with either way. He said Dawn Fiber was trying to ramp up pretty quickly and wanted an answer one way or the other and whatever the Commission's answer was, it was fine with him.

Farmer said he was confused. He said the City was going to pay for Dawn Fiber to install 2 conduits for themselves, 1 ¼ inch conduit from the City. He understood the reason they



didn't want to expand the conduit to 2 inch was because the City didn't want to share it with anyone.

Wisdom said no. He said one of the 1 ¼ conduit was for the City and the other two were for Dawn Fiber.

David Corliss, City Manager, said the only thing the City was paying for was conduit.

Wisdom said the City only was buying the actual conduit.

Corliss said Dawn Fiber was going to use the City's public right-of-way. In exchange for the right to use that public right-of-way, Dawn Fiber was going to install conduit that the City was going to buy. The conduit would be installed and the fiber would either come now or later, but the City would buy that fiber which was the more expensive item, but as staff pointed out, it would save the City money in regarding the connections. The exchange between the two parties was that Dawn Fiber was installing the conduit for the City the issue was what size conduit to install. He said Dawn Fiber was going to install two of their own conduit. He said it was a choice as far as what the City thought they could use in the future. He said staff thought they could get by with 1 ¼ conduit, but if they wanted to spend more, staff could do that now.

Wisdom said it was more of a cost benefit. He said they would be paying \$82,000, but would only be getting an extra 144 strands. He said he felt they could use electronics and do the same thing for a lot less money.

Corliss said the flip side was that they were only doing this once at least for a while because the installation was the more expensive item.

Dever said they had to discuss the agreement and could make any decisions if they wanted to up the ante on the size of the fiber because they might lease and might need to change the agreement with Dawn Fiber because it stated that the City could lease it out to a competitor.

Wisdom said one of the clauses in the agreement stated “exclusive use of the city”, but Dawn Fiber mentioned that if the County or other government agencies wanted to be involved, Dawn would be fine with that.

Dever said putting more in would cost \$80,000 plus and if the City could use this for the purpose of providing to a third party, then he didn’t think they needed the extra fiber because it could be done electronically. He said technologically speaking for the City more didn’t make sense if they couldn’t use it for other purposes. He said he would rather take the \$80,000 and put new fiber in. If they could sell it then it made perfect sense or lease it to a third party.

Wisdom said 11<sup>th</sup> and Haskell was an area where they had not had a lot of opportunities to have fiber installed and this was a good opportunity. He said this was a good opportunity because the City had 7 or 8 buildings at 11<sup>th</sup> and Haskell that would love to have fiber.

Schumm said his whole thought process was if they saw the opportunity where a third party might want to run some fiber through this conduit and the party would pay the City, then now was the time to do it, but if the City had an agreement where that couldn’t be done, then that resolved the issue. He suggested getting a definitive answer whether a third party would be allowed.

Wisdom said he could look up the agreement, but it did say for the “exclusive use of the City.” He said in talking with Dawn Fiber, they stated that if other government agencies wanted to be involved or public institution, they didn’t have a problem with that.

Riordan said he heard 144 fibers and 288 fibers, but Option 1 indicated that later on they would be putting in a 288 count fiber in that conduit.

Wisdom said he was getting two different answers regarding the installation. He said it was about \$2.35 a foot for 288 and had 576 for \$4.70 a foot, but if buying the same count in one bundle, it was \$6.00 plus a foot. He said pulling two fibers at the same time required a little bigger conduit.

Riordan asked if they were putting in 144 or 288 strands.

Wisdom said with Option 1, they would put in 288 strands and Option 2, they would put in 476 strands.

Riordan asked if this would be part of putting the circle of fiber around the City that was discussed.

Wisdom said yes.

Riordan said if they used this exclusively for those City buildings, those fibers were high capacity and asked how many fibers the City would use.

Wisdom said typically they tried to use 3 or 4 pair in each building and had some spares. He said they would be looking at using 70 to 80 fibers.

Riordan said they would have a lot of fibers left over for future use and it would be adequate to carry around the City.

Wisdom said yes.

Amyx said if the only other groups that could use this fiber were other governmental agencies, he asked if there was any reason the County and School District could look at the exercise of the conduit and participate in the \$82,000.

Farmer said it seemed like a buddy handshake under the table where they were not sure who could use what for what purpose and it stated "for exclusive use the City", but if the County and School District wanted to use it too, that shouldn't be the way the City operated and it wasn't good policy.

Wisdom said initially it was for the City and later on an opportunity came up about the Fairgrounds because both the City and the County used the Fairgrounds and was a potential site for the Emergency Operations Center (EOC) and when he asked Dawn Fiber about that situation, Dawn Fiber indicated that they could write an amendment to the agreement to allow that.

Corliss said the Vice Mayor was correct in that those were long term agreements and people change, companies get flipped and any number of other things that they were living by

the four corners of the agreement and was what they needed to follow. He said his recommendation was to table this matter until the City Attorney's Office could advise staff on whether the City could use the fiber that they would install for non-City purposes and what that might mean.

Riordan said if they did install this conduit and they had a ring around the City was that going to affect it because the City might lease it out to other people and if there was a break in that, it would concern him that they would be going against the agreement.

Farmer said Wisdom had a great point about the Fairgrounds and how they were backed up to the EOC. He said he didn't think it was fair for the County or School District to pitch in, but they needed to have that conversation. It would be a great topic for a joint meeting with those two bodies which he would love to have at some point. In the meantime, until they could have those conversations, he would like the City Commission's permission to talk with the Chair of the County Commission, Nancy Thellman to see what kind of agreement they could work out in moving forward to collaborate some of those projects rather than individually working on those projects themselves. He said he would be willing to volunteer for that wonderful opportunity.

Schumm suggested waiting until staff received a legal status back from the City Attorney's Office.

Corliss said there had been a number of cooperative projects and would be great to try and do some more.

**Moved by Schumm, seconded Riordan,** to table for one week, authorizing Dawn Fiber to install 1-¼" conduit and hand-holds in various rights-of-way, per the existing license agreement. Motion carried unanimously.

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

David Corliss, City Manager, presented the report.

Amyx thanked everyone for their budget input.

Schumm said from the Leagues data, it showed Lawrence's total mills levied by all units at 126.54. He said while that was enough, it could be lots worse. He said if living in Parsons' a person would pay 211.20 mills; Dodge City 188.27 mills; and, Kansas City 183.02 mills. He said there were some cities whose mill levy rates were lower than Lawrence, but the community wasn't doing so badly in the graph of things.

**D. REGULAR AGENDA ITEMS:**

1. **Consider establishing no parking, 7:00 a.m. – 5:00 p.m., Monday–Friday, along the west side of Hilltop Drive between Harvard Road and Oxford Road and consider adopting on first reading, Ordinance No. 8973, establishing the no parking (TSC item #3; approved 8-0 on 3/3/14).**

David Woosley, Transportation/Traffic Engineer, presented the staff report.

Amyx asked if it was decided that the parking should be removed along the west side.

Woosley said the west side was probably the best side because it would affect fewer parking spaces. He said there was more parking available on the east side than the west side.

Mayor Amyx called for public comment.

Sarah Martin said she proposed making those changes along their block. She thanked the City Commission for considering this proposal and City staff for spending time and studying the parking to produce more information. The proposal was reasonable, especially given parking regulations on neighboring streets as the parking study along that block had revealed limited parking to one side of the street was perfectly adequate for the block which was zoned RS7 single-dwelling residential. She appreciated the fact that the school was planning on calling for more parking spaces in their changes to their site this summer. The north end of the block in particular would still remain a very convenient place for parents to stop and pick up their children. She said this problem could potentially go on in the future. She said she brought this proposal forward for a few reasons.

1. Emergency vehicles needed to move along that approximately 25 foot wide street and appreciated the Fire Marshal and his remarks back to her providing that they needed about 20 feet to operate their trucks safely.
2. She was concerned about maneuvering in and out of driveways along Hilltop was challenging and had fender benders in the past.
3. She was concerned about pedestrians walking up and down that sidewalk and the school children as well as children on their bikes.

She said she knew various neighbors had voiced their support for the proposal. Those neighbors that were in support live in the neighborhood and walk and drive their street every day. She said she hoped the City Commission would agree with her neighbors and concur with the Traffic Safety Commission's unanimous support of this proposal.

Amyx said several weeks ago when they talked about this item there were questions as whether or not to proceed at the time. He said everyone was comfortable with the additional information that the City Commission received and seemed to correct any of the concerns they had for safety, especially in light of the information received from the Fire Department.

**Moved by Riordan, seconded by Farmer,** to establish no parking, 7:00 a.m. – 5:00 p.m., Monday–Friday, along the west side of Hilltop Drive between Harvard Road and Oxford Road, and adopt Ordinance No. 8973, establishing the no parking. Motion carried unanimously.

**2. Received presentation from Lawrence Arts Center.**

Susan Tate, Lawrence Arts Center, presented the report. In 2015 the Lawrence Arts Center would be celebrating its 40 anniversary as a public and private partnership. She said her role was to let the City Commission know that this public and private partnership was a model for what the trend was around the country in which public entities, private donors, and foundations work together for the fullest participation in visual and performing arts possible for their communities. The City Commissions support for the Arts Center since 1975 had made their visual and performing arts project in Lawrence, in this City owned building, a model for the

country and it had provided a platform for national attention for what they did in 3 areas. Those 3 areas were contemporary exhibitions, performing arts, and visual and performing arts education. They had also attracted national attention in the area of visioning and visiting a national visiting and resident artist. They were in the process of choosing resident artist for a year after a national search that attracted over 50 candidates for this year long position, funded by the NEA and by local donors to the Lawrence Arts Center. They had also had national attention in partnership with the City in the area of Creative Placemaking receiving almost \$200,000 in money from the National Endowment for Arts over the last year a part of it would go to 3 years of the Free State Festival at the end of June. In addition, they had attracted approximately 10,000 ticket payers who were performing arts series inside the Lawrence Arts Center and they were committed to free and open access to public events inside the Arts Center that didn't cost anyone anything on an almost daily basis, including and entirely free exhibitions program with art talks and films that celebrated the work of artists and they supported the work of local artist as well. The Lawrence Arts Center had 17 full-time employees and had over 120 part-time and contract employees almost all of whom were artists and for those artists, while they didn't pay very much at the Lawrence Arts Center, many of those jobs were part-time and contracted. This meant that a difference between being able to work as artist in this community or not, they were very proud of that fact. They had about 8,000 students a year, but approximately 5,000 of those students were in dance, theater and visual arts from pre-school through high-school. Their arts integrated pre-school was ran by Linda Raymond and had been for 30 years. Approximately 27% of the children in their pre-school were at the Lawrence Arts Center pre-school because of their financial aid program. Across the Arts Center, about 20% of their students were able to take part in dance, theater and visual arts because of their financial aid program. The City of Lawrence provided 13% of the Arts Center's funding in the course of a year. They had a budget of about 2 million dollars and well over half of that 2 million dollars was in the area called earned revenue ticket sales, arts sales and most of it was tuition, pre-school

through high school, arts integrative pre-school, esteem curriculum for elementary school and arts institutes in visual and performing arts from middle and high school students. She said 32% of their 2 million dollar budget came to them through donations, private and corporate donations. They had approximately 1,000 paying members at the Lawrence Arts Center from \$35,000 to \$1,000 in this community and they had over 300 donors at the \$1,000 level and above as a measure of how important the place was to this community. The 13% in City funding helped maintain the building, paid the utilities, and was a big assist in their financial aid fund. She said the Lawrence Arts Center was a place where children from Head Start, Boys and Girls Club, CASA, the Children's Learning Center, came for their arts classes. They provided the art curriculum for those children and this year they expanded to the media lab at VanGo and with their NEA grant they were providing the media and technology education in the VanGo media laboratory. They had christened along with City Commissioners and the Salvation Army the new green space just to the south of Lawrence Arts Center which was now fenced off and their children were able to run outside. They were absolutely busting at the seams with children and also acting in partnership with USD497. They had a dance school that had over 1,000 students a year. At a minimum, in any one program in the Lawrence Arts Center, 20% of the preschooler's through high school was all on scholarships. The Lawrence Arts Center was a place in Lawrence where art, scholarship, social service, and education intersect. She said people come from all around Douglas County and Lawrence to take part. They distributed over \$110,000 annually in financial aid and approximately \$40,000 came from the City of Lawrence and they had raised over half of their needs each year from private donors from a benefit they had in the fall. Across the Arts Center about 20% of their student received some amount of financial aid, but in Lawrence almost 40% of student enrolled in their public schools would qualify for financial aid, they were on free and reduced lunch. They faced the same problem every social service agency faced in getting aid where it was needed and they hoped the City Commission would join them in their goal as they look forward to what was



happening in years to come of making sure that every at risk child, every child from a poor family, might be able to come into the doors of a City owned facility and engage in art. It had been proven in study after study, including studies commissioned by the National Endowment for the Arts that at risk student that engaged in the arts were more engaged socially and do better in school throughout their lives. She said they began to see themselves as people that take part in public discourse. If 37.9% of student in Lawrence qualified for free and reduced lunch, they had a much greater capacity to serve students with a greater amount of financial aid at the Lawrence Arts Center. In their neighborhood which was the East Lawrence Neighborhood almost 80% of the students at New York School were on free and reduced lunch. It was their goal to provide 100% access to visual and performing arts for all children in their neighborhood and across Lawrence. They also provided Arts Reach and their scholarship fund, helped to support those at the juvenile detention center and the day school having sent art teachers to 251 students at JDC and the day school in 2013. Almost 700 students who didn't come to the Arts Center on a daily basis came to the Arts Center in 2013 through the Douglas County Pre-K Program which included Headstart, Children's Learning Center and Little Nations for Classes and Events, but most of their financial aid went to families whose children sometimes ask their parents or teenagers that asked them directly to help remove any obstacles in their home including transportation, what to wear, or motivation on the part of their parents to get them inside the door where they might not grow up to become actors and artist, but were engaged in life affirming, thoughtful activities with professional artist all day during the summer days off and after school. She said their goal was 100% public access to the arts. She wanted to thank the City Commission for making possible at the Lawrence Arts center and for investing in a community Art Center that outpaces any she had seen across the country and communities of any size. She said she wanted to draw attention to what they did at no cost to this community and ask the City Commission for their continued support in the many ways that was done with arts and culture across the country.

Farmer asked what Tate needed to fully fund financial aid for low income kids next year.

Tate said there were two numbers to consider. The first number was the amount in request they received which was approximately \$110,000. The other number to consider was that in Lawrence it was closer to 40% of their students who received free and reduced lunch and in their own neighborhood it was closer to 80% of students that received free and reduce lunch. She said they knew just like any social service agency there were many reasons people didn't even get to the point of asking, but to fulfill a year of requests as it was right now, about \$110,000.

Farmer asked how much the Arts Center received from the City currently.

Tate said \$40,000.

Amyx said he appreciated the work of the Arts Center.

Tate thanked the Mayor. She said the correct amount that the Arts Center was receiving from the City was \$30.00 in scholarships.

Mayor Amyx called for public comment.

After receiving no public comment, Amyx said Tate explained that that the Board of Directors wanted to keep the City Commission informed and they planned on giving short presentations two times a year at future City Commission agenda meetings.

The City Commission received the presentation.

3. **Consider a Comprehensive Plan Amendment, CPA-14-00059, to Horizon 2020, Chapters 6 and 14 to revise the maximum retail cap from 72,000 SF to 122,000 square feet to permit a proposed grocery development in Bauer Farm, located at 4700 Overland Drive. Adopt on first reading, Ordinance No. 8985, for Comprehensive Plan Amendment (CPA-14-00059) to Horizon 2020, Chapters 6 and 14 to revise the maximum retail cap from 72,000 SF to 122,000 square feet to permit a proposed grocery development in Bauer Farm, located at 4700 Overland Drive. (PC Item 5; approved 8-2 on 4/21/14)**
4. **Consider a request to rezone, Z-14-00057, approximately 8 acres from PCD-[Bauer Farm] to PCD-[Bauer Farm Northwest], located at 4700 Overland Drive. The zoning application proposes modifying the uses in the PD (Planned Development) from a mix of residential, office, with 14,440 SF of retail space to 45,048 SF retail space,**

**6,150 SF office space, and no residential use. Submitted by Treanor Architects, for Free State Group, LLC and Bauer Farms Residential, LLC, property owners of record. Adopt on first reading, Ordinance No. 8986, to rezone (Z-14-00057) approximately 8 acres from PCD-[Bauer Farm] to PCD-[Bauer Farm Northwest], located at 4700 Overland Drive. (PC Item 6A; approved 9-1 on 4/21/14)**

5. **Consider a revised Preliminary Development Plan, PDP-14-00055, for Bauer Farm and Bauer Farm Northwest, and Bauer Farm Residential to include the addition of a 108 room hotel and two retail stores and one mixed use building in Bauer Farm Northwest, located at 4700 Overland Drive. The plan proposes 45,048 SF of retail uses where 14,440 SF was previously approved. Changes to Bauer Farm Residential include a revision to the number of residential dwelling units from 272 to 342, removing a street connection to Overland Drive, and revising the building form from row houses to apartments along W. 6<sup>th</sup> Street and Overland Drive. Submitted by Treanor Architects, for Free State Group, LLC and Bauer Farms Residential, LLC, property owners of record. (PC Item 6B; approved 9-1 on 4/21/14)**

Scott McCullough introduced the item. He asked the City Commission to declare any ex parte communication on this project.

Schumm said he had absolutely no contact with anyone about this project.

Farmer said he had no communication.

Amyx said he had no communication as well.

Dever said he thought they had a meeting a long time ago.

Corliss said they had a meeting a couple of years ago with the applicant and the prospective purchaser of the property.

Schumm said he wanted to correct his comment about communications. He said approximately 2 years ago he had contact with some of the development group that discussed the project.

Corliss said Scott McCullough, Planning and Development Service Director, was present at that meeting and asked McCullough if that was 2 years ago.

McCullough said yes.

Schumm said he had no contact since then.

Riordan said recently he had contact regarding information they were considering about the building. He said it was an informational type discussion.

Jeff Crick, Planner, presented the staff report regarding Bauer Farm project.

Amyx asked if the existing node was a CC400.

Crick said the existing node was CC200.

Riordan said there were two increases in the amount of square foot retail uses, one increase went from 14,440 to 45,048 and the other went from 72 to 122 and asked if they were totally independent. He said if those were considered separately would they need some increase in square retail foot space for each one.

Amyx said the Comprehensive Plan Amendment called for an increase of 72,000 to 122,000 square feet and asked if that included the 14,440 square feet to the 45,048.

McCullough said he would think of it in terms of the entire west part of Bauer Farm, increasing from 72,000 to 122,000 square feet. He said because the southern part of that was already developed, they also gave a little bit of calculation on the north part that was not yet developed.

Riordan said so the increase in the total square footage was the 50,000, but it did not include the other part of that.

McCullough said there was some additional commercial request which was over and above the grocery store. He said the total amount of new retail as 45,000 square feet and was not entitled to the property today.

Riordan asked if the grocery store wasn't considered.

McCullough said it was retail space and wasn't included the in the 72,000 square feet of retail entitled today.

Riordan asked what the present retail space was that they had built and occupied at this point in that area.

McCullough said some of those questions might be answered by Sandra Day's presentation.

Riordan said it was still confusing exactly what the Commission was approving.

McCullough said the comprehensive plan amendment was because they had a plan on all 4 corners of the intersection and within their plan they had a spreadsheet that assigned retail amounts to each corner. This corner had 72,000 square feet and the nodal plan had to be revised to accommodate the increase in retail space.

Riordan said as staff presented this item, he asked if they could make that clear. He said it was still not clear to him exactly which ones were increasing and how much was assigned to each quarter of the nodal.

Sandra Day, Planner, presented her report regarding Bauer Farm, Z-14-00057 and PDP-14-00055.

Schumm said regarding the existing uses under the 72,000 square foot cap of commercial, he asked about the number of square feet developed currently.

Day said she did not do a calculation of what was developed so it included what were the approved commercial uses and that was 56,000.

Schumm said he heard Day say that the 3 lots that were undeveloped could max out that number.

Day said correct.

Schumm asked what that number would be.

Day said those were very small lots and might be able to add 1,000 feet and up looking at something vertical to do that. A far-fetched opportunity would be if the Community Theatre ever redeveloped for a large format commercial, but she didn't think that was a real possibility, but that was the most far-fetched thing she thought of.

Schumm said for instance, if there was 16,000 square feet left under the cap and asked if those three lots would use that remainder up.

Day said no.

Schumm said in reality the net trade-off was they wouldn't use the full 72,000 feet that was already approved.

Day said they would be transferring some of that space to the northwest, but they would need to add some square foot to reach the proposed development application that the developer had proposed.

Schumm said that was the equation that was currently set out.

Day said yes.

Amyx asked if Day answered Riordan's questions.

Riordan said yes. He said he had a better understanding. If they didn't have that increase on that nodal section and had the increase from 14,400 to 45,000, he asked if they needed to have any increases in the amount of retail space or affect the overall retail space on the entire nodal plan.

Day said yes in order to do what the applicant was proposing. She said they couldn't do it within the structure of the regulations as they were written.

Riordan said they had to increase it, even if they did not have the other, but with the 14,400 to 45,000 they would need to increase the retail space.

Day said yes.

Amyx said when they were originally involved with Bauer Farm he asked if they were looking at a new urbanism neighborhood with the residential units on the eastern end of the development. He said they reduced setback and a number of things at that location and asked if Day was saying it was going to be more of an apartment type building that would be on 6<sup>th</sup> Street.

Day said somewhat.

Amyx said they were talking about row houses.

Day said yes and there was still some of that and the applicant would be better able to articulate how that was going to look like. Key elements of that new urbanism piece dealt with walkability, access to services, and having that sense of community within that design. She said

that was still achievable in the residential format and was something they had to look very diligently at through a final development plan.

Amyx asked if they had that opportunity through the final development process of being able to look at those items.

Day said yes.

Matt Murphy, Treanor Architects, representing the applicant, said he wanted to take this opportunity to reinforce some of the elements that City Staff had stressed in their report in terms of the Comprehensive Plan. He said they were looking at raising the retail cap which would result in a 10% increase for the total node for Wakarusa and 6<sup>th</sup> Street. He said they were definitely trying to maintain the walkability and the pedestrian scale with this development. There was still walkability and connectivity within the development from the proposed grocer and retail down to Bauer Farm's Drive and of course walkability along Bauer Farm's Drive which then linked over to the theater into the proposed residential undeveloped area and then over into the existing senior housing development portion of the development. There was still the walkability and connectivity within the development that would be maintained with the proposed changes to the PCD as they moved forward into the development plan process.

Amyx said regarding the apartments on the east end, he asked if they backed up to 6<sup>th</sup> Street and come out close to the sidewalk.

Micah Kimball, Treanor Architects, said yes. On the residential side they did increase density by removing some of the right-of-ways and took the streets and turned those from a public street that would be dedicated back to the city to a private street, other than Bauer Farm Drive. He said they were able to account for a little bit more use of land. He said that was how they got the density up, but the apartments were still a row house style apartment or building where it was a 4 sided architecture, the parking was in the center, and there was a lot per say on the north side of Bauer Farm. He said they had front doors that faced out onto 6<sup>th</sup> Street and then front doors that were facing onto Bauer Farm with the parking nestled in between the

buildings. Those buildings were intended to be a row house style, but it was going to be lofts over flats and a 2 story apartment over a single story. He said there would be stairs which gave a different look which was not like a breeze way, but the garden style apartments that they envisioned.

Amyx said the amount of land that was left on the original commercial site was 16,000 feet. He asked about the maximum amount of square footage that could be developed on a property that was left.

Kimball said they were showing 11,300.

Amyx asked if that was actually developable square feet that was left on the property.

Kimball said yes for the 3 parcels that were undeveloped on the existing out lots. Their plan right now was 11,300 and might be able to push that a little bit, but that was also maximized with parking. He said they had a parking ratio of 4 per thousand or 5 per thousand and was about as much as they could get at that location.

Schumm said when Murphy talked about the realignment of everything on that property which only increased the density by 10% he asked if Murphy was talking about everything or just the commercial.

Murphy said that was the entire node.

Schumm asked if he was talking about commercial and residential.

Murphy said commercial and he was talking about the entire node of at the intersection, all 4 corners relative to the Comprehensive Plan.

Schumm said not just on that track but the entire CC600 area.

Murphy said correct.

Riordan said he was struggling with this request and the reason was because he was on the Planning Commission when this item came through. He said he saw new urbanism and that was what they were sold on and they allowed some things to occur that they wouldn't allow without that concept. He said he saw buildings that the base floor would be retail and the top



floor would be residential living. He said he saw pictures of residential, walkability, and lots of neat things, but they were all gone. He said he didn't see anything in that proposal which he thought was a good proposal. He said what he had seen in the beginning he liked, but it had morphed and changed so much that he couldn't even recognize what was being built and there was a single story that looked like every other single story, no new urbanism, but there was nothing that was the same. He said he was struggling with that because he hadn't been more disappointed with an area that was developed than this particular project. He said he wasn't talking about the quality of the project, but from a planning point of view, this was so different and why did they even bother to plan if it changed that much.

Bill Fleming, Treanor Architect, said he had been working on this project for about 12 years. The great philosopher Yogi Berra said "In theory, there is no difference between theory and practice. But in practice, there is." He said that was what they were dealing with here, things change, circumstances change, and development patterns change. He said they had been at this process for about 12 years. The first plans were started in 2003 and was now 2014. He said he didn't want to disagree with Riordan but there were elements in new urbanism there that needed to be recognized that they did move those buildings to the front part of the street and didn't put the parking in front of the building. He said they spent 5 million dollars to build streets through the middle of this development that was at their expense and that allowed you to not have a curb cut. He said this development did not look like 23<sup>rd</sup> Street when going down the street because it didn't have a curb cut for every single business. He said they spent another half million dollars on right-turn lane improvements to make this project. All the buildings were attractive and everything along the front of the project was almost exactly as they initially proposed it and exactly as they initially envisioned it. The only difference in this development was the center of this project. He said they had 4 sided architecture in this project too. All of the buildings were designed so that they were attractive on all 4 sides and didn't have a back where it didn't look very nice. He said they were all designed to be attractive from all 4 sides.

He said that was one of the elements of the new urbanism type of concept. This deal was never going to be pure new urbanism and this deal was never going to be 72,000 square feet of retail and was never going to look like downtown. He said nobody in this town wanted it to look like downtown because they wanted to preserve their downtown because it was unique. He said with that type of limitation it was how it would look now, the only issue was the center area that they envisioned as having some retail on the 1<sup>st</sup> level, some office on the 2<sup>nd</sup> level, and possibly some residential on the 3<sup>rd</sup> level which was the concept. The rest of the plan frankly had changed, but basically very consistent with the original plan. He said it changed because in the 12 years that they owned that property, he didn't think they had a single request for office use on that piece of property. The amount of office demand was not real high, but he didn't know why and it might have been the great recession that they had in 2007 through 2008, but they didn't have robust office demand right now. He said they were doing mixed use projects downtown and saw that demand downtown. The fact that they had Bella Sera that went into the west side of town was not very successful and tempered the enthusiasm to do a residential project there. A lot of those factors were that things change and they had to be adaptable to try to respond to the market. The whole point of the preliminary development plan was that it was preliminary. When they drew those little boxes on the pieces of paper, they couldn't tell for absolute certainty that that was going in there. He said when they said 10 or 12 years ago, that they were going to build a new urbanism type project at that location, he thought they had done that. He said they build something that had attractive buildings, 4 sided architecture, architecture control, and parking to the back of the building so that they didn't see the parking when driving by. He said they did a lot of those things they said they were going to do as part of that project. He said they had that one center section that was going to look more like a traditional shopping center type of development because frankly that was where the demand was. He said he thought this was a grocery store type of retailer and was something unique to Lawrence and something that people in Lawrence would really enjoy and like. He said it would

add to the City of Lawrence and would not detract in any way that they've changed the plan to adapt to the times and the circumstances that they were in.

Mike Treanor said he was present from 2003 regarding this development until now for this request. He said they did have elements that they've tried to combine that had been successful. The theater was a tremendous cultural use and part of the deal was to give that ground to the theater for that use. The retail that they planned around the outside was what they envisioned. In 2008, they had the St. Charles project in St. Louis which was a newer municipal project. He said the financing for that type of project was virtually impossible. It could be done downtown, but not in a new green-fill development that they knew of and they didn't see examples of that in other locations around the country. He said they thought they came up with a plan with a new farmer's market that would buy groceries from neighboring farmers and sell those products through their store. He said this was a good opportunity and it was time to take advantage and finish this project. He said perhaps they didn't have exactly the right plan at the beginning, but they had worked through it to come up with a really good solution for this. He said they would appreciate City Commission approval of the project.

Amyx said the one condition that withstood the test was the no building or commercial use larger than 50,000 square feet.

Treanor said correct.

Amyx said they only had one request for a commercial building throughout this development that asked for a building bigger than a commercial building that was not approved.

Treanor said correct.

Riordan said when he first saw the drawings there were 2 and 3 stories and was promoted as live, walk, and go to where you work. He said the building were actually contiguous buildings, weren't separate buildings and drawn as a contiguous amount.

Treanor said partially. He said there was walkways and drives in between the buildings. He said it was a hybrid and not downtown, the development had to respond to cars because

that was how people would get to that location. He said they weren't living in that same location except for the new residence they would have in that area with Meadowlark and the new apartments.

Mayor Amyx called for public comment.

Jonathan Becker said he was the Vice President of the Briarwood Community Association which was 50 homes, located immediately northeast of the Meadowlark Hills residential development. Public government was about compacts, promises were made and promises were kept and they've been at this development since 2003. He said they had certain promises made about commercial development in this area. The regional node at 6<sup>th</sup> and Wakarusa was a regionally anticipated to be 300,000 to 450,000 square feet of commercial space in that area. Unfortunately, previous Commissions immediately approved 300,000, south of 6<sup>th</sup> Street and if doing the simple math, there was only 75,000 left for the northwest and northeast quadrants of that node. They saw the proposal for new urbanism and they liked it. They thought it provided an appropriate buffer between the commercial developments at this node and yet it was now being basically tossed to the side. Staff had done a good job at drilling down through the details of this proposal, but the City Commission's job was to step back and take a look at this from a broader prospective than just the metes and bounds of an increase of 10% of the space or an increase of 122,000 square feet. The applicant was saying that they were going to put in another grocery store in this regional node already, they had two grocery stores. They were now going to have 3 grocery stores in that regional node. He asked if they really needed 3 grocery stores within that node and if they needed 4 grocery stores within a radius of 4 miles. The other thing the applicant stated was that they were going to build a hotel. He said if looking across the street the address was 4700 Overland Drive which was the address of Free State High School. He said it was legal to have a bar 500 feet away from the opening door of a high school, but was that something they really wanted to have. He said that was what the applicant was proposing in that hotel and they were proposing it was legal at other

sites. He said it was legal, but was it right. Lastly, the new urbanism was being tossed aside and it was disappointing that they had been led down a prim rose path and had made compacts with the voters and approved those plan with the assumption that that would go ahead. Now they were being told they couldn't do it and they weren't showing what the numbers were or the pin to pencil calculations of why new urbanism won't work, they simply point to a project 299 miles away and stated that failed, therefore, this one would fail if it was new urbanism. He said that was false logic. The applicant Mr. Fleming stated, "It was going to be attractive," David Hume stated, "Beauty was in the eye of the beholder" and that was not what they were about when making decisions that were going to affect this large of a quadrant. He said they were putting a bar within hailing distance of the school and junking the new urbanism that they all approved.

Kirk McClure said planning was an exercise where a City could guide its own real estate markets to the improvement of the community. The alternative was to sit back and let the development community drive where they put their scarce amount of real estate. There were 3 problems with this particular proposal. The first was the problem of the City's failure to enforce its own agreements. This development was put forth as a new urbanism process that was going to be the saving grace because the history of this node had been very unhappy. He said what had happened was the developer had brought in anything and everything. He said they had seen home improvement centers, drive through car washes, drive through drug stores, and had seen the antithesis of new urbanism. The implication of that was fairly simple Lawrence had a reputation of a community where the developer simply promised what they needed to promise to get something passed and then they didn't need to worry that the City would enforce its own development codes. In fact, they could bring in anything later and it would pass. This weakened the City Commission's capacity to stand as a strong negotiator when trying to drive the community to its own improvement. The second concern had to do with real estate and he had spoken to the City Commission multiple times on this issue, but this was a textbook case of

incrementalism. He said when he moved to this town in 1987, 6<sup>th</sup> and Wakarusa was planned for 150,000 square feet of retail space. The plan was to be disbursed across the 4 components. It was all taken by the very first developer on the southeast corner and along came the developer for the southwest corner that wanted some. The City Commission gave that developer more and made it far beyond the amount designed for this node. He said they were all present for the Walmart fight and of course they decided with new urbanism they had to add more. He said now they had a CC200 that somewhere in the CC400 category and they were going, if passed make it somewhere close to CC600. This was where they were overbuilt. He said they could not drive that finite amount of retail spending effectively if saying "yes" to every deal that came along. If going to protect, preserve and enhance downtown, they couldn't say yes to Mercato, to everything at 6<sup>th</sup> and Wakarusa and on and on. If they were going to protect and preserve the older commercial nodes, they had to keep the amount of growth of retail space in line with the growth and its demand. The City's own staff report stated that from 2000 to 2012, supply grew 4.4 percent per year but inflation adjusted demand effectively was flat. He said they did not have increased capacity to support this. He said retail was not economic development. Economic development was bringing new dollars in to grow the economy. He said retail simply recirculated dollars that were already there, thus no new jobs, no new sales taxes and in the long run no new property taxes. The third issue was the one that worried him most, threatening their existing investments in hotel space. He said they had a study that stated they had a shortage of the right kind of small convention hotel in support of a university and put 11 million taxpayer dollars into the Oread Hotel. He said he supported that investment because he thought the City Commission would follow through and protect that investment. He said they had since gone on and put 10 million dollars in taxpayer dollars into 9<sup>th</sup> and New Hampshire, some undisclosed portion was for a hotel. He said let's call that 4 million, that was 15 million taxpayer dollars but no study was done for 9<sup>th</sup> and New Hampshire to demonstrate that they had demand for enough hotel space to support another hotel. This body then approved zoning for

another hotel on North Mass and they were now being asked to approve a use for possibly 108 unit hotel room. They had yet to see a study that stated additional hotel space would not threaten the 11 million they had in the Oread and the 4 million that they were putting into 9<sup>th</sup> and New Hampshire. The City Commission did not have the information to make that decision. He said they should send this back, hold their ground and make sure they get the project the community wanted, don't add unnecessary retail space, preserve and protect their investment and hotel space.

Farmer said wasn't it McClure that stated when Walmart opened up that Dillon's at 6<sup>th</sup> and Wakarusa was going to shut down.

McClure said no, he said it could be in trouble, but the simple fact was they didn't have the increased jobs and didn't have the increased spending.

Farmer said but it expanded.

McClure said he was telling Farmer that it didn't mean that any of the projections on retail were wrong.

Schumm said McClure alluded to a North Mass hotel that was recently approved and asked McClure which hotel he was talking about.

McClure said development behind Johnny's bar that was approved for a hotel.

Amyx said regarding the actual square feet of the retail portion, he asked if the 48,000 square feet was the actual increase.

McCullough said correct, that was being increased to accommodate the project as proposed.

Amyx asked if the 6150 of office and absolutely no residential use in what was now Bauer Farm northwest.

McCullough said correct.

Amyx asked if any amount of that residential use could be transferred to the eastern part.

McCullough said it could be considered that when the applicant proposed to increase the density on the east side, it absorbed some of those units and density.

Amyx said it was not going to be at the same level that it was under the original new urbanism plan.

McCullough said the question was, was it a one for one transfer and were they transferring from the west to the east.

Amyx asked if McCullough would go over the condition regarding the alcohol in the hotel.

McCullough said the preliminary development plan as adopted today, did permit license premises. It did not permit the hotel use and part of the request was to add that use into the plan. Staff wanted to clarify that the hotel use was new and that there was some discussion at the Planning Commission level throughout the process about the license premises and wanted to highlight that to the Commission in the presentation that that was a permissible use. It was permissible as it was today in the zoning ordinance. He said it existed today at the property and it would exist if approved as proposed.

Amyx said regarding the hotel use, he asked what kind of restrictions the City Commission could place on that type of venue that was in the hotel that would serve alcohol.

McCullough said staff could craft a condition of zoning that would restrict the uses, but it would be fair to note that the other 3 corners of the intersection were not restricted in their ability to be a licensed premise as well.

Amyx said it was one of those things to have a hotel with a restaurant that could serve alcohol, but it was another thing to have a hotel and someone had a bar of some type. He asked if that was the type of use that was allowed and would be anticipated under that condition.

McCullough said it could quite possibly be anticipated and permitted with this as it was setup today.

Amyx asked about the effect because of the proximity of the school.



McCullough said it met the legal distance requirement for gaining licensure as a licensed premise.

Amyx said that was his one concern which was the type of facility that would be at that location.

Schumm said he had been in a lot of hotels and there was a lot of discrete bars and beverage service in restaurants and then there were others that had caused some commotion in this community and the City Commission didn't want that to happen.

Amyx asked how they would avoid that type of situation and was that the type of alcohol experience they were planning on in this hotel.

Fleming said he wasn't sure what kind of alcohol experience had been planned because they didn't have a hotel at this location. He said generally they had a 55 percent food sale requirement in the community. He said if they had the normal 55 percent food requirement then that might avoid the problem, but he didn't see that there would be a nightclub going into that facility. He said he didn't know if that was a suggestion that would work for the City Commission, but thought it would be fine for their uses. Again, they weren't planning on putting in a bar.

Amyx asked if Fleming had a club written into that space.

Corliss said the 55 percent food sale requirement only applied to the CD zoning district. He said they had looked at applying it elsewhere on specific projects and it might be appropriate to do that with this project, if the applicant didn't object. If they had a development that was a problem, then they could seek to have it rezoned. He said that was one way to get at the bar issue was to have the food sales requirement.

Schumm asked if it was possible to call up a map that showed Briarwood neighborhood in relation to this project.

McCullough asked staff to work on that.

Schumm said the 48,000 square feet was an additional commercial allocation of space. He asked about the hotel and what the hotel was replacing in terms of housing units and how many rooms was the hotel. He asked what that trade-off was.

McCullough said first of all the hotel didn't count as retail in a category of retail use. He said it would be replacing some residential designation on the development plan.

Kimball said he believed it was around 100 to 120 residential units for apartments which was similar to what they transferred to over to increase the density on the PRD section.

Schumm said in hotel space how many rooms.

Kimball said close to 108 rooms.

Schumm asked if McClure and Becker attend the Planning Commission meeting and spoke before that commission.

McClure said he was not able to attend, but he sent a letter.

Becker said he did attend and spoke.

Riordan asked about the initial total retail space on that node, all 4 corners when it was first envisioned. and what would be after this change.

McCullough said it had gone through a couple of revisions. The latest adopted plan had a total of 434,600 retail square feet in all 4 corners. He said this would bring it from 434,600 to 484,600, adding the 50,000 square feet that they rounded up to.

Riordan asked about the initial amount.

Schumm said he could answer that question because he voted on it. He said initially it was 15 acres on each corner, 60 acres total and then it was skewed around. He said it might have been 10 acres on each corner.

McCullough said the node that was being considered was initiated because of the potential development on the north side of 6<sup>th</sup> Street. Much of the south side was in existence and was an exercise on how to develop the north side. He said they drew some hard lines about how far east and west commercial development would extend. He said he took some

exception to the notion that anything went because there was a home improvement store that went passed those bounds, didn't seem to fit and didn't gain approval in this project. He said they tried to reach the balance about attempting to maintain as much new urbanism as they could but also allow the applicant to deal with some of the market conditions and get through the recession. He said in response to the direct question, it had incrementally gone up.

Riordan said he still hadn't heard what the initial square retail footage was for this entire node and asked if it was 200 square feet.

McCullough said it always exceeded 200,000 square feet of Chapter 6 of Horizon 2020. Although it was designated as a CC200, it had at the time already surpassed that. He said they had started with a designation of 200,000 square foot node and the south development had already exceeded that amount.

Riordan asked if it was a 200,000 square feet, but exceeded that before they even started. He said the other aspect as far as the traffic, one of their biggest worries at that time was that if they allowed that retail, they would allow the density because of everything that was developed in that area and would create a 6<sup>th</sup> and Wakarusa disaster. He asked if that was a problem or not when all of that was built out.

McCullough said the traffic impact study that was required of a project like this had been submitted and accepted by the City Traffic Engineer in Public Works as accommodating the request. There was a planned light signal at Champion Lane and 6<sup>th</sup> Street and that would be part of their capital plan over the coming years.

Amyx asked if the street network inside Bauer Farm changed.

McCullough said it hadn't changed, the spine road of Bauer Farm Drive and Champion Lane, Bauer Farm Drive needed to be completed to the east over to Folks Road and would occur with the residential development to the east, but it hadn't significantly changed.

Day said the Commissioner's had asked for the location of Briarwood and in this PRD, it represented Briarwood that included detached housing, accessory dwelling units, and then a

multi-family element on the south side. She said Folks Road was the eastern boundary for the Bauer Farm Development and if she understood the speaker's position that entire project was a new urbanism project which provided buffer from those elements.

Schumm asked Day to point out the retirement community.

Day showed Schumm the quadrant that it was located which was in the residential portion of Bauer Farm.

Schumm asked if that was the only part that was occupied.

Day said yes.

Schumm said what they were hearing was that the rest would be residential and some of the square footage transferred over.

Day said the number of units transferred.

Schumm said the rest of that area was going to be all residential of one kind or another.

Day said yes. It was still intended to be mixed residential, its form was a little different. She said the piece on the corner of 6<sup>th</sup> and Folks Road had always been approved for planned office development under the old code and was still its designation. There was a condition of approval that the property be platted prior to the publication of that zoning. She said since this lot remained unplatted, that zoning had not been published. If it had been platted they would see POD on that corner, but the rest was residential and that residential calculation included the Meadowlark project.

Dever said there had been some comments made and he had been a part of this proposal since it first came on in 2007 and further on. He said there had been incremental development of this property over time and it's been slow, but one thing that hadn't wavered was the commitment, at least the opinion of the developers that they wanted to stick to this new urbanism concept. He said there was more square footage of sidewalks in that development than there were actual developed properties in that square footage that they designated. He said there was like 65,000 square foot of paved sidewalks in that development and there was

less than that in retail development. He said they had this massive infrastructure investment with all those sidewalks and connectivity, and it was sitting there surrounding vacant land. He said from a utilization and resource standpoint he never saw himself as defending this development from where it was to where they were now, but he wouldn't sit by and let people state there weren't walkable, practicable, reasonable differences from what they had done at this development and any retail development that was popping up in 95 percent of the United States. He said there were roads in that area that were underutilized, landscaping and people all around it, but there was nothing on that property which was disturbing. He said he wasn't saying this was a great idea, but there was a lot of money that had been spent on making that area walkable. He said he questioned people who came up and stated that otherwise because there was 64,000 square feet of paved sidewalk surface. He said people needed to put in prospective what had been invested and how the City could utilize that area the best. He said sitting there vacant wasn't the best utilization of the infrastructure that had been invested. He said this was really about how to move forward and not dwell on the past.

Amyx said he agreed. The reason why he asked the question about the roadway system which they approved 10 years ago was still the same. He said he appreciated Dever talking about the amount of sidewalk in that area. He said now it was whether or not it was appropriate to increase the retail portion of the retail square footage to accommodate the uses as requested. He said he could support the increase in the square footage of the retail portion and liked the idea of transferring the residential over to the east side so that they remained close to the numbers as originally laid out under the new urbanism. He said he had concern about the apartments coming up to the street, but the explanation about the 4 sided appearances of that building should be taken into consideration. He said he had concern about the alcohol use and whether it was going to be a club inside that hotel and it needed to have a condition placed on that use because of the proximity of the school. He said he thought it was a great use of the property based on everything that has happened on that property as a whole.

Riordan said it had some walkability and other things, but he wasn't struggling with what the proposal was but struggling with what happened before. He said new urbanism was an urban design movement that promoted walkable neighborhoods containing and arrange of housing and job types. He said this development didn't fall into new urbanism. He said he liked that it was walkable and the Lawrence Theater was in that area, but he was having difficulty getting beyond this project morphed and changed so much. He said that was one of the problems with planning in that when planning for a horse you get an elephant. He said staff had done a good job and the comments were good. He said he appreciated Dever's comments about the walkability and he felt better about the development. He said the fact that they had increased nodal space and thought 200,000 was enough and now they were at a 600,000 nodal at this point. He said any way you look at it when going over 400,000 it went to the next level. He said there were some things that happened that indicate there were some problems. He said the people that were developing this land had good intentions and was doing what was best for this development now, but he still struggled with some of the concepts.

Amyx said one of the conditions that was important was those commercial buildings were not going to exceed the 50,000 square feet and he still thought that was one of the most important conditions. He said they had that debate when the home improvement came up and that was what it came down to, was that this condition was important and was going to be there and they needed to live by that. He said he still believed that that was the right decision and it allowed for a better mix use of this property.

Farmer said this went back to his same feelings about where they were at in relationship to 9<sup>th</sup> and New Hampshire. He understood the tendency was going to be to want to wait for the prefect thing to go in there with the perfect model of new urbanism which would set them apart. Unfortunately, they didn't have any control about what types of businesses would be at that location. The worst alternative was what a waste of this area for there to have been so much investment as they expanded west as a community. He said they had all of that investment of

infrastructure and money spent, not to mention the money the City as a whole spent in relationship to storm sewer and stormwater when they built that out. He asked if it should sit empty for another 10 years because they crossed their arms and stated it wasn't good enough for them. He said they had a unique opportunity when they had a particular development that wasn't as controversial. He said he wasn't present with the Lowe's fiasco happened. He said he heard that new definition of new urbanism and he thought to himself a varying use of not only pedestrian friendly walkable, bike, skateboarding etc. He said he thought of the landscape and the roundabout at that location and the mixed uses of restaurant. There was a sewing shop, car wash, a hotel, and now they were talking about apartments and a grocery store. He said he thought it fit new urbanism in relationship to that definition. He said he appreciated Dever's calculations of the 65,000 square feet of sidewalks.

Schumm said he had been around on this project for a long time off and on, not consecutively. He said he thought he had some very interesting original drawings and shots and as time went on, they didn't pan out for one reason or another. He said you had to believe that a lot of it was recession and other factors, but he saw this property as needing to be developed and had been vacant for a long time. The neighborhood had concerns but by looking at the map, it looked like there was plenty of residential buffering between the two areas. It looked like the streetscapes were good and the walkways were adequate. He said another element to this argument was that he was deeply concerned about the excessive amount of commercial they were putting in on south Iowa Street. They were going to be out of balance in those neighborhoods and they were short changing some of those other commercial districts. They were going to have an entire critical mass that would only be supportive itself if they continued to add rezoning at the rate they had in North Lawrence. Already, they had a fight with Mernards and had additional zoning lining up with that project and they had another large project that was submitted to the planning office. He said they were getting way out of whack on commercial districts. He said he looked at this as a chance to rebalance. As far as the hotel

went, he thought Rock Chalk Park was going to drive some demand for hotel needs and they won't come unless there was a demand. He said there was a study done on the hotel downtown and regardless of what they wanted to call it, it indicted it was a study that would produce positive results. He said he was supportive of this project and would like to see that land get developed and be a wholesome part of the community.

Amyx asked if anyone had a concern about the bar in the hotel.

Schumm said the food requirement was probably the best and easiest way to do it and the developer had consented. He said they could make it a part of their motion.

Amyx said he recommended as a condition to direct staff and the applicant to work out suitable language.

**Moved by Schumm, seconded by Farmer,** to approve CPA-14-00059, a Comprehensive Plan Amendment to Horizon 2020, Chapters 6 and 14 to revise the maximum retail cap from 72,000 SF to 122,000 square feet to permit a proposed grocery development in Bauer Farm, located at 4700 Overland Drive, and adopt on first reading, Ordinance No. 8985. Aye: Amyx, Dever, Farmer, and Schumm. Nay: Riordan. Motion carried.

**Moved by Farmer, seconded by Schumm,** to approve Z-14-00057, a request to rezone approximately 8 acres from PCD-[Bauer Farm] to PCD-[Bauer Farm Northwest], located at 4700 Overland Drive, and adopt on first reading, Ordinance No. 8986 and direct staff to place into the rezoning request a condition of the a 55% food sales requirement for the hotel. Aye: Amyx, Dever, Farmer, and Schumm. Nay: Riordan. Motion carried.

**Moved by Farmer, seconded by Schumm,** to approve PDP-14-00055, a revised Preliminary Development Plan for Bauer Farm and Bauer Farm Northwest, and Bauer Farm Residential to include the addition of a 108 room hotel and two retail stores and one mixed use building in Bauer Farm Northwest, located at 4700 Overland Drive. Aye: Amyx, Dever, Farmer, and Schumm. Nay: Riordan. Motion carried.

Farmer asked if they could move up the County and School Board discussion.



The Commission recessed at 9:09 p.m. for approximately 10 minutes.

The City Commission resumed at 9:19 p.m.

**6. Receive public comments and consider providing direction to staff regarding the naming of the Recreation Center at Rock Chalk Park.**

Megan Gilliland, Communications Manager, presented the staff report.

Farmer said he wanted to add, just in case there was any question on what he had asked Gilliland to do in relationship to the signage, one of the things they talked about was regardless of the name, to work in some sort of explanation in relationship because that was the big thing he heard everyone say about “Sport Quest” was that it didn’t really say Lawrence and to be fair to the consultants, who went through a long process, a quest for personal wellness, a quest for personal health, a quest for fitness and well-being and that sort of thing. He said his thinking was that if they could have an arts and culture and when walking up to the facility they could have “way finding signs” that explained the name of the building with whatever they decided it to be and the explanation as to how it tied into Lawrence so people from the community could appreciate the name and people from out of town and could also understand the name. He said he was thinking that on both sides of the sidewalk maybe one side would do the tie into Lawrence and the other side the tie into health, wellness, fitness and that sort of thing. He said as far as arts and culture, maybe kids from VanGo could participate.

Gilliland said regardless of the name that was chosen there was certainly a graphical package that needed to happen and that was the logo, guidelines etc... that they would use to build the website, social media, and the strategy they had. She said any type of signage would fall into that category.

Mayor Amyx called for public comment.

After receiving no public comment, Amyx said several weeks ago he thought it was important to have “Lawrence” somewhere in the name of the building as simple as Lawrence Recreation Center at Rock Chalk Park.

Schumm said he made a comment about not liking the last recommendation (Sports Quest) because he didn't feel good and didn't run into too many people that thought it felt good. It was easier to react sometimes against names that they didn't like as opposed to getting endeared to. One of the names he thought about a lot about was the name "Ad Astra" and he didn't think that fit because that to him stated something about Topeka or the State. He said he was in agreement with Amyx for a local flavor and he dearly liked something with the word Rock Chalk in it, but they were precluded from using that because it was a trademarked name with the university. He said the other name such as "Kanza Center" was a nice name, but he didn't think it fit because a Kanza for him was a prairie out there and he couldn't get the relationship between the prairie and the sports center. The one that had 7 similar acknowledgments was "Lawrence Sports Center" or "Lawrence Activity Center" at "Rock Chalk Park." He said they could identify it as Rock Chalk Park, but couldn't have Rock Chalk in the name. He said he was in agreement with Corliss and perhaps anything they named it, it would be called Rock Chalk Recreation Center. He said it was going to evolve from that, but they couldn't name the center that name. He said he would listen to any suggestion because his mind wasn't made up.

Dever said that was where he was at and thought that Lawrence needed to be in the name somewhere. He said he tried it without Lawrence, but if they were going to promote the community then the word Lawrence should be in the name and anything else would be over thinking it or perhaps over branding it. He said he liked the idea of bringing other issues like he thought it was a recreational center. He said he suggested West Lawrence Recreational Center because they had an East Lawrence Recreational Center, but it might be too constricting of a name.

Schumm said they would be fighting the east of Iowa and west of Iowa stigma.

Dever said the Lawrence Freedom Center was a nice name and it tied into the City's Freedom Frontier National Heritage Area. People might think freedom to be healthy, competed

and do whatever they wanted out there because it was wide open. He said he agreed with what Farmer, Amyx, and Schumm had brought up regarding the naming of the facility.

Schumm said he liked the idea of either sports or activity to identify what it was. He said if driving by on I-70 and he saw The Lawrence Freedom Center, he didn't know if people would know what it was.

Riordan said he was interested in hearing what Amyx and Schumm had to say because they were so instrumental in getting this done. He said he agreed that Lawrence would be nice to have in the name. There was going to be a lot of activities at this site. He said he could live with Lawrence Freedom Center and Lawrence Activity Center, but his favorite was Lawrence Activity Center. He said you wouldn't want to make the name too long.

Farmer said if they wanted a name that was recognizable Lawrence Activity Center really wasn't going to cause you to jerk the car wheel and desperately want to show up. One of the things that he didn't see, but heard if they liked the Lawrence Freedom, they could have an easily recognizable feel for it rather than using word "Center" or maybe using the word "Fieldhouse". He said he really didn't have a preference one way or the other, but thought that "OneLawrence Center" was more marketable than "Lawrence Recreation Center." He said whatever they decided, they need to give a recommendation to their consultant and then they could come back on how marketable was this name going to be in the grand scheme of things such as "Lawrence Recreation Center at Rock Chalk Park."

Schumm said what if they selected two names and sent it back to the consultant to let him work up some different aspects of those names. He said if they picked out a couple of themes that they liked and the consultant could show them how they could work those two names up into some slogans, graphics, and how they would sound, but there again, it seemed like they were under some kind of timeline.

Corliss said he was trying to think of how he could help.

Amyx said "OneLawrence Center" sounded like a hotel in Kansas City.

Dever suggested the name "Amos Adams Lawrence", but that would be way too obvious.

Farmer suggested the name "Freedom Pavilion." He said there were a couple of different words that they could use rather than "Center" if that sounded like a hotel.

Dever said he liked "Fieldhouse" because that was what it was, a field inside the house.

Corliss said they might want to check with the other entity that had a Fieldhouse in the community to see if that worked.

Farmer said certainly "Fieldhouse" was not trademarked.

Corliss said no it wasn't.

Farmer suggested the name "OneLawrence Fieldhouse."

Amyx and Dever liked the name "Lawrence Pavilion"

Farmer asked about "Lawrence Freedom Fieldhouse" or "Lawrence Freedom Pavilion."

Schumm asked how many people liked the word "Fieldhouse."

Riordan and Farmer liked the word "Fieldhouse."

Dever said Gilliland pointed out that there was another one in Kansas City named "Fieldhouse" which was the only reason he wouldn't.

Schumm said that didn't bother him too much because the Lawrence facility would be bigger and better.

Amyx suggested the name "Lawrence Pavilion" instead of "Lawrence Fieldhouse."

Schumm said he didn't get a strong connection of Pavilion to sports. He said Fieldhouse to him says a variety of sports. He said recreation center was somewhat synonymous with that also because it was more activity centered. He said they would probably see more sports events as well as activities.

Riordan said that two words were better than three.

Farmer asked if the Commission liked Lawrence Fieldhouse.

Schumm said yes, but he also wanted to come up with an additional name and ship two names to the consultant and let the consultant come back with a mini graphic package of slogans. He said they could use Lawrence Fieldhouse, Lawrence Sports Center or Lawrence Activity Center. He said it seemed the Commission wanted Lawrence in the name.

Riordan said he thought that Lawrence Activity Center and Lawrence Fieldhouse and let the consultant work their magic to see if they could come up with something better.

Amyx said they would need to live with the name for a long time.

Roger Steinbrock, Recreational Marketing Supervisor, said some of the terminology that they were competing against was the New Century Fieldhouse in Gardner; the Okun Fieldhouse in Shawnee; the Kansas City House; Farha Sports Center in Wichita; and Sport Zone in Topeka. All those terminologies for a Fieldhouse for sports were in the name. It was important to put something to that effect in their name. He said he liked competing against those facilities because they built the facility to compete with other facilities.

Amyx said they were at Lawrence Fieldhouse right now.

Schumm said the other thing they talked about was Pavilion, Center, Recreational Center, and Activity Center. He said the three words they ended up with were Center, Pavilion and Fieldhouse.

Dever asked if Activity Center was a bad thing.

Farmer said he didn't like Activity Center

Schumm said it didn't have enough sports activity built into the name.

Farmer said it didn't say what this facility was going to be and the investment they made in the community. He asked if the name "Naismith" was trademarked.

Corliss said he was not aware it was on the list, but there was Naismith Drive and a Naismith family that was still consulted on some things.

Farmer asked about the name "Naismith Pavilion."

Corliss said if the Commission gave staff any number of names they would check it out.

Schumm said with the Naismith name, they might be getting too close of an alignment to KU.

Riordan said especially if it was at Rock Chalk Park.

Schumm said that went back to the question of was this NCAA zoned free area.

Corliss said the 2 names they wanted to work on was Lawrence Fieldhouse at Rock Chalk Park, Lawrence Sports Pavilion at Rock Chalk Park. He said they would see what the marketing folks think could work with that and maybe a little bit of graphics work.

Farmer said he liked the alliterative words because it helped it roll off the tongue a little better so Lawrence Freedom Fieldhouse or Lawrence Liberty Pavilion. He said something with alliteration in it because it rolled off the tongue and was kind of memorable that way.

Riordan said he liked Lawrence Sports Pavilion.

Amyx said the 3 names were Lawrence Fieldhouse at Rock Chalk Park, Lawrence Sports Pavilion at Rock Chalk Park, and Lawrence Freedom Fieldhouse at Rock Chalk Park.

Gilliland said staff would proceed and the consultants already offered to do some graphical work for the City. She said they would come back with the 3 names that were given with ideas because sometimes it was a matter of seeing something visually and knowing that it was right. She asked about the timing to come back to the City Commission.

Schumm said as quickly as possible because they were underneath a bit of a time crunch to get a name going. She said whatever the consultants could do.

Amyx asked if the City Commission could get something back in a couple of weeks.

Gilliland said yes, staff would make it work.

Schumm said graphics and maybe a slogan on how that might play out so they could get a feel for it. He asked if they should ask the consultant for their recommendation of the 3 names.

Amyx said how about a little bit of latitude if they needed to change the names around.

The Commission concurred.

7. **Consider request from Douglas County for waiver of system development charges and consider request from Lawrence Public Schools for waiver of building permit fees.**

Shannon Kimball, Vice President of the USD497 Board of Education, said USD497 valued its strong relationship with the City and they currently collaborated in a number of areas to better meet the needs of this community. As they set out in their March 26, 2014 to City Manager, David Corliss, they were asking respectfully that the City waive the building permit fees associated with their bond construction projects. She said their estimates, which they reached in conjunction with the City staff, was that those fees would total approximately \$280,000. Their request did not include the impact fees which were the subject of the County's request although she wanted to note that in their discussions with City staff they had been told that those fees didn't apply to their projects, but wanted to verify that that was the case particularly with respect to the Planned College and Career Center that was going in at 31<sup>st</sup> and Haskell and to confirm whether that was going to become an issue for them as well. She said she wanted to touch on three reasons in support of their request in addition to those that were set out in the letter that was sent. She said first and foremost, USD497 wanted to maximize the tax dollars that were going directly to classroom construction on those bond projects. They were undertaking a huge effort to transform the community's schools especially their oldest buildings in east and central Lawrence, modernizing those facilities and establishing their district as a leader in the 21<sup>st</sup> century learning environments and technology enhancements. Every dollar of the \$288,000 plus fees in their request was spent on students in a way that tangibly improved their educational experiences. Secondly, there had been some concerns expressed about the precedent that it would set for the City Commission to grant that waiver request. She said she wanted to point out that the City had already set precedence that was favorable to their request in this area. According to the City's annual audit of the Building Inspection Division, in 2013, those same fees that they were talking about were waived for a total of 45 different projects that were described as being affordable housing or other government projects that was

approximately \$108,000 in fees. Also, the City had waived those fees for Blitz Sports in relation to the Rock Chalk Park projects in the form of an economic development grant rebate. USD497 believed that as a tax supported government entity undertaking \$92,500,000 worth of projects that quite directly supported this community's economic development initiatives, especially the development of their college and career center. They were equally deserving of the City's support and consideration with respect to the requested waiver of fees. They were talking about publically owned facilities, supported by tax dollars and they thought they were on equal footing if not more deserving of that kind of consideration. Finally, in the staff recommendation to the City Commission mentioned having discussion about seeking an appropriate level of consideration from the School District in return for this waiver of fees. She asked the City Commission to keep in mind that although they were a fellow government entity, their ability to readily raise additional resources was really strictly limited hence they were present with this waiver request. They were very different from both the City and the County in this respect and they just couldn't raise taxes to pay for their needs and were constrained both by their funding from the State and by constraints on the money they could raise in spending in capital dollars. The staff memo also mentioned legal precedence that they discussed with staff in their conversations and they disagreed with the staff ratings of those legal precedents and if that was going to form the basis for deciding one way or another on their waiver request they would respectfully ask for the opportunity to have their construction council fully respond to those legal issues in writing. In summary, high quality schools and school facilities were vital to the community, both in terms of the quality of life and as drivers of economic development. She asked the City Commission to help them in their efforts to drive every last tax dollar they could on those projects into the classrooms and enhancements for their students. She said they respectfully request that the City Commission grant their waiver.

Amyx asked if Kimball had anyone else to speak on this issue at this time.

Kimball said no.



Nancy Thellman, Chair of the Douglas County Commission, said she wanted to thank the City Commission for allowing them to speak about this urgent Douglas County request for an exemption from the City's System Development fee. Admittedly, Douglas County was late in learning about this \$264,000 unexpected and additional cost to their Public Works Facility construction budget. That was their teams failure and not the City's, but had Douglas County known about this fee 6 months ago instead of 1 month ago, they would still make the same request of the City Commission, just without the distinct disadvantage of coming to the City Commission hat in hand as the City staff reported "a last minute surprise." On behalf of Douglas County, she sincerely apologized, both for the timing of this request and for the urgency with which they were asking for this request. Their architectural designs were very nearly final, their ground breaking ceremony was this Friday afternoon at 3:00 and earthwork would be underway next week. So the City Commission could understand now why they were so anxious to get onto the City Commission's agenda when they asked last month and then asked this month again. It was worth noting when they asked to be on their agenda, they did not ask to be combined with the school issue although they supported their request for their waiver from their building permit fees. They had a different request which was a waiver from development fees for which the City had a specific City ordinance to allow. Without the benefit of time for deeper policy discussions which was needed, they had only to look to the City's Ordinance No. 6791 for guidance, specifically section 7b which clearly invited request like theirs when it stated, "the City Commission may exempt a specific certain service connection or service connections from the requirement of System Development Charges provided that the City Commission finds that such exemption serves the public interest."

Craig Weinaug, County Administrator, said as he was putting his thoughts together it occurred to him that he had been at this job for 22 years, probably thanks to Mike Amyx who was on the County Commission at the time he was hired. He said he needed to address the City Commission on this particular topic because he had some very strong feelings about this

particular request. The City staff recommendation stated the following: "As the City Commission knows, the City has a substantial history of intergovernmental cooperation with both the County and School District; School Resource Officers and Crossing Guards funded by the City; City rental of School District facilities; City parks adjacent to certain elementary schools; and City/County cooperation on dispatch services, planning services, fire/medical department, sustainability coordinator and economic development. This relationship is built on a desire to provide excellent services to shared constituencies. It is also built on an understanding of different roles and responsibilities and established procedures for cost allocations. Staff recommends that if the City Commission desires to waive or reduce these established fees that it seek an appropriate level of consideration or compromise and direct staff accordingly. Staff also recommends that a joint policy among the various governing bodies be established to avoid last minute surprises and requests." He said he was present to give the City Commission a different prospective on this request. The City and County indeed cooperated on many things and they needed to do everything possible to preserve those areas of cooperation. He said regarding sewer infrastructure, the major trunk main lines for the expansion of Lawrence to the west over the last 40 years had been financed by Douglas County and not by the City of Lawrence. The major trunk line servicing the southeast growth of the City, were also financed by the County. The County was eventually reimbursed for all of those costs, but all of those projects were done in order to enable the City to avoid significant additional operating cost that would have resulted if the expansion of the sewer system had been done incrementally as property was annexed. If the City had financed those improvements, the sewer expansion would have had to serve the incrementally annexed areas, rather than an entire drainage basin. Only the County could do that. Such expansions that had been done incrementally would have involved the construction and operation of many more lift stations that would have significantly increased the operating costs way into the future and yet, City staff report stated that, "the County's facility would be used by Douglas County Public Works for work in the unincorporated

area without substantial direct economic benefit to the City of Lawrence.” The County has always considered the City’s request for assistance based on whether cooperation made good policy sense for all the residence that they both served, not whether they received something of equal value back from the City. In the case of the sewer benefit districts the County did it because the larger district covering an entire drainage basin saved the City significant operational cost over time. The City could not have accomplished this goal without the County. This was sufficient reason to assist in this manner. If the County had insisted on to paraphrase the City staff report, “like assistance from the County in order to ensure appropriate equity”, the city would today be operating many more lift stations today and a significant continuing additional operating cost.

He said regarding recent road infrastructure, 31<sup>st</sup> Street, Louisiana to Haskell, year 2011, the County spent \$380,000; and 31<sup>st</sup> Street City Limits to Louisiana, year 2010, \$275,000. He said near future projects that were planned, 15<sup>th</sup> Street culvert just east of the BNSF railroad tracks, \$300,000, planned for 2015; Kasold Bridge, south of 31<sup>st</sup> Street, \$150,000 planned for 2019; 23<sup>rd</sup> Street, Noria Road to the City Limits which was an area that was previously inside the City limits and had just recently been de-annexed, and the County reconstructed 442 about 3 years ago and asked the City at that time, if they wanted to tag onto their project and reconstruct the shoulders like they had. That same stretch had now been de-annexed and the shoulders were practically non-existent on that road and now the County had a significantly higher cost now to maintain a road that was not maintained when it was inside the City. He said the County was estimating that they had to do that road next year at a cost of \$300,000. He said regarding past projects, Kasold Bridge over I-70, \$600,000 in year 2006; Franklin Road which was the road leading up to the area that they were discussing developing was constructed in 1997 at a cost of \$400,000 to Douglas County, not the City of Lawrence; Massachusetts and Vermont Streets, Kansas River Bridges, at a cost of \$3,720,000 in 1978; Clinton Parkway, the construction in 1991 with a full urban design consistent with what the

needs and standards of the City of Lawrence were, over half of the local cost of that project was done by the County, not the City and their County cost was \$1,750,000, the amount spent by the City was \$1,167,000 and neither one of those costs included right-of-way costs. He said and yet the City staff report stated that the County's facility would be used by Douglas County Public Works for work in the unincorporated area in Douglas County without substantial economic benefit to the City of Lawrence. One would have to believe that the City of Lawrence received no economic benefit from the trafficway on which the County had spent \$6,000,000 or that the City received no benefit from County routes that provided access to Clinton Lake, Lonestar Lake and to neighboring communities or the construction of Clinton Parkway had no economic benefit to the City of Lawrence in order to make that statement.

He said let's talk about a request for recently received from the Lawrence City Commission and acted on by the County Commission. He said the City Manager on the City's behalf asked the County to add \$520,000 toward the rehab of Fire Station No. 1, to their capital improvement plans for 2015. The County Commission took the action requested. The County did not take that action because of any contractual commitment, but because it was the right thing to do consistent with the spirit of their joint cooperative agreement to provide fire and rescue services to the residents that they both served. The County took those actions without asking for, to paraphrase the City's staff report again, "like assistance from the City in order to ensure appropriate equity." He said another request made by the City within the last year to participate in a benefit district to finance road infrastructure providing access to Venture Park, again, the County Commission said "yes." In response, the County Commission did ask that partials be set aside for future expansion of their fairgrounds. The City Manager's reply was that the request could not be accommodated unless the County Commission was to pay for any land reserved for the Fairgrounds. The County Commission still approved the request.

Amyx asked how much more time Weinaug needed for discussion.

Weinaug said he had quite a bit more to discuss and he had waited 3 hours to discuss it.

Amyx said the City Commission understood Weinaug.

Weinaug asked if the City Commission was telling him he could not speak for 10 minutes when they had waited for 3 ½ hours.

Amyx asked Weinaug to keep going on with his discussion, but he understood where they were heading with the attacks on City staff.

Weinaug said the County Commission said “yes” to the request that the City made because the County wanted to support what the City had done in redeveloping the Farmland property. The City had asked both the County and School District to give up significant tax revenue for the Oread Hotel project and for various redevelopment projects downtown. On at least some of those projects the County and School District could have acted to protect tax revenue that they could have received from the additions and value that resulted from the development. Again, neither the County nor the City had exercised that right because they wanted to support their outstanding efforts to keep downtown vital. This was not an attack on the City at all because the history of the City and County was to support the City in efforts that they truly supported. There had been talk about the cost splits for the various initiatives were properly shared between the City and County. In a lot of cases they split cost 50/50 for example, the Health Facility and in other cases they split costs based on what each unit of government spent prior to the merger of two departments, examples included emergency communications and fire/medical. In other cases they split cost based on the proportionate size of their budgets and taxing capacity and an example would be the share of the local share of the cost for the 15<sup>th</sup> Street interchange. In other examples, the City or County paid all of the cost of an initiative because even though there were significant benefit to both the City and County which an example on the County side was the \$430,000 cost to enable Berry Plastics to expand which added 60 additional jobs that were located within the City limits of Lawrence. An example on the City side would be Venture Park. Whenever the County had paid 50% of the cost, there

was criticism from many and that was an inappropriate burden on the County as compared to the City. When the County paid less than that, they're criticized as not being full partners.

One other fact about the South Lawrence Trafficway interchange was really relevant to this discussion. The total County tax payer dollars that were spent on this project was in excess of 6 million dollars as compared to 1 million dollars for the City share of the interchange. The City's original commitment on the trafficway was zero dollars pursuant to an Interlocal Agreement between the City and the County that he remembered negotiating with then Commissioner Schumm back in 1992. The City's portion of that agreement was that they were going to provide a local share for something called the Eastern Parkway. The City Manager had suggested that a waiver of development charges to the County would set a precedent that would endanger the appropriate equity, the Development Charge Policy of the City ordinance. If the charges were waived there should be some quid pro quo from the County to preserve the integrity of the City's charges. He said he was present to suggest another side to that story. The City and County in the past had acted favorably on request between the two bodies based on whether the public they both served was well served by the request even though there was no quid pro quo, for one or the local government. If they now set the precedent that they would only support each other when there was an adequate trade where would they be the next time the City needed the County to do another sewer benefit district for the further growth of the City and the County didn't happen to need anything from the City at that time. He said or a City project needed a connecting link that they were not willing to do without like assistance from the City on something they needed or the County decided to follow the City's lead by building the cost of future jail expansions into their daily bed charges for City prisoners. Currently, the County charged the City less than half of the operating cost and none of the capital cost for keeping the City's prisoners. He said they certainly didn't have anything built into the charges for the future expansion of the jail that would be necessary in the next few years. He said there was a bigger problem with the quid pro quo policy and that was an issue of timing. When the

City needed a commitment on a TIF District or a NRA District, timing could be critical to the success of the effort to recruit the business. Likewise the County needed an answer on the waiver of those fees. If they now had to wait until both parties had a simultaneous need for something of similar value, many opportunities for cooperation would be lost. There was also a comment in the staff report that the City staff recommended a joint policy among the various bodies be established to avoid last minute surprises and request. He said he believed both the City and County staff had always made a good faith policy to try and do this. In this particular case as County Commissioner Thellman relayed to the City Commission, the County wasn't aware of this need until just recently and they made the request as soon as they were aware of it. Ironically and it's inevitable because they were very busy on both the City and County's staff, the City staff discovered at the last minute very recently that they needed County Commission approval on a notice of waiver for a public hearing that was part of the City's effort to create the 9<sup>th</sup> and New Hampshire TIF District and requested to be added to the County Commission agenda after the agenda had already been published. If they had waited for that it would have blown the entire plan for the construction of that district and would have had to be delayed for several months. The County was more than happy to add the item to the agenda and take favorable action even though it was received after their deadline, simply out of support for the great work the City was doing downtown to preserve downtown Lawrence because the County wanted to be supportive of that effort. The County was the City's partner in providing needed services to citizens they both served. The County was not the City's competitor, was certainly not an outside agency, and was certainly not a private developer and the County should not be treated as such. Requests between the City, County and School District should be considered in good faith based on whether the citizens they all served benefit from saying "yes" to each other, not based on whether each body received an appropriate quid pro quo. To apply this as a new standard virtually insured that future opportunities to support each other would be much more limited than they had been in the past. They would be happy to work with the City on

County roads serving the planned sewage treatment plant and if the City had the need for extra fill that would result from their Public Works Facility, they would be happy to donate that to the City as long as the City came and picked it up where the fill would be at their site. They would actively consider both of those requests whether or not the City approved this request tonight, but they would make that judgment based on whether it was in the best interest of the citizens that they both served.

Thellman said to be sure their commissions had huge and expensive issues, especially after recent legislative actions and they were all rightly protective about their budgets. To that end it was Dave Corliss, Craig Weinaug and Rick Doll's jobs to be bulldogs for them when it came to protecting their respective pots of taxpayer dollars and they were each one in their own unique way, very good bulldogs. She said in the end, this hard dollar decision was not their decision to make, it was the Commission's and it was a tough one. It was tough for the County as well because Douglas County stood before the Lawrence City Commission in this moment, quite honestly at the City Commission's mercy. It was their County's great hope that they would give the County a reprieve, but she said let her reassure the City Commission that whatever action they took at this time, Commissioners Mike Gaughn, Jim Flory and she was determined to remain the City's good colleagues in local government. Over the past few years the City and the County had done a lot of good work together and that had directly benefitted their community. In those days, that type of unified and collaborative government work was no small accomplishment. They looked forward to making every good faith effort to work with the City on issues of public interest that were set before everyone every day because the taxpayers of Douglas County expect no less from them. She thanked the City Commission for their time and attention.

Riordan said one of the comments from City staff was the existing City/County facilities would eventually be resold or repurposed and still use the utility system and asked if that was something Thellman envisioned or not.



Thellman said that was a true statement and that was an original argument that was a faulty argument. She said they weren't changing their services but moving them but that didn't mean those original water meters won't be used eventually. Current plans were possibly to demolish the old public works building on Massachusetts Street by South Park because it was a very old building. She said the future of that building was in question, the future use of the old public works yard was meant to be sold to someone in the relatively near future.

Amyx asked about the School District's question regarding the College and Career Center.

Corliss said it was his understanding that that building would be new construction and as new construction it would be applicable for system development charges. The existing vacant ground didn't currently have water and wastewater and it would require system development charges. They already had some request from the Chamber of Commerce for a sewer line to the Peaslee Center, an existing building, but what the School District was currently underway in planning a "raw ground building." It was existing raw ground that would be building out and would be subject to the City's system development charges as a new building. All of the other School District projects that they saw in the list that the County provided were existing schools and they usually didn't necessarily change the water and wastewater requirements for the facility, and as such didn't necessarily need new connections, but if they did need new connections it was usually an upsizing and the system development charge would not be a completely new thing, but the incremental increase going from a 1 ½ inch line to a 2 inch line.

Amyx asked if that would be an additional request coming in the future.

Rick Doll, School District, said he believed that the request would be coming in the future and fairness, when they talked with staff obviously the majority of their projects did fall in to what Corliss described so the College and Career Center would be the exception to what they were doing. It was the only facility that would be built brand new on a new piece of land which they did to accommodate other interest in the community including the Chamber and others that felt

like they needed to develop a College and Career Center which they were thrilled and excited to do.

Amyx asked Corliss to discuss the 45 projects that the City waved last year.

Corliss said those were in the City's accounting of the revenues and expenditures for building permit fees and those were largely either City projects and also exempted the City owned hospital from building permit fees and also change out through the CDBG and Home Programs, building permit fees cost as well because they looked at those as City projects.

Amyx asked Corliss to explain the effect on the Building Inspection Department by waving those fees.

Corliss said one of the questions they had in discussions with Doll and Kimball was if they just wanted to exempt the School District from the City's building permit requirements, but they still had to go through their land use requirements. The School District had a state law that set out their building code and they had to go to the State Architect to have their buildings approved. They had essentially a different building code in some respects from the City's building code which was a state law preemption of which code applied. It was the City's opinion, but the School District differs, that there was no exemption regarding building permit fees and it had been looked at legally. If it was the City Commission's determination to waive they might just not require the School District to come and get a building permit and they could proceed on. He said the City wouldn't inspect, wouldn't have that cost of inspection and wouldn't receive that revenue as well. They would still go ahead and inspect for code requirements, but the City wouldn't be involved in that inspection which was one way to do it, or the City Commission could just waive the fees. It was important to point out that that fee was not likely to be all of a 2014 amount and it was probably over several of years, but he wasn't saying it was inconsiderable. He said it was a large amount and they had about 850 this year in building permit fees and it could be seen as an important revenue source, but staff could deal with that. He said he provided the City Commission with responses to some of the statements

that had been made and he could do that again if that was helpful, but didn't know if it necessary would be helpful for the City Commission's deliberations.

Amyx said after proclaiming the month of May as Building Safety Month, he would have a hard time not having that City's department doing inspections on buildings in Lawrence.

Corliss said the buildings would be inspected, but not by the City.

Doll said they would absolutely inspect those buildings and their relationship with the City was very good. He said they certainly understood the planning because all those buildings were in neighborhoods and that whole process of how they interacted with neighborhoods was important. He said they were certainly working through that with City staff as well. He said one option was not to get the permit as Corliss suggested, but they weren't trying to avoid the work that needed to be done to make sure they were good neighbors with the community and neighborhoods and/or to inspect their buildings because they had and would do that.

Schumm asked about the preference and would it work for Doll if they didn't require the School District to have a building permit and build it to State specs and inspect their selves.

Doll said that was certainly an option and he had not talked specifically about that, but their request was to waive the fees and they would continue to go through the process that everyone was comfortable with, but they would employ inspectors. He said either way, it was a lot of money that they would prefer to spend on kids.

Amyx said the City should make sure the inspections were done by the City's Planning and Development Services Department. He said the County and School District asked to have waivers on both items and he assumed that overtime those items would be waived permanently. On those two particular items, the City Commission made decisions based on the amount of money coming in. He asked what things would the City not be able to do or what City departments would be affected by the system enhancement charges by waving those fees. He asked what kind of bind would be the City be in, if any.

Corliss said the system development charges were an important revenue source for the City. Staff wasn't talking about waiving all of the charges, but those for the County's Public Works Facility and now it sounded like the College and Career Center. He said it would have a little bit of a dent in the revenue, but he didn't know that it would necessarily be a rate increase in order to follow through on their projects. He said staff did look at what would happen if they lost a million dollars of revenue to the City's rate plan which was roughly a 5% rate increase. He said it was not the consequence because they weren't talking about getting rid of all the City's system development charges, but only waiving it for those two projects. If the City Commission wanted to create a policy where the County and School District didn't pay system development charges at all for their projects, then he didn't know how many projects they were talking about. He said those projects usually came in large chunks, but infrequent and didn't know if that would be a major revenue source. He said the City tried to protect every dollar, but he did not know if he would look at himself as a bulldog, but staff tried to look at revenue and were concerned about precedent.

Riordan said many schools were built in the last 20 years and asked what the history was of those building fees.

Corliss said they paid building permit fees.

Riordan said this would be a significant change.

Corliss said correct.

Riordan said he was trying to understand the concept with the County.

Corliss said County had two facilities, an administrative facility that was immediately south of South Park and then they had their major Public Works yard at the 23<sup>rd</sup> Street bridge where the Haskell Rail Trail was located. He said the County was consolidating at the new facility which was southeast of the Community Shelter.

Riordan asked if someone would buy those facilities.

Corliss said that would be a County decision at some point. He said those facilities would likely be resold or repurposed and if they were going to be occupied at some level, those facilities would have a water and wastewater need.

Riordan said he remembered putting a one inch line in his house when he first bought his home and it was expensive, but he understood the fees. He said when the new line went in, the line itself and the fees specifically based on the fact they were putting a new waterline in that location.

Corliss said correct. One of the things staff did several years back was that the City Commission in the 1990's made the decision that existing rate payers shouldn't be the sole charge for the cost for new capital requirements for the water and wastewater utility so they adopted the system development charges, but some people called those impact fees. He said it was an attempt to point out that when there was an impact from a project, that that project had to pay to buy into the system. He said they had some success with that in the sense that it provided an additional revenue source about a million dollars a year when people build a new structure whether it was a grocery store at Bauer Farms or a public works facility on the southeast part of town or one of the 150 residence that was built last year for new residential homes. There was an impact to the system because they were having an increased capacity on the water and wastewater side.

Riordan said there would be an increase in capacity because somebody else would probably use those water lines.

Corliss said that was the way staff looked at it and it was one of the exceptions they took with the original letter was they didn't think that rational tracked appropriately. The rational was on the fact that they all served the same constituency and that they all wanted to look out for each other regarding their different projects with some of the statements that Weinaug and Thellman made were very much policy decisions for the City Commission to cogitate and decide on.

Riordan asked if there was any precedent of the past of new buildings built by the County that the City waived fees.

Corliss said he had been with the City 24 years and Weinaug 22 years, and he didn't know if there had been a request for System Development Charges to be waived for a new structure there might have been with the Fairgrounds or with the County jail, but he did not recall.

Weinaug said the County jail predates the adoption of the System Development Charges.

Corliss said they had waived System Development Charges. He said staff's preference was waving those charges by ordinance for Economic Development Grants regarding a number of different projects. He said he didn't see how this was an economic development and it might be an appropriate waiver, rebate, or grant to a fellow local government, but it wasn't an economic development project.

Amyx said the decision was rather or not it was appropriate to charge another level of government for building permit fees or system enhancement charges.

Farmer said collaboration was not about being best friends, not about liking everybody that you're working with, but it was about putting everything you have aside, bringing your best self to the table and focusing on the common goal. He said what they had were 3 governmental entities with elected bodies that even though they might work well together, the policy level behind what they accomplished as elected officials really had not been prevalent in the conversation of how they worked together and accomplish common goals as a community and that was first and foremost. He said what they needed to focus on was figuring out how they could come to the table and have better relationships with the people that made decisions that effected the everyday lives of people from birth all the way up to senior citizens. He said for him the 30,000 foot level was about coming to the table and having a common goal. He said he wanted to talk about a few things which were: 1) Infrequency of those Requests – The School

District did not pass 92.5 million dollar bond issues every 3 years and if they did they wouldn't be in business and they were asking the city to waive building permit fees. He said he was deeply troubled with the fact that the City Commission waived the fees for Rock Chalk Park and he was not about to not waive those fees or suggest that the City Commission not waive those fees for the School District on that account; 2) In Relationship to the County, he asked when the last time a 16.5 million dollar facility was built.

Weinaug said the County Jail was built in 1999.

Farmer said that was 15 years ago. He said he understood there wasn't precedent for the City in relationship to doing this, but again this was about intergovernmental elected official, cooperation amongst each other and ultimately, they needed to have a broader conversation about that. 3) The impact on taxpayer dollars, people were going to need to pay twice and he suggested to the County that if the County had to pay the \$264,000 system development charge, raise the mill levy and say it was because the City told the County they had to pay a \$264,000 mill levy charge and people in the City would need to pay that mill levy charge to pay the System Development fee. Again, to him, that was not cooperation. He said he appreciated how the City had to look out for revenue and expenditures and it was budget time and they were all cognizant of that but for the City there needed to be more collaboration and cooperation. The policy level question was not because they couldn't work well together as much as they needed to have that conversation of how they collaborated and set common goals, how they didn't rob Peter to pay Paul in a sense. He said he was for waiving the system development charges for the County as well as for the new College and Career Center. This was what made the City a good partner and he was for waiving the schools building permit fees for all the reasons that he had mentioned, it wasn't frequent, this was about being a good partner and they could take a big step in the right direction tonight by setting a precedent in the right direction. He said he would appreciate the City Commission's consideration and again, this wasn't being about friends or liking everybody they were working with and not saying that was the case, but this

was about putting all of that stuff aside. There were so many egos in this room that it was ridiculous. He said this was about bringing their best selves to the table and focusing on the common goal and he spoke of himself included in that. He said set all that aside and talk about what's best for the community and people in it and when you boil all that down, that's what this was all about.

Riordan said this was a very difficult issue and he was proud of staff because what they were trying to do was protect the City make sure that they could give a good product and that they didn't run out of money so they could finance things that the City needed. However, it didn't make sense to charge another governmental for some of the reasons Farmer eluded to, based on the fact that it didn't happen very often, that the taxpayers were all hear, but there were some inequities when dealing with the City and County and in order to maintain a working relationship, sometimes you have to do some things that you would rather not do, but seem the right thing to do. He said he thought that staff was correct in that they should do this, but his own thought was that he couldn't support that from the things that were discussed so far, cooperation, governmental entities, and taxpayer. He said he agreed with Farmer on many on the same lines because he had trouble charging the other governmental entities those fees when it was really the taxpayer that was paying and many were the same taxpayers that he represented.

Dever said this was one of the most embarrassing interactions he had been a part of in the last 7 years because he felt like they were defending themselves, meaning the School District, County and City. He said this was a poster child for unified government type relationships where everyone was serving the customer. He said the reason why he was embarrassed was because they were all there to serve the public. It felt like his brain was being scrambled because they were talking about "us" and "you" and "them", but they were all paid by the people that lived in this community and county and that were what they needed to care about the most. He said they needed to stop worrying about who had what and who did what



for each other. They've never had this conversation and that was why he was shocked because it's been a very good relationship. He said he sat there embarrassed that he had to sit through this, let alone everyone else. He said he would have liked to resolve this issue in a different way and apologized that they had to do this. Businesses constantly bill each other for services performed by the same business for for-profit entities. He said he didn't have a problem billing each other, but this was about government billing each other. He said he agreed it seemed kind of silly, when boiling it down to the lowest common denominator, to be trading off money. He said this this was not about the money, but it was about the precedent. He said regarding Rock Chalk Park, the City spent \$10,000,000 of the City's money at Rock Chalk Park which was a huge investment. He said he was interested in figuring out what the school district had to do with the State Architects Office and what inspections needed to be done and make sure those inspections were done. He said the State Architect didn't need to protect buildings against fire, but the City did. He said he wanted to make sure that if it was greater than or equal to what the City had then that was fine because it was silly and redundant to do that and it was silly to charge the school district for those services if they weren't necessary. As far as the County, the County had been a great partner and he was dead set against waivers of any kind because of the precedent set, but after tonight he was embarrassed and wanted to get out of here and continue to work together gracefully like in the past and not have those conversations again. Going back and counting all the things the County did and the City did, didn't need to be done. He said they were there to serve the public and he wanted to keep doing that.

Schumm said he agreed. If they charged the school and County their fees, his water bill would stay cheap, but his property tax would go up with the County and his property tax would go up to the school, but if they reduced those down, then his water bill would go up and he would need to pay each more money. He said they were slicing and dicing the same dollars and they were all paying taxes to all of those entities. He said he was sympathetic to everything that was said at this moment. The thing he would like to see them come up with from a staff

prospective was how they would structure this so that when they didn't come up with additional request for other entities that were non-governmental entities that were trying to do some similar things. He said they needed to protect the structure they had in terms of paying inspection staff and had to build a new water plant and sewer treatment plant, but he was interested in the precedent setting situation and how they developed the structure between the County and the School Board to where they could identify those two entities as exempt on those fees. He said that was the big thing for him in terms of where he wanted to see this go and the rest of it was out of this pocket into that pocket. He said he supported the requests.

Amyx asked what would happen when the next big development that came through the door indicating they were quasi-government.

Corliss said staff would like to work on a policy statement and put it on the City Commission's agenda for the Commission's direction. He said staff would report the consequences and what staff's past practices had been. He said this was a helpful discussion. One of the things they wanted to do was to be clear about the waiver for the building permit fees and the system development charges for the College and Career Center which included the building permit. He said the City and County did a lot more than the School District because the City and County had a lot more facilities and they pulled a lot of building permits throughout the year for existing facilities that had nothing to do with the bond sale. He said they might want to bring that back as well and they needed to discuss that with Doll about whether or not it was a continuing exemption for all building permit fees for school district property and also talk to the County as well.

Amyx said he appreciated everyone's comments about working together, but he was going to vote for those requests, come hell or high water, because the truth of the matter was that they were constantly pushing Corliss to come up with revenue and they had to make sure it was understood that there was a loss of income and there would be things that they would not be able to do. As they were out there looking at new sewer plants and water service changes

the thing that would happen was that it would impact the revenue once the exemption begins. He said this came down to one thing which was should the City be charging another level of government. He said they exempted the hospital, but understood it was the City's facility, but they appointed a board to operate their facility. He said he hated to think the City Commission would be looking at those exemptions on a regular basis because it was not a fun thing to do.

Corliss said staff could write a policy and put it in ordinance form so that it could be set out and find a way to proceed. He said they got together a few weeks ago to talk about 2015 budget planning and there was any number of different money to go back and forth. He said the City paid jail fees to have inmates in the County facility and there was money that went back and forth for any number of different things and it might be appropriate to look at all of those things and what should and shouldn't be exempt.

Amyx said the questions was whether they should go ahead and make a decision on those two particular requests and then come up with a policy or bring an ordinance back that exempted the County and School District.

Corliss said the urgency was that the County was getting ready to proceed with their facility and needed to know what their maximum cost was for the project and this was a late entrance into their cost calculations. He said given staff's workload, it might be best that the School District indicate how they're going to proceed with their facilities being inspected. He said staff would still do the site plan review, but they wouldn't pay the building permit fees and similarly for the system development charge for any new facility. Staff wouldn't inspect the School District facilities because staff would avoid that workload. He said that would be his recommendation on what he was hearing on how to go forward.

Riordan said that made sense. He said he also would suggest that they direct those items where they pulled building permits not related to some type of bond issue that they did on a consistent basis so they didn't have any areas that they hadn't covered that could be potentially difficult later on.

Amyx said again, were they not looking at keeping those inspections locally so they could have the fire department and everyone else that had to do inspections.

Corliss said staff would do what the City Commission directed, but his point was they would have less revenue, but they would also have less work as far as inspecting those facilities.

Dever said the State Architect Office would inspect all of that work to their standards and if it was higher than or equal to the City's, then why would they do it twice.

Schumm said that worked with Riordan's suggestion in that the smaller incidental requirements or building permit issuance, if the City was going to inspect it they would charge for it and if they didn't inspect then they wouldn't charge for it.

Riordan said if they had a financial outlay they should have some compensation, but he thought they should have that discussion between staff and the School District representatives as well as with the County. If they could do that on that level, they would be much better off.

**Moved by Farmer, seconded by Riordan,** to approve the request from Douglas County for waiver of system development charges and consider request from Lawrence Public Schools for waiver of building permit fees for the College and Career System Development charges. Motion carried unanimously.

Corliss asked if the minutes could reflect that that waiver also included the College and Career System Development Charges fees and staff was not planning on doing the inspection work on the school bond projects and asked if that was the will of the City Commission.

The City Commission agreed.

Weinaug said he wanted to thank the City Commission for their consideration of this item and the other was to address something that Dever said. The relationship between Douglas County and the City of Lawrence was a lot like a husband and a wife in that 99% of the time they get along, but had different perspective and worked things out. He said as he mentioned at the beginning of his comment that this was the first time in 22 years that he felt compelled to talk

to the City Commission, but for a marriage of that long having one public spat was a pretty good record, particular when considering all the things the City and County did together and all the potential for fiction that might result. He said he would argue that when there was friction it was evidence that they did a whole lot together and thanked the Commission.

Corliss said he didn't consider it a spat.

8. **Consider motion to recess into executive session for the purpose of discussing matters relation to employer-employee negotiations for 30 minutes. The justification is keep negotiation matters confidential at this time. The regular meeting will resume in the City Commission meeting room upon the conclusion of the executive session.**

Mayor Amyx called for public comment.

**Moved by Schumm, seconded by Dever,** to recess into executive session for 30 minutes at 10:50 p.m.

***After returning from Executive Session, the City Commission meeting resumed at 11:15 p.m.***

Amyx said they would have negotiations with their International Association of Firefighters and Commissioner Schumm had indicated an interest in serving as a member of the Management Negotiating Team and the City Commission supported Schumm in that endeavor.

**Moved by Dever, seconded by Farmer,** to authorize Commissioner Schumm to act on the City Commission's behalf as a member of the Management Negotiating Team. Motion carried unanimously.

**E. PUBLIC COMMENT: None**

**F. FUTURE AGENDA ITEMS:**

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

**G: COMMISSION ITEMS:**

Commissioner Schumm asked where staff was at with Shots.

Corliss said staff would talk to the Mayor about when to have their appeal for the sidewalk dining license.

Corliss said he recommended cancelling the June 10<sup>th</sup> City Commission Meeting.

**Moved by Farmer, seconded by Dever**, to cancel June 10<sup>th</sup> City Commission Meeting.

Motion carried unanimously.

**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 Dever, seconded by Schumm**, to recess until next Tuesday at 4:00 pm.

Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON AUGUST 19, 2014.**

  
Diane M. Trybom (City Clerk)