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City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

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

August 26, 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, Riordan, and Schumm present. Farmer was absent.

A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. Proclaimed the month of September, 2014 as National Preparedness Month.
2. Introduced Sustainability Coordinators of Fayetteville, AR and Columbia, MO.

B. CONSENT AGENDA

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

1. Approved the City Commission meeting minutes from 06/03/14, 06/17/14, and 06/24/14.
2. Received the minutes from the Lawrence Douglas County Bicycle Advisory Committee meeting of 07/30/14 and the Public Health board meeting of 06/16/14
3. **PULLED FROM THE CONSENT AGENDA FOR A SEPARATE VOTE.** Approved claims to vendors in the amount of \$ and payroll from August 10, 2014 to August 23, 2014 in the amount of \$1,945,736.55.
4. **PULLED FROM THE CONSENT AGENDA FOR A SEPARATE DISCUSSION.** Bid and purchase items:
 - a) Awarded Bid for Bid No. B1434, Project No. UT1304, Contract 2A Pump Station 10 Force Mains, to the low bidder, BRB Contractors, in the amount of \$8,764,707 and authorized the City Manager to execute the contract.
5. Adopted on second and final reading, the following ordinances:
 - a) Ordinance No. 9028, adopted the 2014 Standard Traffic Ordinance, Edition 2014.
 - b) Ordinance No. 9033, allowed the sale, possession and consumption of alcohol in the 100 block of W. 8th Street during the Jefferson's Boys and Girls Club Block Party on Saturday, October 4, 2014.



- c) Ordinance No. 9023, allowed the sale, possession, and consumption of alcohol on from 5:00 a.m. on Saturday, September 13, 2014 to Sunday, September 14, 2014 at 12:00 p.m. in South Park and on Massachusetts Street between North Park and South Park Street associated with the 2014 Bike MS Event.
6. Adopted the following resolutions:
- a) Resolution No. 7087, declared 431 Elm Street environmentally blighted and ordered the property owner to abate the violations within 20 days of the passage of said resolution. Failure of the property owner to comply would result in the City contracting to have the blight removed with expenses being assessed against the property.
 - b) Resolution No. 7088, declared 333 Michigan Street environmentally blighted and ordered the property owner to abate the violations within 20 days of the passage of said resolution. Failure of the property owner to comply would result in the City contracting to have the blight removed with expenses being assessed against the property.
7. Approved a request to rezone (Z-03-16-05) a tract of land approximately 2.59 acres from PRD-2 (Planned Residential Development) District to POD-1 (Planned Office Development) District; originally approved by the City Commission on 01/10/06 (this ordinance codifies the action of the Commission to rezone a portion of Bauer Farm development to an office district.) The property was generally described as being located north of W. 6th Street (U.S. Highway 40) between Wakarusa Drive and Folks Road. Adopt on first reading, Ordinance No. 9034, to rezone (Z-03-16-05) approximately 2.59 acres from PRD-2 (Planned Residential Development) District to POD-1 (Planned Office Development) District. The property was generally described as being located north of W. 6th Street (U.S. Highway 40) between Wakarusa Drive and Folks Road.
8. Received a request from 9 Del Lofts LLC (Flint Hills Holdings), to establish a Neighborhood Revitalization Area for the property located at 900 Delaware Street, referred the item to the Public Incentives Review Committee, and set September 23, 2014 as the date for a public hearing on the proposed NRA and Revitalization Plan.
9. Approved a temporary display of art through October 2014, on the exterior north wall of 715 Massachusetts Street, as part of an Inside Out Art Project.

Amyx pulled consent agenda item no. 3 regarding claims for a separate vote.

Moved by Schumm, seconded Riordan, to approve non-Rock Chalk Park related claims to 216 vendors in the amount of \$3,117,853.58 and payroll from August 10, 2014 to August 23, 2014, in the amount of \$1,945,736.55. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Moved by Schumm, seconded by Farmer, to approve Rock Chalk Park related claims to 4 vendors in the amount of \$19,754.78. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

Mayor Amyx pulled from the consent agenda item 4 a regarding Bid No. B1434, Project No. UT1304, Contract 2A Pump Station 10 Force Mains, to the low bidder, BRB Contractors, in the amount of \$8,764,707 and authorized the City Manager to execute the contract.

Amyx stated the reason for pulling this consent agenda item is that I would like to have the City Manager give us more information. Several months ago we had a discussion about Pump Station No. 10 and tonight we're only talking about the Force Main in this particular field.

David Corliss, City Manager stated correct.

Amyx stated one of the things we talked about 3 or 4 months ago is Pump Station No. 10 and there is a component of this that deals with growth and we're doing some things like stubbing pipes off south of 31st Street, west of Highway 10, on Bob Billings Parkway for future growth.

Corliss stated as part of the Bob Billings Parkway, K-10 Interchange, we're realigning some sewer work at this time.

Amyx stated my name is on Ordinance No. 8043 which during the time of the sewer summit back in 2006, the need for Pump Station 48 dealt solely with growth and development. There were fees established to hook up to lines that will go into that pump station that go along with the growth and development. I need information about Pump Station 10 as compared to Pump Station 48 where there is a growth component and it's not all wet weather events.

Corliss stated there is a growth component. This is a part of the Wakarusa Wastewater Treatment Plant project. It is needed for a number of reasons one of them is growth and the capacity of the entire wastewater system.

Amyx stated we're going to talk about the Links project and they're going to be paying a fee to connect into Pump Station 48.

Corliss stated if they so choose to proceed, that's how they wanted to get sewer.

Amyx stated I want to make sure that if the growth component is the same for Pump Station 10 as it is for Pump Station 48, should there be the same kind payment for new development that would hook up into Pump Station 10?

Corliss stated we can give you a memorandum that would compare and contract those issues. Just as a little bit of background, Pump Station 48 is located on Folks Road going north all the way past Peterson, if it didn't go that way, you would eventually get to the turnpike and we put in a Sanitary Sewer Pump Station to take sewage that would otherwise have gone south so that it could go north. One of the things we did with that was we put in additional lateral lines all the way toward the existing City limits at Mercado and Oregon Trail and also, we did some work north of the Free State High School to take sewage so that it would go north as opposed to it going south. What we usually do is we have a requirement for new sanitary sewer lines that the development pays for those sanitary sewer lines. There was not any anticipated growth at that time in 2006 – 2008, but we still needed to do this in order to allow for some of the growth and was already within the city to allow it to proceed. We said if you're going to connect to that line that eventually gets to Pump Station 48 you're going to pay the fee that the Mayor just mentioned.

Amyx stated my only reason for bringing it up is to make sure if the growth element in Pump Station No. 10, should there be a fee attached to that as part of the new development, and should the rate payers have to pay 100%, the cost of the pump station.

Corliss stated we can get you a response to that. A key element that's in part of our 5 year rate plan that's paying for the Wakarusa Wastewater Treatment did include the System Development Charges that everybody pays to connect. It does not have a separate charge for Pump Station 10 and we'll get you a memorandum on that. We do think this is an important project to keep moving because of the timeline that they would like to continue to hit.

Amyx stated the pump station is already out and we did that several months ago and now were down to the force mains. I just want to make sure we're charging people equally for the growth and this is the only time we can discuss this item before this goes a lot farther.

Mayor Amyx called for public comment.

After receiving no public comment, **it was moved by Dever, second by Schumm**, to award Bid No. B1434, Project No. UT1304, Contract 2A Pump Station 10 Force Mains, to the low bidder, BRB Contractors, in the amount of \$8,764,707 and authorized the City Manager to execute the contract. Motion carried unanimously.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report regarding July Building Permits; Public Works, Engineering Division and Traffic Operations Mid-Year Report; and, Transit Neighborhood Meetings.

Riordan asked do we have any updates on the force main that went under the river and where that's now and also the water input from the river.

Corliss stated I do know that the intake work is going to slow down a little bit and there was some change in the contract workforce, but has not impacted any of our water intake. A matter fact we had instantaneous demand yesterday morning between 6:30 am and 7:30 am, close to 35 MGD which is incredible because we could only pump a little bit less than 30 MGD so that draining tanks and running the operation at full throttle. Hopefully we'll get a little bit of rain this week that might cap her of a little bit, but we're in good shape on water intake even though that project has been a little bit delayed this year, but it will be getting wrapped up in the coming weeks. Separately, but in a similar location is the new water transmission after the waters been treated, the water transmission line is not going underneath the river and was a successful installation. The lines are now getting connected both to the Water Plant and then also there at North 3rd Street as well.

Riordan stated I appreciate the update and I know when I talk to people, one of their interest is long-term planning and I think a lot of long-term planning goes on, people don't realize it and a 36 inch main that's going up north across the north part of Lawrence and then come back south to give water to VenturePark in that area. It's a very important project that we're planning ahead and also the intake replacing those ones that were malfunctioning often. I think there is a goodly amount of future planning, unfortunately, you can't plan for everything. I think there is a lot of that going on and I just want to point it out that the City really did think about these very basic services to our City water and waste and taking care of those. I just wanted to mention that so that people were aware of it.

Amyx asked if our major street work was still on schedule to get done the middle of November with 23rd and Iowa, 6th and Iowa, 9th and Emery, all the big projects.

Chuck Soules, Public Works Director, stated most of the projects and gave a brief rundown of those projects.

D. REGULAR AGENDA ITEMS:

1. **Considered approving a Preliminary Development Plan (PDP-14-00171) for The Links at Lawrence, a 900 unit apartment complex, on approximately 78 acres located at 251 Queens Road. Submitted by Blew & Associates PA, for Links at Lawrence, property owner of record. (PC Item 2; approved 6-1)**

Mary Miller, Planner, presented the staff report.

Schumm asked the zoning density along 6th Street Miller stated it was a denser residential zone, what is that?

Miller stated most of it is RM24 and RM12.

Schumm stated so it's a substantially denser than what we're dealing with here.

Miller stated right, the zoning is RM12, but it's actually at a density the same as RS7.

Schumm asked how many total bedrooms are we dealing with on this project?

Miller stated 1,352 bedrooms.

Riordan stated I thought it was interesting when I looked at the traffic comment because the rest of this is not developed, the density is okay and the traffic is okay. I would be interested in, when this is developed, is this going to cause traffic problems. I thought that was an interesting and unusual statement.

Miller stated we should not. They've submitted a traffic impact study where they look at what's there currently and what their project is proposing and the it recommends certain changes, changed such as putting in addition striping and improving Queens Road and putting in a turn lane on Rock Chalk Drive. The Traffic Impact Studies indicated that these kinds of changes will take care of their development.

Riordan stated the other part is that I see this was reduced to get it down to 6 because the concept was too high. There are some topographical features. I guess there's a red bellied snake. If the red bellied snake is no longer a critter that needs to be protected, if in the future more of this land wanted to be developed, could it be developed? I'm always concerned about creep the way that a project comes and then it's approved and then later on we want to do this much more. Is there a chance with this project that it will increase the number of bedrooms later on or is it pretty well at its maximum capacity now?

Miller stated and that's why we feel that the plan development is the best way to go with this because with the plan development, if you change the common open space, it has to go back to the planning commission for public hearing and it has to come back to you for approval. If there was going to be any change in that amount of protected area that will have to come back to you.

Riordan stated if this red bellied snake is no longer a creature that has to be protected that would open this up for further development.

Miller stated not necessarily. I believe that might have been part of the reason they pulled the golf course out of the protected area, but now that it is protected and if this plan gets approved we're not really looking at the snake, that's not one of our considerations, we're

looking at the trees and the stream corridor. That's a protected area and if they wanted to come back and develop some of that protected area, they would have to come back and make their case and go through this process.

Riordan stated it's a large enough section of land that they could significantly increase the number.

Miller stated they could, but they also would have to rezone because it was zoned with the 6 dwelling units per acre cap so they would have to rezone and then revise their development plan. There would be quite a bit of process.

Schumm stated along those same lines if we determine that land, because of its fragile kind of basis, is there a way they could ask that an easement be put on there, some kind of protective easement or conservation easement such that it could never be developed and had to be left in its original state.

Miller stated I believe that you could.

Scott McCullough, Planning and Development Services Director, stated it's currently in a tract on the plat which is undevelopable.

Miller stated it is not shown in a tract right now, it's shown in the common open space which has to come back and get approval in order to be changed. It could be placed into a tract.

McCullough stated we believe there are protections involved where it would require City Commission approval and review to do anything development wise in this area, because the zoning and the PD overlay and the way we're platting it, the requirement for open space, we believed there are several layers of protection for that. The zoning and the cap was based more on the northwest area plan and the plans in place for that 6 unit per acre than the wild life and that sort of thing. One of the benefits to this is that they are preserving an extraordinary amount of open space for a development like this.

Amyx asked if the City Commission makes zoning changes, can development occur?

McCullough stated yes.

Dever stated it would be challenging.

Kim Fugett, Lindsey Company, gave an overview of his company. Fugett stated just to reiterate about some of Miller's comments, from the 12 plan we have increased the sensitive area and increased the green space to a great degree and we're happy to provide that. The red bellied snake situation was a situation where we would be forced to mitigate property. We have that working and have a 24 acre tract located that had to be of similar nature to the land that we were displacing here. We had that property under option and that would have taken care of that situation, but we felt like we would better serve the community with maintaining that sensitive area and shrinking that golf course and not imposing so much into that. The nine hole golf course will be a traditional golf course, but we're also exploring the foot golf phenomena which is becoming more and more popular today. It won't be exclusively foot golf just for clarification. Also with this plan we've increased the setbacks on the north and south property lines and that was due to some comments and responses we had from neighbors there. We feel like we've addressed staff's comments or concerns and try to manipulate this plan over the last few years to accommodate that and to develop a good project. We've owned the land for close to 7 years now and I don't think anyone's more anxious to build that then we are, but as I said before, we build our own properties. We have the resources in our construction company to construct about 1,500 to 2,000 dwelling units a year. We have 4 major groups that we send around the country to do that and so a little bit of that is the timing situation, for instance it will take 18 months to 2 years to complete Phase 1 so you can see we have one of those teams or that resource unit tied up for possibly a couple of years. We have things scheduled out right now all the way into 2017. It's a little hard to say what may fit into that, but we'd like to do it as soon as possible. The other thing that we had it pretty close on the schedule, we have a team that's freeing up from a property, but the problem is if we put that team here in the dead of winter starting our excavations and utilities and we didn't feel like it's a good idea, we'd really like to

start this development in the spring, where we would have all summer to do that ground work. All I can say is we'd like to do it as soon as we can, but there's some scheduling issues that will have to deal with to overcome that.

Dever stated we have some mixed opinions of the future of the recreational part of this. Can you clarify for me, looking at the plans it's difficult to ascertain exactly where any future holes would be placed on the property? I think Miller indicated the perimeter and then north and the east side. You're not going to be encroaching in the Baldwin Creek Area?

Fugett stated no sir and explained and showed a drawing of that area.

Dever stated instead of having an executive course with maybe a longer hole, you've only got 9 holes of par 3's.

Fugett stated correct.

Dever asked if those will be constructed immediately when you start developing the site.

Fugett stated correct. They'll coincide with Phase 1 of the property.

Dever stated I've heard various comments about removing the Links portion of the project in the recent past and I wanted to make sure that was on record that the plan is to include 9 hole course and then you're not going to be encroaching on any of the Baldwin Creek area any longer and that Phase 2 would come at a future date. Do you have plans for that or a timeline at all?

Fugett stated no, that would be market driven. As soon as we fill up Phase 1 and saw steadiness and consistency that's when we would be looking at Phase 2.

Amyx asked would you like to include it as a condition of the development plan that would include the golf portion to be built as part of Phase 1.

Dever stated maybe I missed it but I could tell.

McCullough stated it's included with the plan that was before you tonight for approval.

Mayor Amyx called for public comment.

Marci Francisco stated I had an opportunity this spring to be part of some discussions about the red bellied snake. In fact there was a bill before the legislature to delist that snake. The legislature didn't take action on that bill, in part because there's a process for a petition and a petition has been filed and is under consideration at this time for moving the designation from endangered to species in need of consideration. My concern is that I was not able to attend the part of the Planning Commission meeting that discussed this and didn't know that the red bellied snake was going to come up, but I'm concerned that the developers are telling us that part of the reason for changing this plan and not including the larger golf course is because of the requirements from the Kansas Department of Wildlife Parks and Tourism. I have some questions that I think should be asked of the applicant. Have they worked with the Kansas Department of Wildlife and Parks on their plan? Did they submit a copy of the preliminary plan that was presented to the Planning Commission in July to the department? If so, what were they asked to do for mitigation or previously what for mitigation and are those steps included in this plan? My understanding is that mitigation would include removing some trees that are basic species and planting some additional hardwoods. Again, since the developer is using this as one of the reasons to change the plan, I would like to see a requirement for the mitigation that's required by the State to be added to the preliminary development plan.

Dever stated to make sure I understand, the mitigation effort, you're saying that we should include mitigation which would include 24 acre tract of land be purchased and set aside for critical habitat. What kind of mitigation are we talking about?

Francisco stated my understanding was that was never a requirement or it was a first pass under the assumption that the whole tract would be developed. I think it would be interesting for the City to know because, at this current time, this is considered and endangered species, to know what steps the State is asking this developer to take and does this plan meet those steps. Again, my understanding is the mitigation would include removing some of the invasive species, trees in this area and replanting some hardwoods. I'm not asking for any

compensatory land to be purchased but if there is an area that was to be set aside and it's not that they believe the snake if necessarily there, just that this would be good habitat for that snake. It would be better habitat if there were more hardwood species. I just think if that's part of their reasoning for removing the golf course, then the City should understand or we should at least ask, what mitigation are they required to do on this plan. I would hate to see this action taken and then find out that this State isn't going to allow this and go through that process again.

Dever stated I just wanted to make sure on what mitigation because the term that they used for mitigation was the acquisition of the separate parcel and you're talking about mitigating the site in order to alleviate or ameliorate any impact it might have on the critical habitat that may allow the red bellied snake to prosper there.

Francisco stated right and again, my understanding was that there was never a requirement. There had been in the project for the project in Johnson County, I don't know if there was for this one. Again, I think it would be interesting to know what was the State requiring and is that included and have they submitted this plan to the State and do they know? Those are the questions I think, should be asked.

Hugh Jerrett, Lindsey Company, stated when we had our first development plan the woods were cut up pretty substantially. The Kansas Department of Wildlife wanted contiguous pieces of forest for the red bellied snake. We set about finding similar habitat in the area of Kansas that we could use as mitigation so we did find a 25 acre tract south and west of Lawrence. In going the process the mitigation that I believe Francisco was talking about is the state would like us to find a contiguous piece of hardwood that has rock ledges and also needed to take the evasive species out from the underbrush. So as we were going through this process we thought that if we remove the golf course to the outside of the sensitive areas and didn't but it up, we could leave some large box of trees and use that as mitigation for the red bellied snake so that was the second plan. We got with the Kansas Department of Wildlife and submitted

basically a conservation easement over the middle of those woods. At that time there was still a golf hole on the west side of the woods and small intrusion on the east side and in working with them, that was an acceptable plan and that legal description placed into a conservation easement and then we would go through and remove the Osage orange and different things like that through evasive underbrush. Since that time, the State was good with that. Since that time we've removed even more intrusions in the sensitive area. We still have the ability to put the conservation easement on the exact same piece of ground. The State has no problem with it sense we're actually backing out of the trees more and their happy with what we've agreed to do. I did read the article in USA Today saying that the red bellied snake, there's some question about it coming off of the endangered species list and that's the first time we've heard of it. We did go through a fairly lengthy process finding other land because of the golf course and then moving the golf course from the sensitive areas totally. So we have addressed the State and the State is happy with it and those are the requirements we're being asked right now. What happens with the red bellied snake after this, I don't know but regardless our intrusion into the sensitive area couldn't be done without coming before you, even if we don't have to do the conservation easement with the Kansas Department of Wildlife.

Amyx stated is this conservation easement then part of this development plan that we're seeing tonight.

Jerrett stated it would be with the State and not a party with the City. Before we could start, the State would not allow us to start construction until we had an action plan put in place. It's kind of like your stormwater prevention plan, that's when it actually came up and the red bellied snake jump out at us and that's when the issue first arose.

Schumm stated there's a couple of things working here, one it's a sensitive piece of property and two it's a beautiful piece of property. I've sent a lot of time out there lately across the road to the west and I've walked that whole area down there except for Mr. Graham's home.

At one time your company had considered and you had improved informally the idea that you may need to put a conservation district in play in order to make all this work out right.

Jerrett stated the State was either going to make use put a conservation easement on that or make us go buy a similar acreage tract somewhere close to Lawrence.

Schumm stated bottom line did it work for you?

Jerrett stated yes.

Schumm stated I'm concerned for this piece of property for all the reasons we already talked about. Is the retroactive intensity that might occur, the fact that it's a sensitive piece of property and the fact that it's in the northwest guide as something we should be very careful in how we develop it. To my way of thinking, since you've already internally had those discussions that you probably had gone forward with it if the State had required it. It may behoove us to ask that that be put in place as well.

Dever stated we need to be specific on the language. You're saying that your Corps of Engineers permit requires you to file Federal Clean Water Act Permit and the creation of that permit will trigger the requirement that you will create a conservation easement?

Jerrett stated what happened is when we first started the stormwater permit it gets sent to the State. One of the people who had to check off is the Kansas Department of Wildlife, that's where it first came up. Then the Kansas Department of Wildlife said we can't approve your stormwater permit until we have acceptable protection for the red bellied snake and that's where we got into the process.

Dever stated in order to comply with that permit your saying that the Kansas Department of Parks and Wildlife will require the placement of a conservation easement of this property at that time.

Jerrett stated as of right now that's the situation we're still under.

Dever stated so you understand that the Commission considering placing the placement of that conservation easement on the contiguous tract as a condition of approval of this plat. Would you have a problem with that?

Jerrett stated I would because I'm not Mr. Lindsey, I can't stand here and agree to it. I can't say yes or no to that. I would like to point out that I'm an attorney also. If you're concerned about future City Council action, a future City Council action can just as easily vacate that easement as they can approve a development there. If somebody wants to put something there in the future and there's not a State easement, what we do here tonight can't stop it.

Dever stated you're talking about the State required conservation easement if it's not required as part of your permitting then that would be local action that can be overturned.

Jerrett stated by the board. If the State asks us to do it, we're prepared to do it. I can't stand here since I'm not Mr. Lindsey and say yes or no as to what we can do.

Dever stated the State has not required that under your current development.

Jerrett stated as of right now that snake is not delisted. I didn't know about it until Monday.

Dever stated you're saying that in the event the snake is delisted, then those parameters might be removed from your permit.

Jerrett stated I have no idea.

David Corliss, City Manager, stated Kansas Department of Wildlife and Parks is requiring you to put a conservation easement on the contiguous wooded tract, is that correct?

Jerrett stated yes.

Amyx stated if we added the conservation easement until such time the State dealt with that and if they delisted the snake then we can take an action at that time. We could put the same easement that the State is requiring on this property.

Jerrett stated just about reserving the land is just as effective as actually filing and easement. Anything we wanted to do inside that area has to come back before this board.

Schumm stated if the State right now they would have to abide by State Wildlife conservation easement. Let's say in 60 to 90 days the snake gets delisted to a lesser degree of safeguard and there was a Parks and Wildlife Conservation Easement on that, would that automatically be withdrawn from Parks and Wildlife.

Jerrett stated the language that's included in that easement and if it gets delisted and it didn't go away.

Schumm stated I would like to ask our attorney, if there is a conservation easement that we put on this preliminary development plan, can a simple vote of another Commission void that?

Randy Larkin, Senior Assistant City Attorney, stated that's correct. It just takes a vote of another City Commission to wipe away the easement and it would be gone.

Corliss stated in defense of that sometimes there are good reasons why that might want to occur and it's not necessarily a bad thing.

Jerrett stated part of the appeal of this property that it's going to be a nice recreation amenity with our multi-family buildings. On top of the topography really did not allow us to build anything in there that could be cost effective. Keeping that nice and something nice to look at there's going to be a trail where the sewer lines cut right down the middle of the woods, there's going to be a trail through there. Keeping that nice the person who benefits the most out of that, is us because it's going to be an amenity for our residence. The thought of us going in and doing something that will affect the scenic value of that area we wouldn't have any reason to because the person that would be hurt the most are us because we're the ones that are providing the amenity to the residence out there.

Dever stated you didn't mention McCullough, the environmental chapter that we adopted which specifically addresses this exact type of property in our community which puts protections on the deforestation, the disturbance, the development of any tract like this, especially a tract like this would be the best example of what we want to conserve in our community and that's

what so exciting about a property like this because we're actually working around it for me and not cutting a hole through it. This is personally a great victory for conservation. Those rules are in place right now.

McCullough stated when we first met with Lindsey Development Group and they brought this plan to us, we looked at the plans and the Northwest Area Plan had a density of about 6 dwelling units per acre and a housing type of single-family residential. Our code requires on residential developed property to preserve if the environmentally sensitive land exist at least 20 percent and so 20 percent is what we always look to and we get that amount usually. Because they were preserving and protecting so much through the plan development process, we supported this housing type at 6 dwelling units per acre. The preservation of this environmentally sensitive land was central to our support and recommendation throughout the process. It complies with the environmental chapter as well and it goes so much past the 20 percent that we often talk about incentivizing the additional protection of sensitive lands and the incentive here was that they were to capture their density in a different housing type.

Dever stated we're talking about someone who has exceeded our standard by a dramatic amount and now we're talking about penalizing them by placing an additional requirement on them, in my book that's what we're talking about and we're restricting further the use of this land and/or the ability to use the land to their benefit.

McCullough stated we're talking about a vehicle to protect and preserve it which from our perspective exists with the plan development overlay. It's an overlay zoning type. The reason why we're here tonight is because they exceeded the threshold of change on their property to trigger the City Commission review. We believe those protections exists within the development code today. The code does not require a conservation easement for the protection, but it does require some vehicle of protection and we have that vehicle, we believe, through the plan development overlay.

Dever stated I don't want to ignore this point, the point that Francisco brings up and all of us care about. I went out and looked at this when we first talked about it and I didn't know this kind of land existed in our boundaries anymore. It was important for me to see it done carefully and correctly. That was 7 years ago and here we're still talking about it. We've developed a large chunk of land to the west and I feel like we've put in place these land use requirements, standards and chapters we added to our development guidelines. I guess I'm wondering if you didn't deem it necessary how it would look if we start adding additional layers of requirements to this after it's been through all this assessment by your staff.

McCullough stated I think if we felt that in working with the City Attorney's Office that a conservation easement which is one vehicle that could be used, if we weren't doing the planned development we may be looking at a conservation easement to protect the property, but as the Senior City Attorney mentioned we can't hold a future Commission to really anything and so what we have is the approval today and the commitment to do what the plan says today or the plan comes back and gets reviewed in the future.

Schumm stated I want to be clear on this, according to the applicant as it stands right now they have to go and get approval from the Wildlife and Parks.

McCullough stated if it does that's right, that's a State process and a state issue. It may be a double protection in any event, if the State doesn't require that easement we still have it protected and preserved and undeveloped throughout our local processes as well.

Schumm stated if the State doesn't require then they would have to feel like the development exceeds any need to care for it.

McCullough stated correct.

Schumm stated it seems like the State is going to answer the question on this one, is there a need to improve that particular area that's set aside or is it sufficient by itself.

Amyx stated those are good points and I appreciate Dever bringing up the Environmental Chapter and Comprehensive Plan because as the discussion that we had

several years ago about adding the plan, I voted against that because I thought it was going to complicate too many people's lives as I looked at the development process. We've made them meet and exceed every standard that we put in that section of the code.

Dever stated I just didn't want to make it more complicated than it needs to be, but I also think that hopefully we answered all of Francisco's questions and I would like to make sure those questions were answered this evening.

Amyx asked did those answer your questions Senator Francisco.

Francisco stated one of my questions was has the developer talked to the State about this particular plan. I believe that that has not happened. I do appreciate what we've done and just would like to confirm. My understanding is this is identified as open space on the plan so a golf course would be part of open space. I believe the plan we see with this protected area or if it could be a protected area isn't much more important as natural space than simply open space or recreational space. I'm very pleased about the change that the developer made in the layout of the golf course and I think that's not carried through and this is simply open space. The other thing is that I thought is very interesting and that the applicant talked about was actually the effort to reduce some of the underbrush for the invasive species, not necessarily saying they need to plant hardwood. I came to you this evening because the Commission meeting is October 16th to have a vote on the change and it will take place in November. I think this process that the State was also saying this is an environmentally sensitive area was an interesting one and I do think we've identified an area that shouldn't be just open space, but should be actually protected as a natural space as it exists now. Those are the things that I think are not going to happen unless we either make it a tract or put some kind of limitation on the development of that open space.

Dever stated you mean a development as a golf course. Define development for me.

Francisco stated as a golf course or volleyball courts. I'm not concerned because I think the staff has looked at the density issue and this is exactly some of what we wanted in terms of

cluster zoning and actually allowing more dense development in one area, but I'm not sure that our definition of open space on a development plan would leave this area the way that many of us would like to see it.

Jerrett stated I just was going to point out that there's a difference between open and protected space. The open space is our golf course and the sensitive areas are protected by that environmental ordinance. There's a difference and it's just not open space it's also protected.

Dever stated so green space is designated as?

McCullough stated this has multiple types of open space. It has man-made golf course, ponds, fields that are open space and then it's got environmentally sensitive lands that are protected through our process and that's the wooded area.

Schumm stated but is there label under the planning vocabulary that would imply that as opposed to open space.

McCullough stated it's the plan itself that shows all of the development on the property and how it's to remain protected. For example there is a condition that even in construction they barricade and put a boundary around those woods so that their not accidentally graded up.

Schumm stated once again is there a term that has a higher level of definition to protect.

Miller stated on the plan that's labeled as "protected area." You have common space and recreational open space and golf courses and have protected natural spaces that are called "protected open spaces."

Amyx stated any changes that happen in that green protected area, did they have to come back before this body for approval?

Miller stated everything except the trail.

Amyx stated right, but any change to the protected open area has got to come back before this body.

Miller stated yes.

Francisco stated I'm much more comfortable if it is clearly identified as protected open space and that's what was important to me.

Amyx stated the protected open space is the terminology that's listed on the green area.

McCullough stated yes.

Schumm stated it would be nice if we can connect that trail at the north end of the property since you pulled the housing back from that northern line. If you could cut an east/west trail from that proposed trail over to all our Rock Chalk Park stuff and it's right along the side of George Williams Way. That would be a heck of a nice access to unite all that stuff.

McCullough stated I've asked Miller to pull the aerial view up. Our thinking as we processed this was that we got the easement and that we wanted a connection to continue north through what would be potentially future development on the property to the north. We have Rock Chalk Drive a sidewalk rec path that connects to Rock Chalk Drive and gets you into the Rock Chalk Park area. I think that's an idea to consider, but in our initial analysis and view of this we saw the trail continuing up and connecting a some future point, north of there.

Amyx stated would that area that you're talking about the connection, would that not be protected to under the same terms.

McCullough stated it would be obviously it needs to be swath.

Amyx asked would we have to go through this same permitting process as anyone else would have to go through.

McCullough stated it will be a condition of development I'd assume that they would be placing on the development plan that the applicant would need to go through. It wouldn't be a City rec path and it would be providing an easement.

Schumm stated as these things unfold all of these different trails and opportunities, as you go step by step and see an opportunity you take ahold of and then later on you connect these things but that trail is not very far away from uniting a whole bunch of different other

activity up there, all at Rock Chalk Park. You're saying you can get access on the south part of that.

McCullough stated it depends on maybe who you're trying to serve but the future residence in this area will have direct access right to the path so if we're talking about just the folks in the development itself, they'll have pretty access through the parking lots right to the exiting path. He explained other access points.

Schumm stated you just don't know how far north all that's going to develop and where good access points are going to be. It seems like now is the opportunity.

McCullough stated it would provide some recreational opportunities from folks further south and east perhaps to come up through this linear park and reach the trail that way. The question is that necessary when you have the trail access on the south side as well.

Schumm stated accept if you have people from the north, let's say you develop up and add two more sections and they will be coming to the south, then they get to cut over and maybe there's another cut over closer to the rec center.

Corliss stated we hope that there is going to be a connection northeast from Baldwin Creek to the north along the pedestrian easement that we already have there.

Schumm stated he wanted to make sure on that map we're going to have more explicit language on that protected area.

Moved by Dever, seconded by Schumm, to approve the Preliminary Development Plan (PDP-14-00171) for The Links at Lawrence, located at 251 Queens Road. Motion carried unanimously.

E. PUBLIC COMMENT: None

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS: None

H: CALENDAR:

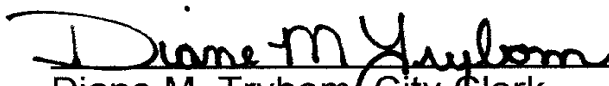
David Corliss, City Manager, reviewed calendar items

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

Existing and upcoming vacancies on City of Lawrence Boards and Commissions were listed on the agenda.

Moved by Schumm, seconded by Farmer, to adjourn at 8:13 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 7, 2014.


Diane M. Trybom (City Clerk)