

City of Lawrence

DAVID L. CORLISS
CITY MANAGER

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

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

CITY COMMISSION

MAYOR
MIKE AMYX

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

January 6, 2015

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 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. Proclaim Friday, January 9, 2015 as Law Enforcement Appreciation Day.

B. CONSENT AGENDA

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

1. Approved City Commission meeting minutes from 12/02/14.
2. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 339 vendors in the amount of \$874,372.37.
3. Approved licenses as recommended by the City Clerk's Office.

Taxicab License Renewals

Lawrence First Class Transportation 901 New Hampshire, Suite 201

Cereal Malt Beverage Renewals – On Premise
(Pending Departmental Approvals)

8 Flavors	2210 Iowa St.
Eagle Bend Golf Course	1250 E. 902 Rd.

4. Bid and purchase items:
- a) Authorized total payment of \$4,064,080.00 to the KDOT for the following projects.
- \$2 million for 31st Street (18P07S)
 - \$44,080 for wetland mitigation for 31st Street
 - \$1 million for Bob Billings Parkway/K-10 Interchange (PW1122)
 - \$1,020,000 for 23rd & Iowa Street (PW1208)



We are committed to providing excellent city services that enhance the quality of life for the Lawrence Community

5. Accepted dedication of drainage easement for Minor Subdivision, MS-14-00484, for Oak Tree Addition. Submitted by Landplan Engineering for Monique and Blake Spencer, property owners of record.
6. Accepted dedications of right-of-way and easements for Final Plat, PF-14-00442, for Schwegler Addition, 2201 Ousdahl Road. Submitted by Grob Engineering for USD 497, property owner of record.
7. Accepted dedication of utility easements shown on Minor Subdivision, MS-14-00472, for Solid Waste Facility Addition, a Minor Subdivision Replat of Lots 1 and 2, Penske Addition. The property is located at 2201 and 2300 Kresge Rd. Application submitted by the City of Lawrence, property owner of record.
8. Approved a Site Plan, SP-14-00470, for Solid Waste Facilities, located at 2201 Kresge Rd. Application submitted by the City of Lawrence, property owner of record.
9. Authorized City Manager to sign a City/County Cooperation Agreement appointing Dr. Caleb Trent, M.D., as medical director for the Lawrence-Douglas County Fire Medical Department.

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

Moved by Schumm, seconded Riordan, to approve non-Rock Chalk Park related claims to 335 vendors in the amount of \$858,702.95. 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 \$15,669.42. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented an update regarding the Safe Winter Walkways Program.

D. REGULAR AGENDA ITEMS:

1. **Considered applicant's appeal of Historic Resources Commission's determination of denial for a proposed sign to be located at 900 New Hampshire Street (Marriott TownePlace Suites – DR-14-00506).**

Lynn Braddock Zollner, Historic Resources Planner, presented the staff report.

Schumm stated, "It was approved for the Certificate of Appropriateness and I presume that means the historical aspect of it was approved."

Zollner stated, "There are two different reviews for this particular project, the Certificate of Appropriateness is under Chapter 22 of the City Code and it's because it's within 250 feet of the listed property so it's a separate review."

Schumm stated, "That deals with the historical aspect of it."

Zollner stated, "Correct."

Schumm stated, "So that was approved by the Historic Resources Board. It's just that this sign is viewed as too big, I guess, from what I've read to fit into the design guidelines."

Zollner stated, "It's the size and placement of the sign."

Schumm asked, "Okay, and then in the downtown design guidelines, does it take into consideration the overall massing of a building?"

Zollner stated, "Yes, It talks about looking at the overall size and scale of the building and the massing of the building, but it also speaks to looking at that street level façade and having the sign compatible with that and that kind of goes toward that pedestrian orientation."

Schumm asked, "If this were referred to the architectural review board, what kinds of things might they do to bring it into conformance? Was it just a matter of reducing the size or are there other elements involved in this that would make a change?"

Zollner stated, "Yes, I think they could reduce the size and place it closer to the hotel entrance. If you noticed, it's a little bit away from the hotel entrance so just making it smaller is not necessarily going to lead you to the door of the hotel. One of the options that was discussed at the Historic Resources Commission was there's a canopy right over the doorway to have signage on that canopy. Other options that could be explored are wall signs or other projecting signs that are in different locations, and perhaps smaller."

Schumm asked, "What size blade sign would fit into the design guidelines? This is 4x15. What size blade sign would be approved?"

Zollner stated, "I think it's going to depend on the design and placement. If the placement is closer to that black portion of the building then you'd be looking at something that's a little bit lower.

Schumm asked, "Any idea if it's not pedestrian friendly?"

Zollner stated, "Correct, the proposed sign is not typical pedestrian oriented."

Amyx said, "Along with what Commissioner Schumm was asking, the maximum square footage is 15 square feet."

Zollner stated, "Correct."

Schumm stated, "16 square feet"

Amyx stated, "The maximum size height is 5 feet so you need a 3x5 and this one is 4x15."

Zollner stated, "Correct."

Amyx stated, "You said one of the suggestions was to move it closer to the door and put it above the canopy that exists above the door."

Zollner stated, "That's correct."

Amyx stated, "I don't know, it seems to me if I'm coming from the South, the location where it is right now is probably out a little bit farther so people can see where the front of that building is and pretty close to that entrance there. It's a pretty good stretch of street. To be honest with you, I think it works, but that's just me."

Schumm asked, "What?"

Amyx stated, "I think the sign works."

Farmer asked, "How big is the sign on the corner of 7th and Massachusetts for the Eldridge?"

Zollner stated, "I would have to look up the exact square footage."

Farmer stated, "It's bigger than 3x5."

Zollner stated, "Yes, it is. Historically, the Historic Resources Commissions and staff had been more liberal with that size of sign if it's placed on a corner of a building. There's some information about that in the packet of information because there's a specific design guideline that say larger signs can be placed on corners of the building."

Riordan asked, "Are there any signs down Mass or in this district that are put out like this where it's perpendicular to the building rather than flat on the wall?"

Zollner stated, "We have projecting signs on Mass. Most of the time they're smaller projecting signs rather than the large type, like the 15 foot tall sign. There is one historic sign that we had a reface done on it. I don't know if you've ever noticed the Kansas Sampler, but that was a sign that was left over from the 50's and so they were able to reface that sign instead of removing it totally. That is the only midblock example of a sign that we have of this size."

Riordan stated, "One of the things it said in the Design Guidelines is that it should not be used specifically for automobiles. Could you help me understand the design guidelines that would be for automobiles versus people? How do you differentiate those?"

Zollner stated, "That's one of the things that you'll get to work with this evening looking at the Downtown Design Guidelines. The guidelines are written so that they are to promote pedestrian oriented new construction rehabilitation downtown so they're looking at for instance, the signage being compatible with the storefront façade. They're looking for signage typically placed in the transom area of the building. It promotes pedestrian sidewalks, it promotes the little landscape strips between the sidewalk and the street to give that safe pedestrian feel and that overall comfortable feeling of being a pedestrian in a downtown atmosphere. Automobile oriented signs and traffic patterns are typically meant for an automobile at a certain speed to notice a sign or like one way streets or automobile to move traffic so those types of things would be automobile oriented versus pedestrian oriented."

Charles Mackey stated, "I'm a resident of rural Miami County and the operator and co-owner of the TownPlace Suites by Marriott at 900 New Hampshire. The primary rationale that I

would like to put forward as to why this is not only the appropriate place for the sign, but is the only place for the sign. It goes back to our original application with the City when we were attempting to develop this hotel. Our original plan that frankly, I was in favor of was our entrance to the hotel being on the corner as you can imagine, corner real estate is generally considered more visible, potentially more valuable and especially with the glass storefronts it was going to work, I thought, pretty nicely to attract patrons to the hotel. With taking a recommendation of City staff and the like, they informed us which again, we're ultimately in agreement with, was a corner entrance to the hotel which would create quite a few traffic problems. Obviously, traffic backing up and/or trying to provide any off-street parking or off-street temporary parking for registration would be problematic at the corner and so they suggested that we move the entrance back to mid-block. We did. As you can probably also imagine that having your signage somewhere other than your entrance is also problematic from a traffic prospective as well as a convenience to the guest. One of the things that I might argue if I was on the other side of the table, I might say, Well gee people will figure it out. They'll figure out where your entrance is, but keep in mind we're a hotel and they don't have an opportunity to figure it out because for the first two years, 95% of the people that stay with us will be staying with us for the first time ever and for the entire life of the hotel approximately 60% of the people that will be staying with us have never stayed with us before so the idea, you pull down the street, you see the sign, you go to the sign. That's just not my opinion, that's Marriott's opinion while we've developed 8 Marriott Hotels they obviously developed thousands of them. It was their strong opinion that we not separate the entrance from the sign. My own practical experience is, I have two hotels where one of them, I had the bright idea of building a tower, again for signage, and so it would have great visibility from the high way in Evansville, Indiana and we ended up reconstructing our entrance because everyone that came to the hotel drove to the tower, saw the sign, tried to get into the hotel, and realized that was a side entrance and our actually front entrance was down the way. We actually had to reconstruct the hotel to design signage so that

people would actually go to our actual entrance rather than be attracted to the sign. Those are the practical reasons. I can run through several other things, at least, from my prospective. It is a large building. We have only two tenants planned for an entire stretch along New Hampshire so they're won't be any signage clutter in my opinion. You'll have that singular sign and possibly one other closer to the corner which again would also be appropriate for their entrance as the retail tenant that we're currently having discussions with, plans their entrance to be on the corner which would also be obviously more appropriate for a location for their signage. Those are the overwhelming reasons that that's the appropriate place for the sign. I'm happy to answer questions, and I apologize that I wasn't here to hear the earlier presentation."

Schumm asked, "Could you comment on the overall size of the sign, the 4x15?"

Mackey stated, "Sure and again I just heard a little bit of the earlier presentation about the sign protruding from the building. It's not fifteen feet, fifteen feet is the height. Its only 4 feet is how far it comes off the building. The sidewalks in that area, which I thought were nicely considered, the sign is well back from the curb so as far as that goes, that seems appropriate. The other thing, while 15 feet, I'll be the first to imagine when you think 15 feet, gee that seems rather large, but when you compare it to the façade of the building and you put it up in the air, 15 feet is actually rather small compared to what we would typically put on a hotel this size and I believe, if I'm correct, it's a foot and half less than we could theoretically done under the typical sign ordinance. Had it been on the corner, it could have actually been a larger sign is what I was told. I wouldn't swear to it, but that's what I was told."

Mayor Amyx called for public comment.

Dennis Brown, President of the Lawrence Preservation Alliance, stated, "LPA didn't comment on this item at the HRC, but I was at the meeting of the Historic Resources Commission and observed their proceedings. Over the last year, I think HRC has been performing at a high level that the City should be proud of. Veteran members have settled in and understand their roles and the three most recent appointments made by three different

Mayors have stepped right up and are performing very well. What do I mean when I say this? First, each Commissioner wants every applicant to succeed and get their permit. Second, Commissioners understand their different scopes of review and the threshold check that needs to cross in order to pass and third, they perform their due diligence on each agenda item. On this item, if you refer to the minutes provided, there was absolutely no discussion on whether this proposed sign could pass downtown design guidelines review. No grey area, no room for interpretation. The five commissioners felt it does not pass. The lengthy discussion between the Commission and applicant involved Commissioners trying to find some way that the applicant's team might alter the design placement so that it could pass review. The services of the Architecture Review Committee were offered to work with the applicant. LPA was disappointed when the applicant refused we suspect with the holidays and the short time when the hotel was to open the applicant could not accept the timeframe, but I don't believe the City was responsible for that short timeframe. HRC reviews sign proposals a number of times throughout the year and they try to be consistent. They try to avoid creating precedent or playing favorites. One of the options before you is to direct the applicant to work with staff and the architectural review committee to come up with a workable solution that will pass Downtown Design Guidelines review. We still think that's the best way for you to resolve this and we hope you'll choose that option."

K.T. Welsh stated, "I'm representing only myself tonight. I also go to all the HRC meetings and I have great admiration for the current Commissioners. I just want to make a few points. I felt really bad for the new manager at the Marriott because he was left in an awkward position and under a rush to get this sign through. I felt bad because this project has been going for a couple of years and the architects know our Downtown Design Guidelines very well and I don't understand why they didn't design the corners so it could accommodate an illuminated sign. I felt like they put him in an awkward spot. Also, Marriott has a stellar worldwide record for historic preservation. They rehab and restore buildings all over the world

so surely they've worked in historic districts before that have design guidelines that you have to work with. I think the higher up's in management needs to show some flexibility on sign placement to show their commitment to our historic downtown. I also wanted to point out that pedestrian level signage is important downtown, but most travelers arrive at their hotel/motel these days by GPS. Signs are important but there are other ways to know where the entrance is. I think the bumped out driveway, lighting, outdoor potted trees will send the message to guest and visitors where the entrance is and then finally, I recommend that they be asked to go back to the Architectural Review Committee of the Historic Resources Commission to work out a good solution."

Amyx asked, "Other public comment? Okay, back to the Commission."

Amyx stated, "In going through the staff report, staff says that on 5 points you believe that it meets the Downtown Guidelines which include the sign should be subordinate to the building's façade; a projecting signs shall provide a minimum clearance of eight feet between the sidewalk surface and the bottom of the sign; and, a projecting sign shall in no case project beyond ½ of the width of the sidewalk. Can you tell me why that one is so important?"

Zollner asked, "Why the width of the sign is so important?"

Amyx stated, "Right."

Zollner stated, "There again it goes toward that pedestrian orientation, that pedestrian feel. If you look at a sidewalk when people are utilizing it as a pedestrian path and if there's something that projects over half of that sidewalk width that's kind of a breaking point to make you feel like there's something on top of you. It makes it less comfortable."

Amyx asked, "You like the lighting of the sign because of the indirect source of the light, is that correct?"

Zollner stated, "Yes."

Amyx stated, "It then goes on to talk about whether they're wall mounted, suspended, affixed to awnings, or projecting, signs must be placed in locations that do not obscure any

historic architectural features of the building or obstruct any views or vistas of historic downtown and it does all of that.”

Zollner stated, “That’s correct.”

Amyx stated, “The three things we’re looking at are the size of the sign which is the 60 square feet versus the 15 square feet and then the large projection sign should be mounted higher and center on the façade or position on the corner of the building. If I send someone around the corner, I suppose a sign there on the corner people will kind of figure it out, but it seemed to me that it ought to be closer to the entrance of the building. That’s just me because I’ve got a little sign in front of my shop that kind of says, this is kind of where Mike’s at. I think that’s kind of important. The other one was that signs should subordinate to the building façade to size and scale and we’re saying that the 60 square feet is just way too big? Is that what I read into that?”

Zollner stated, “It’s subordinate to the overall massing and scale of the building, but it’s not in proportion to the size and scale of the street level façade. It’s looking at two different items with that guideline.”

Riordan asked, “If this was on the corner would it be allowed?”

Zollner stated, “Most likely, yes. We have some large corner projecting signs. Hobbs at 7th and Mass is a good example of multi-tenant building that has one large sign on the corner, with different entrances for people to get into different aspects of the building.”

Dever stated, “So on New Hampshire alone we’ve got Berkeley Plaza. I was just kind of summarizing all the signs I noticed and Berkeley Plaza which is a fairly large typical raised pedestal sign, Sun Fire Ceramics which is an old Phillips 66 sign which exceeds the dimensions; Capital City’s Bank sign at the corner which exceeds the dimensions; the Spring Hill Suites sign; the Major Pedestal Tower sign on New Hampshire; and the BF Goodrich Tire store on Vermont. There are just not a whole lot of signs to note variances from. I mean, that’s all I could come up with as far as signs, that seems that meet or exceed the total square footage

of sign footage in the downtown area. I agree with K.T. that most of the people arriving at this location are going to probably use a GPS and more than likely for 6 months or a year the coordinates to this place, since it's new, won't show up and I think a sign is going to be important to the success of this facility so that people pull in and register. I know I use hotels on a fairly consistent basis and I'd like to know where to pull in, check in, and park my car. It's just kind of one of those things I like to do. It seems like putting the sign on the corner is a difficult proposition given that the actual entrance to that building there will be housing some third party business, a restaurant or some other locations, so I think that's hard. The fact that we are trying to apply these pedestrian standards to what I believe is more of a vehicular access property at least initially. Once people get there they'll walk and know where to go so I'm just trying to figure out how many waivers we're getting or how many waivers we've allowed over time for the necessity to direct people to the proper location on a brand new enterprise that I would hope is going to be successful. I just bring those up. Those are the only signs that I saw in the area that seemed to break the 3x5 dimensions that are recommended by the City and other than that, the one mentioned at the Eldridge House which is slightly larger. I don't see us having any flurry of deviations from the norm and I feel like this sign needs to be in a location close to the entrance of the building and I believe the pedestrian nature of downtown is reflected pretty clearly in our Mass Street Guidelines which really have no deviations from the standard whatsoever. Other than Urban Outfitters and the Granada which are using old marque signs from the movie theaters, we've stuck pretty closely to our guns on how we're going to sign our downtown area and I feel like I've been true to the standard. I think HRC and the ARC have done a good job of trying to work with these. For me, this is about ease of use and access and I don't think the sign is distasteful and 4x15 maybe a little large than we might like, but given the face of this building is really in line with the Arts Center. It's going to be hard to tell when you're at 9th Street, which direction to head. I think it's important for people to see you and which way to go. For me, a sign is important to be seen in a vehicle if at all possible, from the street."

Schumm stated, "I whole heartedly respect Downtown Design Guidelines. In fact, I was a member of the committee that put those things together quite a few years ago. This particular situation strikes me as being a little unusual and it is a hotel, a new hotel. We haven't had any of those in my life time. People are going to arrive from out of town, most of them from out of town. I would presume 99% by vehicle. What you don't want to have is people driving around the block or two or three blocks trying to find where they're supposed to locate. It is located across the street from a major parking garage which is more vehicular activity than our other streets. To me, it makes sense to try and get people on the property and get them located in a parking stall permanently, as quickly as possible and not having them to move around. That section of the street is not as pedestrian oriented as most of our other streets. That's my observation of it just because of the activities that go on there with the parking garage, the Arts Center and then the new hotel. While it's a big sign in relation to the building, I don't think it's excessive. I think it's a practical sign and I think that's what I'm dealing with is trying to find a practical solution to this situation. I think I could support it."

Riordan stated, "When I look at this there are about three different things that strike me. One is that this is going to be used by vehicles and we want safety and we want a sign that they can see and they can see easily so they're not distracted. I know we have guidelines talking about pedestrians and we want to keep that as pedestrian friendly as we can, but I think safety sometimes needs to be looked into for the people that are driving the cars. Second, is that we talk about the mass and this is a tall building. It's on a shorter section because we're trying to break this up, but I don't think we should penalize them from making it look nicer. The other is that they wanted it on the corner and this would have been okay on the corner, but we moved it to the center and then we're getting into something because it's not on the corner. So that seems to be almost like a catch 22 to me. When you talk about this, just practically speaking, you want a sign that's appropriate, appropriate in size and I know the Design Guidelines are more important for Mass than they are for here. They're still important for here, but I think the

size and shape of this sign, considering the fact that it's going to be more vehicular oriented and it would be appropriate on the corner and the size of this building is such a large building and people complained about the size that I think there are some appropriateness to allow a sign like this to occur."

Farmer stated, "Mike, I too drove down New Hampshire Street a couple of times over the last couple of days and if you ask somebody from out of town to put in Hobbs Taylor Lofts on Google Maps and drive there and the only thing to identify Hobbs Taylor Lofts, its location is a sign like what was proposed by a few members of the HRC, right above the door. I think of another business along the New Hampshire Street Corridor, Callahan Creek, and even being from Lawrence, I remember the first time I actually tried to find that place and I knew it was somewhere, I just didn't know where in the hell it was. I walked around looking for it and I didn't know where to find it. I know it sounds trivial and probably stupid, I didn't know if it was on the back side or the front side. If there was something hanging out that I could have seen when I was walking, I guess is my point, I think this is pedestrian friendly because it's hanging off of the building and if were just placed on the building, there's a good chance that it could be hidden a little bit and really not pedestrian friendly at all, I guess, is what I'm trying to say. The Capital City Bank sign at the corner of 8th and New Hampshire, I think can be easily seen by pedestrians. The Hobbs Taylor Lofts sign, if you're walking north downtown and you're looking on the East side of New Hampshire, you're not going to see that that's where Hobbs Taylor Lofts is. You would see it if they had a sign similar to this one. That's certainly taking into account my failure to follow instructions apparently and Hobbs Taylor Lofts, if we asked someone from out of town to find that and they were walking down Mass Street, I don't think that sign is very pedestrian friendly. I think this one is. If we want to talk about navigating as a pedestrian downtown, you've got to take in a couple of factors, line of sight being one of them and sure it's a little bit bigger than what the guidelines say, perhaps, but my sense is you're

going to be able to see it and as a pedestrian, if you're looking for a place that's certainly going to be important. Those would be my thoughts."

Amyx stated, "One of the things that I do want to say is I believed the HRC did a good job of calling what the guidelines are and in the staff report it does talk about the HRC conclusion that this proposed sign does not meet the intent of the guidelines to promote pedestrian oriented development of the overlay district, but one of the things it goes on to say, is that it talks about the hotel requires significant signage to guide visitors to the community and so on and so forth. One of the things it failed to recognize that the first floor use, even though it's on the corner, meets the guidelines and everything about it. One of things it doesn't do is it fails to recognize that the first floor use of the corner will not be the hotel. It seems to me that if we can move this sign to the corner and it meets the guidelines, it seems to be that we're talking about the sign and whether or not it's appropriate at the location that the applicant has requested. I think that if it meets the guidelines, at one location on this building, it meets in on the location proposed. That's probably not the answer you wanted to hear, but that's by summation of the deal."

Zollner stated, "That's fine, as I mentioned earlier, I think this was a really big struggle for staff because it is a very unique structure in our downtown. It's a very modern design. I don't know that the Design Guidelines contemplated a structure of this type and the overlay district when they were designed."

Amyx stated, "It is easier for me, at this point, to make the determination, but if the sign, if it were on the corner and the size that it is, it would meet the guideline and would deserve us to approve the sign that by moving it to mid-block. It still meets those Downtown Guidelines and we should approve the sign at the location requested."

Moved by Riordan, seconded by Dever, making a determination that the proposed projecting sign does meet the Downtown Design Guidelines and approve the sign

design for a proposed sign to be located at 900 New Hampshire Street (Marriott TownePlace Suites – DR-14-00506). Motion carried unanimously.

2. **Authorize a right-of-way permit for the HERE project contingent upon staff approval of a traffic plan and truck route plan, Project Number PW1417.**

Mark Thiel, Assistant Public Works Director, presented the staff report.

Amyx asked, “Mark, again, what were the two things you said, the haul route was the final two things that they needed?”

Thiel stated, “Yes, the haul route they had suggested coming in off of Iowa down 9th Street. We didn’t believe that they would be able to make that turn onto Mississippi Street so the route that we are recommending would be to come from 6th Street, down to Tennessee, turn west on 9th Street and South on Mississippi. We believe those turning movements can be accomplished and get them to their job site.

Amyx asked, “What was the other one?”

Thiel stated, “The other one was a traffic control plan. We have that reviewed and it is appropriate and in compliant with the standards.”

Mayor Amyx called for public comment.

Brent Wagner, President of AEPI Fraternity on 1116 Indiana Street, also representing AGD’s Sorority on 1100 Indiana Street, stated, “Both of our houses heavily rely on the street parking on Indiana Street. In total, we have 21 residents at 1116 Indiana and 40 residents living at 1100 Indiana, but only have parking for 28 residents. Therefore, we’ve utilized 60 to 70 percent of the street parking along the west side of Indiana, give or take about 20 residents without parking spots. It appears that this project is taking away the majority of the street parking for our residents for the duration of this project. All other properties surrounding the construction project has sufficient parking for their residents, but we do not. I would like to ask here, what you guys are going to do to accommodate our residents neighboring this project.”

Amyx asked, “Any other public comment? Okay, back to the Commission.”

Amyx asked, "Mark was their consideration given to the surrounding fraternity and sorority on the east side of this project?"

Thiel stated, "Yes, I believe we spoke today and the question came up about parking. It was a topic that I brought up at our meeting this afternoon and Jeff or Jim could probably address this as well, but you all are familiar with the geography of that site there. They simply don't have access to what would be the east side of that apartment complex, without utilizing the right-of-way, including the parking for simple access to the site for construction activities, to maintain the fence for safety as well as any OSHA requirements there are for setbacks. That's my understanding and so we weren't able to pull the fence back in to allow parking on Indiana. There just simply wouldn't be enough room for them to have access to their project site."

Riordan asked, "Mark would they have access to parking passes from the University?"

Thiel stated, "I believe, as students, they probably would, but I'm not sure though."

Riordan stated, "I don't know that we can make a parking lot out of thin air, I wish we could, but that might be a direction we would go that would be reasonable to work something out with the University that they have access to that for next year and the rest of this year."

Thiel asked, "The parking at memorial stadium?"

Riordan stated, "Yes."

Amyx asked, "Can we find information on that to see if that is a possibility then."

Thiel stated, "Yes, City staff, in conjunction with the developers, can make those contacts, absolutely."

David Corliss, City Manager, asked, "Are you making it a condition that they have access to purchase them?"

Riordan stated, "I would just recommend that we try to intercede and create a situation where we facilitate the activity, rather than mandate it."

Thiel stated, "Those are approximately 18 spaces on the west side of Indiana that will be basically eliminated for the duration of the project."

Schumm asked, "Those are public spaces."

Thiel stated, "Yes."

Amyx stated, "So again, you're not suggesting that would be a condition of approval of this plan."

Riordan stated, "Correct."

Schumm stated, "I'm looking at a chart here, the demolition exhibit and Indiana Street is on the bottom of this."

Thiel stated, "That's correct."

Schumm stated, "I can't quite read it. It seems to me like understanding the topography of that site, that they're going to have to come in from the north or from the west to demolish that stuff because right where Mrs. Bell's house was just almost a cliff straight down and so I don't understand. I can see where you need to have a fence there somewhere, but it looks like on this chart, then you brought it out to pass where the cars parallel park. Is that correct?"

Thiel stated, "Yes."

Schumm stated, "Is it really necessary, I mean, I'm looking at this, what kind of construction activity would take place there on that west side of Indiana Street? Part of that is probably 20 feet down and if one of the construction people here could answer that."

Thiel stated, "We discussed that and it was the same similar question to what I've asked about moving it back. The fence location is not just for the demolition, but it's the location for the entire length of the project, even during erection when it has to go up out of the ground."

Schumm stated, "Okay, here's my point. I understand construction, you got to have vehicles, cranes and things to lift things, but during the demolition part of it, is it not possible just to eliminate the sidewalk activity and still leave the parking there?" When you get into construction then you can maybe take the whole parking area too."

Jim Heffernan stated, "One of the challenges to the site is there over 1200 lineal feet of fence, you know, replacing the fence, erecting it, making sure it's secure and the moving it again

is not necessarily a very effective or efficient methodology. As it relates to the reason why, we need a flat area from which to work from. As you pointed out, there's a tremendous topography hole there. What the sidewalk area and the parallel parking row on Indiana Street allow us is a relatively flat area, far less than what is there. That's the reason we need it.

Schumm asked, "You're not going to demolish from Indiana Street, are you? I can understand when you get into building if your height of your building would be up above that."

Heffernan asked, "What is your point?"

Schumm stated, "My point is, do we need to take the parking spaces off during demolition?"

Heffernan stated, "Demolition is a matter of days, so we're going to set 1200 lineal feet of fence. It's just not a practical solution."

Amyx stated, "Bob are you saying that we can come and take the sidewalk out."

Schumm stated, "I don't think they're going to use that site on that side for demolition, you'd leave the parking in place for a while and then when you get ready to build, move the fence."

Heffernan stated, "Phase 2 is 6 days of demolition."

Schumm stated, "Okay."

Amyx stated, "Any other questions of staff or any other public comment on this item?"

Jeff Johnson, Stevens Construction, stated, "If I could add there quickly to what Jim said, the reason for the additional space, we've got virtually zero staging area on this site. The site of the building is approximately the outline of the dash lines that you're looking at on that screen so when we start, yes, we won't need it for the day of demolition and through demolition, but shortly immediately after demolition, before the demolition is even complete we're going to start constructing the project. We're going to have huge amounts of concrete forming systems that are due to come in. We're going to need to prefab and build those concrete walls. We're going to need a lay down area for that and a huge amount of material are going to come in to put this

thing together and there's virtually zero laid down area for this project. The entire site, once we start construction, will be either eaten up by demolition procedures or excavation procedures, concrete installation procedures and zero lay down area. The Mississippi Street area is going to be for materials bringing in, concrete trucks, primarily, a delivery of concrete was going to be facilitated down there. There's nothing along 11th that we can use and nothing on Indiana Street so we need some lay down area for all the construction and concrete forming materials that are coming. A huge amount of materials are coming in. We're going to be working across the entire site. There are improvements and piers that are going to be going on across the site so the site is going to be eaten up by demolition, grading, and all those improvements, all kinds of heavy equipment that are going to be on the site and nowhere to put together the concrete forms. It seems egregious and yeah, we wouldn't need it immediately from day one, but we'll need it very shortly and just the relocation of it in a short period of time doesn't make sense and I can see you already understand, safety wise as we start taking the building up in elevation for all of those protections and stuff. I'm coming off of a project almost the exact same size and we actually had more room than what we were allotted here and we had difficulties with that situation. We've got some extreme concerns about our work area on the site.

Schumm stated, "Thank you for the explanation."

Amyx asked, "Did we remove parking when the Varsity House complex was built?"

Thiel stated, "I believe we did on Indiana and 11th Street both, and in the alley as well."

Amyx asked, "What was the accommodation for the adjoining neighbors?"

Thiel stated, "I don't recall there was an accommodation."

Amyx stated, "Any other comment. Okay, back to the Commission."

Schumm stated, "Let's do it."

Amyx stated, "Again, Terry you want to bring up what you're asking?"

Riordan stated, "I would like us, as a City, to facilitate the use of KU parking at Memorial Stadium to mitigate the parking problems if this structure occurs."

Amyx stated, "Eighteen spaces?"

Riordan stated, "Yes."

Amyx stated, "But here again, not as a condition."

Amyx stated, "The item before us then is to authorize the right-of-way permit for Public Works project 1417; and, the contingencies, are they still there Mark?" Have the contingencies been met."

Thiel stated, "All except for the haul route has not been finalized yet."

Amyx stated, "Okay, with the addition of us assisting in trying to take care of some parking assistance, Mark and Dave, with KU to help with the member of the fraternity and sorority then I would entertain a motion."

Moved by Riordan, seconded by Schumm, to authorize the right-of-way permit for PW1417, contingent upon haul route being approved. Motion carried unanimously.

3. **Receive staff briefing on status of Utilities Department capital projects. Receive briefing on planned Wakarusa Wastewater Treatment Plant project and related pump station and transmission corridor improvements. Commission expected to set bid date for project on January 13, 2015.**

Dave Wagner, Utility Director, presented the staff report on the status of Utilities Departmental Capital Projects.

Melinda Harger, Utilities, presented the history on the Wakarusa Wastewater Treatment Plant project.

Mike Lawless, Utilities, presented the report on project funding for the Wakarusa Wastewater Treatment Plant.

John Keller, Black and Veatch, stated, "I want to thank you for the opportunity to speak to you tonight. This project, as I said, has been an integrated team. It's been very important that we had the piece with Bartlett and West and Treanor as part of our team. You can see what they've worked on, Pump Station 10, Force Mains, and Baker Wetland Enhancements for PEC. Bartlett and West did a lot of surveying, platting, permitting, all of the site work, all the roads

which will be O'Connell Road and 41st Street and the Peak Flow Storage Basin. Treanor Architects, we use their expertise in to the Administration Building both at the Wakarusa Plant, Pump Station 10 and then the expansion of the existing Kansas River Wastewater Treatment Plant. I also listed the City of Lawrence here. They've been a big part of the design effort as well. They've done a lot of the paper work, the permitting planning. They've also been the lead administrator for the Admin Facility at the Wakarusa Facility, but their also going to take a big part in construction as well. They're going to be the integrator that INC controls so that will actually be the brains behind the plant. They're designing the panels, building the panels, buying the equipment and this will help smooth the startup, but also save you guys some money in this effort. Then Black and Veatch is just the overall project coordination. We've worked on the Wastewater Treatment Plant and the Kansas Lab. This section over here is the design team from Bartlett and West, PEC, and Treanor, so if you have any questions, they'd be happy to address them. One thing I did want to mention is we've been meeting with the City for about 15 months. The first five months we met about every week and then we cut it back to about a couple times a month, but in the last few months we went about 3 times a month so we've really been an integrated team throughout the whole project. There are really 3 components to contract 4 and first is the Pump Station 10, we have the treatment plant and the Kansas River Plant and I'm not really going to talk about that tonight. This is the Pump Station 10, this is Louisiana up here and so this is the northwest corner of Louisiana Street and 31st Street. This is the actual pump station itself, it's a below grade pump station all the guts are below. All the flow is going to come into a flow diversion structure right here so all the flow will come from the Snodgrass property from the west and then come into the plant. We'll process it and we'll make a decision to either go to the new Wakarusa Facility or we can go back to the Kansas River Plant, 90% of the flow will always go to the Wakarusa Facility. Just north of it is the Bridge Point Church. This is the actual Wastewater Treatment Plant that we have proposed for the project. You can see the Wakarusa River back here. This would be approximately 41st Street and then

you can see right here is O'Connell coming from the north. So we have one entrance into the plant. We have the Head Works Complex, this is where all the flow will be coming from Pump Station 10. We have a chemical storage and feed building. Our biological nutrient removal basins and I'll talk about that here in a second. Our final clarifiers, our final sledge pump station, a UV disinfection facility and then the outfall will be actually right approximately in this location on the Wakarusa River so the flow will come into the plant right here, kind of take this path through UV and then back out to the Wakarusa River. We also have some additional facilities, this is the Administration Building. We're planning for a large conference room that will be a bid alternative, but this will be where the lab is. We have a Peak Flow Storage Basin, a vehicle storage maintenance building, a waste thickening, this is where we'll take the solids out thicken them up so we can land apply them and then we have a Solar PB that we're planning to provide for this project. Now, I'm going to quickly kind of change hats here. We put a video together of what we believe what the south will look like or give you a relationship of how everything is."

He showed and explained the video.

"We heard about the costs and we see Contract 4 around \$40 to \$45 million dollars as a bid day price and we see coming in March that will be recommending award about that ballpark price. Our construction phase engineering services is somewhere between \$5 to \$6 million dollars and then the total project estimate is at \$65 to \$70 million dollars. I just want to remind everybody that of that \$70 million, about 30 percent of that cost has already been expended on the force mains, the site fill, the roads and the previous engineering work. We do have the added alternatives, the 2.5 mgd basin, the solar panels and the meeting space. If you add that in, we're at \$77 million dollars. If we get good estimates, good bids, we can maybe pick and choose and provide what is the best alternative. All of our costs had the appropriate contingencies for where we're at in the project and we're going to let the contractor dictate where we end up on, but our bid form is written up so that you can pick this or that. There's no clear path. We're just trying to provide the best for the City. To close my part of the

presentation, you've heard this before, we wanted to give you a heads up of our plan and give you a week to think about it, but we plan to come back on January 13th to request permission to set a bid date."

Amyx stated, "John, the 5 week bid process, I've got to assume it's going to be a pretty easy bid process, correct? You probably have it down to every fitting and everything?"

Keller stated, "That's one nice thing about using BEM model, we've been able to eliminate some the clashes and we have a pretty good set of plans. These guys have been coordinated really well so in 5 weeks we'll be busy, but we think that's an appropriate time for this project.

Amyx asked, "Dave do you have anything else?"

Wagner stated, "I don't think so. Again if there is any questions we can answer, if not we'll be back next week and ask you to set a bid date and get to work on it. It will give you a week to think about too. If you have questions next week, we can answer those then as well.

Mayor Amyx called for public comment.

K.T. Walsh stated, "I just have two quick questions, it sounds fantastic. I'm not an engineer. Did I hear you say that there will be a grey water system within the plant? My other questions is, I'm a person who canoes a lot and I like to canoe the Wakarusa and it sounded like pure water would be released in the Wakarusa, but then you said they were going to tunnel under so I didn't know. They do release pure water into the Kaw now. My question is you can't canoe the Wakarusa all the time because you have to rely on the Corp of Engineers and what they release and so I wondered if this would be happy news for canoers."

Wagner stated, "There is in the existing Wastewater Treatment Plant on 8th Street. We do reutilize treated wastewater as a grey water system within the plant for wash down and other uses and this facility would do the same. It's a good practice and not uncommon in wastewater facilities to get some reuse out of that. The answer to that is yes, there will be some more use. As far as navigability with the canoe down the Wakarusa, there will be increased flow below the

discharge point at this location. It still isn't a significant amount of water, relative to what could be discharged from the Clinton Dam, but it is some additional flow anyway, but we don't anticipate and degradation related to that discharge."

Amyx asked, "Dave, do you have anything?"

Corliss stated, "No, Mayor and Commissioners we knew that this was a very important project for you all to consider. We want you to have the opportunity to spend some more time with these documents, but unless you have any specific reservations, we'll just have it on your regular agenda next week to set the bid date.

Amyx stated, "As I made mention to Commissioner Dever during the presentation, as we talk about the project history, it seems like it's been a majority of our public life to be able to talk about the development of the Wastewater Treatment Plant and also all the improvements to our water and waste water lines throughout town. We've all been involved with those improvements. It's great to be able to see these projects as part of this capital improvement plan. We were already into the projects, payments are being made and there's adequate funding to be able to take care of these projects. These are things that need to be happening today for the clear and clean delivery of you know, probably one of our most precious thing and that's the water that we drink. I think staff has done a tremendous job of being able to provide that and make recommendations on ways to take care of problems that exist. I know back during the time in about 2006 when we were going through the process, you first get elected and the first thing that happens is, guess what, you get appointed to the site selection of new Wastewater Treatment Plant. I'm telling you, you're blessed to have that job. So I'm thinking, how hard can this be, but I'll tell you what, I considered everything from wastewater treatment in the typical fashion that's been presented tonight to the good old days of an eco-machine and the evaluation there and any number of things that we looked at, the 6 or 7 sites that we looked at throughout the community and County. It was quite the process and a very good learning experience and one that I think we had a number of people that volunteered to serve on

committees and help with finding the location that was going to be best for everyone and especially our new wastewater treatment plant. As we look at the number of projects that are basic health and safety kind of things for our community and now with the new wastewater plant, I think staff needs to be commended for a great amount of work that's been done and recommended. I'm very fortunate to live in a very good community that wants to stay on top of these things.

Farmer stated, "I would be remiss if I didn't say that it's kind of shocking that nobody's here to say anything about us about ready to spend 70 million dollars. Nobody is saying that the City got their priorities wrong with building a rec center before a wastewater treatment plant and it causes me to look forward to the listening sessions even more on why folks voted against the police facility because clearly, no pun intended, most of the arguments that we heard don't hold any water with the lack of crowd that's here tonight. I'm certainly looking forward to those, but not to take anything away from this. You all, this is exciting stuff. I didn't think I'd be so excited to hear about poop, but this is great. I almost wish that you'd rather call it project No. 2, instead of 1304, but I certainly understand. Dave, congratulations and this is fascinating stuff and really looking forward to all the great things that this will do for the community and I'm really excited. Congrats guys."

Riordan stated, "I can remember sitting on that same committee for the site selection and realizing what an important decision that was and how much more difficult than I ever thought it would be and to see this today is just a great thing to see the fact that the City does plan ahead, the City does have the ability to have redundancy. It's almost breathtaking when you look at the amount of land that this is going to drain, everything west of Iowa and everything south of 6th Street. It's just an amazing amount of ability that we have here. I do congratulate Dave and all the City people that had worked on this."

Amyx stated, "This will be an item on next week's agenda to set the bid date."

Corliss stated, "That would be the direction that we would ask you to give us this evening.

Moved by Schumm, seconded by Riordan, to receive staff briefing on status of Utilities Department capital projects. Receive briefing on planned Wakarusa Wastewater Treatment Plant project and related pump station and transmission corridor improvements. The Commission expected to set bid date for the project on January 13, 2015. Motion carried unanimously.

The City Commission recessed for 5 minutes at 7:53 p.m.

The City Commission reconvened at 8:00 p.m.

4. **Direct Staff concerning the 2015 Legislative Priority Statement.**

David Corliss, City Manager, presented the 2015 Legislative Priority Statement.

Amyx stated, "I do think it would be appropriate to spell out the support of keeping our elections local and non-partisan. I appreciate Melinda's bringing that to our attention. It's something easy to overlook the simplest of things and think we may have it covered, but in this particular case, because there were discussions and that we had heard about. I think it's really appropriate that we can spell that out and that we would like to keep our elections non-partisan and not part of the general election and if that's fine, I would suggest that we direct staff to add that particular language. I did receive a correspondence from Loren Stanton. He is with the Brady Campaign to Prevent Gun Violence and one of the things we've been asked to participate in, is a survey that would expand the background checks to gun shows and over the internet. I had told him that I would bring that to this Commission. It may not be something that maybe is part of our legislative program that we spelled out this week, but this point is a simple item that we've been asked to be a part of the survey. The information that he provided us is that they had received responses from 53 mayors in the most populated cities in this state. I know that in the past, we've talked about our stand on various issues of this that is something that we've been supportive of. I bring it to us and if we wish to participate in that survey at this point.

Further request of information would come if a bill was drafted by the legislature to be considered. At this point, it's a survey. Any other items that we want to discuss about our legislative priority statement, anything we've forgotten, anything we want to expand upon?

Dever stated, "Not that I saw sir."

Amyx stated, "Everybody's happy with where it's at with the additions we've talked about."

Mayor Amyx called for public comment. None.

Amyx asked, "Then with that, I think with the changes on, was it the Medicaid?"

Corliss stated, "Correct. The sentence on the local elections, basically what Wyandotte County has is a good sentence as well to make those changes. Mayor, you'll respond to the survey and we're not making any changes to the policy statement?"

Amyx stated, "No, and all I would be asking for is direction from the Commission to have me respond to the survey and be on the background checks."

Moved by Dever, seconded by Riordan, to direct staff to draft two changes to the 2015 Legislative Priority Statement; and, direct the Mayor to sign a statement supporting the Brady Campaign for the gun violence survey and the background check. Motion carried unanimously.

5. **City Auditor update on status of construction audit review of Rock Chalk Park infrastructure. Authorize payment to RCP, LLC for loan origination and loan interest costs per the Rock Chalk Park Development, if appropriate. (Final check claim would be paid on January 13, 2015 agenda).**

Michael Eglinski, City Auditor, presented the staff report.

Riordan stated, "Michael, I had two people text or email me today and I'm sure the other City Commissioners got the same ones. We're trying to create an environment. We're trying to create a situation of transparency in trust and their saying if we do this, this quickly, then it looks like we're just trying to get it done and cover it up and do something real quick and do a poor job and not really get at what we need to do. Are we rushing this? Can we get what we want which is a real evaluation of this, good or bad, up or down, whatever it is. I think it's going to be up

because it was well done, but regardless of what I think, are we going to get an accurate in something that the citizens should believe?"

Eglinski stated, "I think we can get meaningful information in that time. Whether that would answer every question, I guess, I don't know.

Riordan asked, "Should we make it a little bit longer, a week or two longer? Would that be the recommendation of the company?"

Eglinski stated, "I think they would all have chosen to have a little bit more time. They all expressed concern, not that they couldn't do something that time, but that was aggressive and small issues could put that off."

Dever stated, "The bids you received or the estimates you received, these are time and material estimates? They basically have an hourly rate and they multiply it by the amount of time that they think. It's going to take an hourly rate, times of the number of hours they think. Did they tell you how they came up with their estimate?"

Eglinski stated, "They're a little bit different, but that's pretty fair. They'll have an hourly rate.

Dever stated, "If we make it longer, it might cost more and they can spend more time looking at it, if they can do the same job in a short period of time. I guess what I'm trying to figure out is, if we extend the period of time, I have no problem, but that's inviting more hours spent on the project which if they thought they could do it within this timeframe for this rate, I would give them more time to be more thorough I guess, or double check the numbers. Are we going to get a lump sum price on this? Is that what we're going to estimate or is this going to be if we gave somebody more time to do the job, are they going to charge us more money?"

Eglinski stated "So what we talked about doing was they would submit hourly charges, plus their out-of pocket. All of the firms identified the auditing was from out of the area so there would be some travel costs with a not-to-exceed amount. You could establish a not-to-exceed amount of any amount."

Dever stated, "Yeah, because typically my work, when people ask me for a shorter deadline, I charge more because it's harder overtime. It's extended hours, but if I have more time, I actually charge less because I can fit it in to other projects and still do the normal workload that I have that comes in while I'm doing this project. This is basically consulting and estimating that these people do for a living so theoretically if we extended the time, it might cost less, I don't know, but there's no guarantee of that either. I just want to make sure we get a good job done in a reasonable period of time, for the best possible price."

Amyx stated, "But here again, if we increase the number of days, the individual is probably going to use all of those days."

Dever stated, "Well sure, I would."

Amyx stated, "Me too, and the bill goes up."

Dever stated, "Not if we hire not-to-exceed, but then they could work it into other things and it would be less of a burden on their staff and on their team as a whole. I want a good product, I don't want them burning the midnight oil and missing something either. That's the reason I wouldn't rush it is because they could make a mistake in calculations because their rushing."

Amyx stated, "But we can negotiate that deal, meaning not-to-exceed."

Dever stated, "Not any more than what we've already got and if we need more time, it might actually be less overtime."

Schumm asked, "What are the qualifications of this McDonald and Associates? Is their expertise in construction, auditing, insurance work and types of stuff like that?"

Eglinski stated, "Construction auditing and they provided resumes and I can remember them. They have indicated that there is one specific individual who would do the majority of the work. They would be overseen by a supervisor. Their intent is to follow the Institute of Internal Auditors standards to the extent they can. Some of those standards they would probably be flexible with to enable them to report more quickly."

Schumm asked, "What are we going to audit? Are we going to audit the quality of the product, the price of the product relative to what the market says it should be? Are those both areas that we're going to look at?"

Eglinski stated, "I would have two comments, one is based on that meeting a couple of weeks ago. I looked at the kind of main questions that I saw you guys bringing up and that's part of what I asked them to consider and those were: Was the work delivered according to the requirements?; and, were the expenditures appropriate based on the development agreement? Those are kind of fairly broad and high level. One of the first things that they would be doing is coming in and reviewing in detail things like the development agreement, talking with a couple of City of staff, probably one or two of you and trying to narrow that a little so they can add more focus objectives."

Schumm stated, "Okay, and the audit then is specifically on the infrastructure improvements?"

Eglinski stated, "Yes, the infrastructure."

Schumm stated, "Which is really more than what we think of because there are tennis courts in there, there are the running trails and back and there's a fire ring that's involved in it. We just have to have more stuff under the label of infrastructure than we normally think of infrastructure."

Eglinski stated, "I can't really speak for them, but typically what auditors do is look a little bit at sort of the more material or higher risk areas. An auditor normally wouldn't chase down a lot of effort trying to verify a very small amount. They would focus on areas where they saw risk, do a little bit more work and be able to come back with some conclusions."

Schumm asked, "In the end, would they look at this project and is there a way they could compare it to other projects built in the region and say, here you have this project that came in at this price sound very good or very bad whatever it is because these like projects or similar projects cost this this and that. Is that part of their overview also?"

Eglinski stated, "I think there are a couple of things that they would be likely to look at. One is Public Works did some comparison and they can review that and sort of get a feel for that. The other is that there are some of these construction cost surveys. Again, it's not going to tell you a foot of curb should cost exactly this much, but it would put things in the range and give you a level of comfort that we're in the ballpark or we got an amazing deal or we didn't get an amazing deal."

Schumm asked, "Would it be your opinion that we should grant a longer period of time for this audit so that we get the in-depth answer that we're looking for or do you think that we can get that in-depth all inclusive answer with the shorter timeframe? You're the auditor."

Eglinski stated, "I think it may be reasonable to grant them a little bit of flexibility in the final reporting so that an auditor can come in to do some of the initial planning and can get a feel for where they are and could as Commissioner Dever said, could make some decisions about how to spread out the work, not necessarily add hours, but have a little bit more flexibility. For example, if somebody they wanted to talk to has the flu, they can wait a little while."

Schumm stated, "I want an honest answer is what I want. I want to see an in-depth report that has an honest answer and lay it on the table and let people look at it. I don't want anybody coming in here and saying, well you rushed it because you covered it up. That's not what the exercise is about. So if it takes a little longer then I say, spend the time."

Amyx stated, "Michael, you said the first part of the review is going to be for the development agreement itself, the one between RCP, City of Lawrence, and Bliss Sport II. That development agreement is what the infrastructure is about, correct?"

Eglinski stated, "Yes."

Amyx asked, "It's going to follow that to make sure that everything fell into line, correct? Everybody's going to be able to point to this audit when it's said and done and shows that we did this according to the agreement, correct?"

Eglinski stated, "Yeah, that's my understanding of what you guys want and my understanding is that's what they will provide. They would again, do some sort of risk assessment. I don't know how many pages the document is, but they're not going to check every word on every page. They're going to check sort of higher level principles in areas that are higher risk or more important and focus on those areas."

Amyx stated, "As other Commissioners said, I don't mind going with a little bit extra time as long as it is completed. There should not be any question when this is done, correct?"

Eglinski stated, "Yeah, they may come back to you and say, we need a little more time. We can't answer every question in the amount that you've given us, but I think they could probably do work that would add value, certainly. I think when they come in and sat down to look at the documents that Chuck has collected and start digging into those with a few hours of work for them, then we'll be in a better position to say, here's what we're going to need to do."

Dever stated, "You sent us a proposed scope of work. Is that on the website anywhere?"

Eglinski stated, "Yes, it's on DemandStar.

Dever stated, "It's not on any of Rock Chalk Park's stuff on the City's website. I would suggest maybe posting it up there once we agree on whether or not that scope of work is adequate. I think I responded to you, I thought it seemed reasonable, but it didn't have it at my fingertips to reconfirm that, but if you could get that just in the same place as all these other documents, it might be helpful for people so they knew where to go for that proposed scope of work."

Eglinski stated, "Toni and I would work to get a contract and that would probably be a little more precise scope as well."

Riordan stated, "I'm thinking we should request information from them by the 17th, adding two weeks to it and also make recommendations that we set a maximum of \$20,000 not-to-exceed, plus travel expenses and additional expenses.

Amyx stated, "We have the flexibility to negotiate the extra two weeks."

Mayor Amyx called for public comment. None

Amyx stated, "This is the recommendation of the City Auditor to recommend McDonald and Associates. A couple of weeks ago when we were here, I felt like there was discussion about the payment on loan origination fee and loan interest cost for Rock Chalk Park development. I wanted to make sure because we had some pretty strong language. I thought a couple of weeks ago, at this point, about not spending additional funds at this time, until this audit is complete. Gentlemen, I have to be very honest with you, based on everything, I think it is extremely appropriate that we stand behind that and that we don't make those payments, but I wanted to give us the opportunity to have that discussion if it was the belief of the Commission that was to be considered, at this point, because I know that there was quite a bit of discussion at that point."

Schumm stated, "I made the comment a couple of weeks ago and I still feel the same way as that the loan interest is loan interest, if anything, it may go up but the fact that we're taking more time to pay it, I'm not sure about that, but that seems like that was a finite amount that was established. I don't think the audits going to change it because it's a mathematical computation of the amount of money borrowed and the length of time that they had it out. I like to get bills paid when they're due. That's part of my philosophy in life is to pay stuff when you owe it and we owe it, unless somebody here has information as to if it should be a different amount or if that we might not owe it, then I'd wait. That's my only thought is that on that item it's a very finite definable amount and staff had reviewed it and said this is what it should be. I'm of the opinion that's a bill we owe and we should pay it.'

Dever asked, "Loan Interest and Loan Origination?"

Schumm stated, "Well, those two things."

Riordan stated, "I think we ought to consider also the professional engineering fees. Those three items to me are not going to change. We don't have a bill to itemize those. We do

know that there within a reasonable amount predicted. We know that the company was a reputable company that did the architectural bid. It was a bid and wasn't kept by hours. So we're not going to get any more information from that. I don't see any benefit from holding that back. I do have concerns about legal fees and would not recommend putting those forward, even though I recommend the other three because we already know that there are some items that we've taken back and not paid because they didn't seem appropriate to us and I would like verification that these are appropriate. I would like to see that the legal fees are documented. I don't think there's any conflict of interest between the person who gave the legal advice and the people that bought that legal advice because we're not asking what the advice is we're just asking that they verify that they had the phone call or whatever they did at that time. I think the legal fees, I will not vote for, at any time, until I get that information. The other three to me, we own it and my theory in life is if you owe money, pay it and I think we have enough evidence that these are accurate and the best evidence we're going to get is that they're accurate and I think we should go ahead and proceed with those three."

Dever stated, "I agreed."

Farmer stated, "Toni, can I ask you a question? On the professional engineering fees, the memo from Dave says that we've got documentation essentially on a couple of different things. RCP says it does not have and therefore cannot provide itemized billing for the legal fees and the professional fees. You had stated that you were in need of more of the itemized billing for the legal fees. I don't know if I ever asked you about the professional fees. Would you like to see itemized billing for the professional fees or is it standard practices for the City to not do that?"

Toni Wheeler stated, "It's my understanding from Chuck that there are projects and even the City has been involved in projects where engineering fees are paid on a flat fee and there is no hourly breakdown of tasks. We have requested documentation that they say doesn't exist. I'm not sure if it's appropriate to ask them to create something that they don't normally produce.

Furthermore, on the professional fees, Chuck's memo did examine them and compare them to what we have authorized in our purchasing policy and they are within that range. Furthermore, I guess the work product is demonstrated by the plans that they professional engineers provided. All of that combined with Chuck's review and confirmation, I believe that is the documentation that is available.

Farmer stated, "Here's where I'm at. I think we need to put something in writing in an ordinance, in a policy because at agenda review, I'd ask Chuck a similar question, is it standard practice for us to not get itemized stuff and he said well, I mean sometimes. I think it would have saved a lot of hassle and trouble if we would have gotten those types of things and so what I would like to see is something in our purchasing policies request upfront that we have itemized billings for engineering fees, professional fees, legal fees, etc... That way there's no question and everything is above reproach. If that's done from the beginning, it doesn't leave the 10 or 20%. In all fairness to this group, we should have put that in the development agreement and we didn't. That's our fault, not theirs. What I would like to do is see us be proactive in putting something in our policies that will proactively deal with these potential issues and perhaps mitigate them in the future so that we don't have to come back here and have a conversation like this again about wanting documentation that we didn't ask for in the beginning when we should have had the foresight to ask for it. Those are my thoughts on that."

Schumm stated, "This is a question for the engineering staff, legal staff. It's my understanding that certain professions just bill a flat fee like architects probably take a certain percent of the whole project. If it's a million dollar project, the architects fees could be between 6% to 8% or 10% of it has a lot of design to it. Is that not a true way that some of the trades to that?"

Chuck Soules, Public Works Director, stated, "Some of the trades do that, but I don't think it's necessarily inappropriate that we couldn't ask for that information. I mean that's

industry standard for some of those trades, but it doesn't mean that we couldn't ask for it because it has got to be there at some point."

Dever stated, "Chuck, remember when we had our discussion about engineering fees, preferential choice and some of the standards? I want to make sure that all the Commissioner understand some of the standards of practice that we follow as it relates to engineering because I wasn't aware of it, at the time, until we brought it up and I was complaining about constantly using the same engineering firm and not seeking competitive bids, not asking for itemized estimates and bids for projects. It's a pretty common question. Why don't you just make it clear to people how things work in the State of Kansas under normal project as it relates to how we pick qualified consultants."

Soules stated, "We select consultants based on qualifications. We're out right now for Request for Qualifications for Kasold. After we select the consultant, based on the qualifications, then we will negotiate the scope and the dollar amount. It doesn't mean that we can't move on if we're not happy with the dollar amount, fee, or the scope. If we can't come to terms we can do that, but typically that would be our standard procedure and that's what are policy says too. We do have guidelines that set out what the maximum fees should be, but there's a lot of details, a lot of technical issues, that's a good question, that aren't contained in those generalizations for percentages. State projects are a little bit hard because there's a lot more paperwork so if they're plus or minus a little bit on what our policy says, we take a look at that and make those recommendations to the Commission based on our experience."

Dever stated, "Again, I was looking for competitive bidding, you told me that's really not how we do things and it's really outside of the professional practices, decorum blah, blah, blah you know that sort of thing as it relates to engineering and those types of practices. You know I'm always looking for the best possible price. I wanted to try to be more competitive and I think you made it clear to me how we operate. You have guidelines as far as percentage of projects go. You supplied 4 examples of percentage of projects in this memo. You had a 9, 7, 5, and

9% of the construction cost which it averages 7.5% of the project costs is the average engineering costs associated with the examples you gave us in this memo. The engineering fees for Rock Chalk Park for the infrastructure amounted to .054% which is 4/10% higher than the lowest, but 2% lower than the average. I guess what I'm asking is, the original estimates for this seem in line with what you're policy is. I was looking for itemized documentation so that we can be consistent with the professional fees. I was requesting and demanding it. From what I hear, that wasn't how it was negotiated. Is it common for you to be able to be provided this documentation subsequent to a contract and subsequent to the work? Is it normal? Have you ever asked for all their hourly rates and all their timesheets for this kind of work?

Soules stated, "That's going to work through the scope. That's when we would get that."

Dever stated, "On the front end, but I'm talking about the back end. Have you ever gone through and said, hey, we want to see how you arrived at this number?"

Soules stated, "No, because if we want it on the front end we would have usually got it on the front end."

Dever asked, "How often do you ask for it on the front end, an itemized list of the engineering costs?"

Soules stated, "Most of our projects run that way because we're dealing with engineering type projects. It would be more so, on the architectural side."

Dever stated, "But those numbers usually fall within the range that I just stated between 5% and 9% is what you're seeing."

Soules stated, "Yes."

Dever stated, "Okay, so even if we went through and itemized and you provide it, would you say that this number is reasonable? I guess after looking at the notes that I received, I'm not sure if by withholding this money, which was what I was proposing before, but now I see where our numbers are at and I don't see what justification we have for withholding it if it's actually the average has been 7.5% of our City projects and this one comes in at 5.4%. If it was

exceeding this standard then that's a red flag, but I guess I'm trying to figure out how we justify withholding payment and asking for an itemized bill after-the-fact. I'm with Jeremy, in all future projects I think we should demand an itemized estimate so that we can compare actual costs, after the project, if there's any questions."

Soules stated, "The percentage is well within our guidelines."

Dever stated, "Well it's even on the low end of our guidelines. I think it needs to be stated after the 4 projects you showed me within the last 18 months."

Schumm stated, "It's very close to the original estimate that was made in the development agreement. That's where everybody sat down and said here's what we think it's going to cost, so it's within \$20,000 of that number, so it's not way out of balance. I'm sure that engineering things crept up during the design of it that would require more time or more overhead for the engineering firms. I think that's a pretty close estimate if you estimated \$525,000 and it comes out \$555,000 of which we're not going to pay all that anyway because we cap out. It's a matter of beating this to death one more time."

Dever stated, "I originally wanted to withhold payment on engineering. I want to make sure it was clear that that was my rationale when I got these documents. I looked at them during the break and didn't see any reason to withholding it any longer."

Amyx stated, "On the interest that we're being asked to pay on the loan interest on the project on the infrastructure part of that we have left outstanding. The question that I have is the interest that was derived, you and I talked about on page 2 of Dave's recommendation and it talks about how we derived at the figure of the \$341,000 for the interest that is to be paid, the question that I have is that one of the reasons that I believe that the audit and an auditor coming in and being able to review all of this information, my particular belief here is because there's a KU portion out there, there's the rec center portion, there is the portion of the infrastructure that is there. I just want to make sure, do we have information that is significant based on everything you've seen in being able to make the determination that that interest for those loans for the

infrastructure on just what we were required to pay, and that's my concern, or is it just to be able to come under to fit the figures for the cap amount that we have is the agreement on the development agreement."

Wheeler stated, "The City relied on the documentation that RCP provide when we asked for justification on the loan interest payments. The KU Endowment Association provided a letter and some documentation from Emprise Bank that said that those documents demonstrated that the loan interest payments were for the City's portion of the infrastructure project. The Emprise document's doesn't have a column for a loan for any work that Bliss may have done for the Athletic Department and then the City infrastructure is separate. It is sort of a blended document as far as I can tell. That is why when the City Manager and I was reviewing it, we recommended that the interest payment be calculated based on the City's cap for the infrastructure which was lower than the amount that they had requested payment for. We also backed out expenses that were on the Emprise Bank Statement that were incurred before the City and RCP had executed the development agreement for the infrastructure. So it was our attempt to take the documentation that we have been provided and pay the amount that would be appropriate for the City's portion of the infrastructure payment.

Amyx stated, "You and I had talked earlier. Also, that final draw was done in the May timeframe and that the bill was not presented until September. That interest there, which was 40 plus thousand dollars, is that still in the amount or has that been removed?

Wheeler stated, "The documentation was provided in September because that is when they certified that the project was complete. It is my understanding and I'll have to go back and recalculate, but it's my understanding that those later interest payments are not included."

Amyx asked, "They are not?"

Wheeler stated, "They are not included."

Amyx stated, "It just seems to me if there is question on the interest that's paid, why would we pay it this evening? That's my particular belief."

Wheeler stated, "We'll take the Commission's direction."

Riordan stated, "Just one last statement and that is, I think Toni made some good statements about the fact that the legal fees appear to be appropriate, that the documentation that they do have seems to support that and under a regular situation that would be okay, but this is not your regular situation, this is a unique situation and I think we need to go beyond what we would typically do to show that and for that reason, even though I respect her recommendations, that would be fine on a regular item that we were looking at, it's not okay for here and I think we need to go further in documenting better with the actual information from the lawyers about their billing practices that they had."

Amyx stated, "At the meetings that we had early on several weeks ago right before the holiday, we were given the authority that we can go to the office with our Auditor to investigate those legal fees."

Amyx called for public comment on the payments. None.

Schumm stated, "Just to point out if we pay the loan origination fee, the loan interest, and the professional engineering fees, that will cap us out."

Corliss stated, "The City is obligated to pay up to another \$1,092,970.77. That's my understanding?"

Schumm stated, "The loan origination fee and professional will put you at a little over a million and then the loan origination fee will be \$1,100,000 which will put you over the cap."

Wheeler stated, "The loan origination that was recommended in December 2nd memo was \$158,000, a little bit more. The loan interest is an adjusted amount, based on that calculation that I explained earlier which I believe \$341,746."

Schumm stated, "I was using \$449,000."

Wheeler stated, "That was the request, but we wouldn't recommend paying that, rather paying the adjusted amount, based on the lower principle on our infrastructure payment and the

professional fees at \$555,198 for a total of \$1,055,588.52 that leaves exactly \$37,382.25 before we reach the cap and legal fees are not paid.

Amyx stated, "There's two different items. One is hire the recommended auditor, McDonald and Associates as recommended by the City Auditor and negotiate a scope of service and maximum amount of payment for the date of approximately February 17th as recommended. The second part would be to pay the fees as outlined in the City Manager's December 2nd memo. I would suggest that we do these individually.

Dever stated, "So we need to have a motion to authorize a construction audit review of Rock Chalk Park infrastructure with an extended date of February 17th, or that which is arrived at mutually between Michael Eglinski and the auditing firm which is somewhere in between that date of what we originally estimated. I would like to give him flexibility and the sooner the better, without rushing them."

Amyx asked, "Do you want to include a maximum payment amount?"

Dever stated, "\$20,000 based on the original estimate in the short time period.

Amyx stated, "Plus the cost of travel and those types of things."

Dever stated, "Correct."

Moved by Dever, seconded by Riordan, to approve the recommendation of the City Auditor to McDonald and Associates, with the next step of negotiating an agreement for the audit of Rock Chalk Park, to include infrastructure payments, infrastructure portion of the project and to extend the final date to approximately February 17 for the fee not to exceed \$20,000, plus travel and out of pocket costs. Motion carried unanimously.

Moved by Dever, seconded by Schumm, to authorize payment to RCP, LLC for a revised loan origination, loan interest costs and professional engineering fees per the Rock Chalk Park Development in the amount of \$1,055,588.52. (Final check claim would be paid on January 13, 2015 agenda).

Farmer stated, "The only thing that I would say that will make me go along with this is if we direct staff to put something on our agenda at a later point stating that we request itemized billing upfront for any future projects related to architecture engineering fees etc... so that we're not back here having this conversation again about the next project.

Dever stated, "I would amend my motion to include that request."

Schumm stated, "I would amend my second to include that request."

Amyx stated, "Vice Mayor, I believe that is very good language, but understand, I don't believe we ought to be paying those, even with the attachment.

Moved by Dever, seconded by Schumm, to authorize payment to RCP, LLC for a revised loan origination, loan interest costs and professional engineering fees per the Rock Chalk Park Development in the amount of \$1,055,588.52. (Final check claim would be paid on January 13, 2015 agenda); and, direct staff to place on a future agenda that the City Commission requests itemized billing upfront for any future projects related to architecture engineering fees . Aye: Dever, Farmer, Riordan and Schumm. Nay: Amyx. Motion carried.

Corliss stated, "That check will then be on your claims next Tuesday."

Schumm stated, "I would recommend that we do not put it on claims, we put it on as a regular agenda item in case someone wants to come down.

Corliss stated, "Let's do that."

Amyx stated, "That check will be place on the regular claims next week."

Corliss stated, "It will be a claim that were having, it will be paid on the regular agenda."

E. PUBLIC COMMENT:

Town Peterson, Professor at KU, stated, "Normally I do this sort of stuff with biology, but I do quite a bit of geographic analysis in the course of my work. You'll recall discussion a few weeks ago that was beginning to explore an alternative site for a downtown grocery store. I got to thinking about what the two sites that had been discussed might mean in terms of achieving the goals of providing quality grocery store service to different sectors of our community that are

currently not provide. This was referring to the food desert status that I'm sure none of us is proud of for actually right here. So essentially what I did was I went into the USDA's sites and I took advantage of some GIS data that the City of Lawrence provides and I put together a bit of analysis. I can provide this to you all if you're interested, but essentially I'll walk you through about 5 slides."

He walked the City Commission through those slides (see the City Commission meeting video on the City's website)

Peterson stated, "Existing grocery stores serve about half of Lawrence's people if you use the one mile radius. The Borders location does quite a bit better job of reaching North Lawrence, both based on the one mile radius criterion and the 3 minute drive criterion. I suspect you'll then turn around and ask me, does this get us off the food desert list and the answer is that it's hard to tell because the USDA has been experimenting with a whole series of new criteria. Not only will the population data change obviously, but what we're clearly going to see is they're playing with a half mile radius. They're playing with a mixture of poverty and population so it's very hard to replicate. I was a bit disappointed that I couldn't follow their formulas exactly because they basically haven't made them available.

Amyx stated, "Tom, you did say you would share the information with us that would be great. Also, I wanted to thank you, I know you had asked and David asked about presenting that to us this evening because you're going to be gone here shortly and I appreciate you being able to bringing that in and sharing that with us.

Peterson stated, "My pleasure."

Joshua Montgomery, Owner/Operator Wicked Broadband, stated, "I just wanted to stop in and ask about the progress on our economic development request. The Pitch had done a really nice article this past week about our project. It kind of detailed things and as a result, I was reading back through Chad's coverage of the project and a number of different stories indicating a decision would be made in October and then November and then December. We

talked about it three weeks ago and indicated that we would be on the agenda here on the 13th. I got some correspondence today that calls that into question as well so are we talking about February as a decision timeline. I got a lot of concerns.

Amyx stated, "You're actually on my list to bring up under Commission Items as we talk about future agenda items also. Stick around and we'll get you an answer real quick, okay?"

F. FUTURE AGENDA ITEMS:

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

Corliss stated, "On Joshua's question, Diane did send an email where she had been in correspondence with Joann Havas, a consultant that we have used in the past and it looks like she should be able to get something by January 20th is what Diane indicated. She said Ms. Havas had illness and holiday issues, but I know she's working on the questions that you've asked the consultant to look at. That's information that I have."

Amyx stated, "I think we can go ahead and put this item on the agenda, don't you? Was the information critical that we need it at this point to make a decision on Mr. Montgomery's request?"

Corliss stated, "It was going to be her views on the common carrier."

Dever stated, "Part of it was related to the common carrier idea which is directly related to Joshua's request."

Amyx stated, "That's true, I forgot about that part. So we can have it by the 20th? Joshua, when are you leaving?"

Montgomery stated, "I don't, but if we can get a firm date and nail it down, I'd be amenable to doing it in January, early February. I just want to make sure we nail a date down."

Amyx asked, "She can give us information by the 20th."

Corliss stated, "Diane asked her to confirm that she could have something to us on the 20th, and that us getting the report on the 20th. It's not enough time."

Amyx stated, "We can either do it the 27th or the following week or February 3rd."

Joshua stated, "We can do it at the 27th and set the policy as the first agenda item and the economic development request as the 2nd agenda item and get a vote up, down, one way or the other. That allows us to move on."

Corliss stated, "If that's your direction we'll tell the consultant that we have to have it by then."

Amyx stated, "Let's to do that."

G: COMMISSION ITEMS:

Schumm stated, "I've got one little itty bitty thing here called Sports Pavilion Lawrence. You got an email from Dave Corliss about the attendance and the number of people that had signed up. We now have over 13,000 citizens that belong and have a key that allows them to use the facility. An interesting statistic is that the 44 zip code is the second largest group of people that's using the facility and that there's a 74 to 57 women over men that are using it. The other thing that's interesting to me is the average age is 40.52 so it's not all kids; it's a lot of adults that are out there using it. I was out there Saturday and Sunday, I just had to see the two different tournaments. On Saturday they had 80 volleyball teams and it was very loud in there because there were teenage girls who get into their volleyball. In addition to that there was soccer being played. There was some sandlot basketball and the whole thing was just filled with people. It was really amazing. I tried to visit out there several times and staff seems like they had it very well organized. It looks like it is being run very well. Comments from people are saying their very happy with the facility and how it's working out. I think those numbers are great. There almost overwhelming. I guess those people that all lined up and testified, said there was a great need for this were right. That's the bottom line of this. We heard from lots and lots people that were way behind our recreational facilities and that's proving it to me, the number of people who are signed up using it. Thank you to all the parks and recreation staff."

Dever asked, "Is it like the average of 59,000 visits a month or something like that?"

Farmer stated, "It's 62,000 in December and 63,000 in November."

Schumm stated, "Probably in December, you're closed a day or two for the holidays. That's a lot of people."

Corliss stated, "That's attendance. Almost the entire parking lot was full on Saturday."

H: CALENDAR:

David Corliss, City Manager, reviewed calendar items

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Schumm, seconded by Dever , to adjourn at 9:12 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON FEBRUARY 10, 2015.


Diane M. Trybom (City Clerk)