



# City of Lawrence

CITY COMMISSION

MAYOR  
MIKE AMYX

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

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March 10, 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: None**

1. Proclaimed Tuesday, March 17, 2015, for the day of the City of Lawrence's Twenty Eighth Annual St. Patrick's Day Parade.
2. Proclaimed the City of Lawrence, Kansas a Fair Trade Town USA.

**B. CONSENT AGENDA**

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

1. Received minutes from various boards and commissions:
  - Building Code Board of Appeals meeting of 02/12/15
  - Community Development Advisory Committee meeting of 02/12/15
  - Lawrence Cultural Arts Commission meeting of 12/10/14, 12/29/14, and 01/18/15
  - Parks and Recreation Advisory Board meeting of 02/10/15
  - Planning Commission meeting of 01/26/15
2. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 173 vendors in the amount of \$4,227,822.01 and payroll from February 22, 2015 to March 7, 2015, in the amount of \$1,976,559.92.
3. Approved licenses as recommended by the City Clerk's Office.

**Drinking Establishment**

SpringHill Suites Lawrence  
BCL ABC-KS LLC  
1 Riverfront Plaza

**Expiration**

New License

**Retail Liquor**

Jayhawk Liquor & Spirits  
Jayhawk Liquor & Spirits LLC  
701 W 9<sup>th</sup> St.

New License



**Cereal Malt Beverage – Off Premise**

Haskell Food Mart  
Hirenkumar Patel  
1900 Haskell Ave

New License

**Street Vendor License**

Torched Goodness  
Julia Ireland  
NE Corner of 7<sup>th</sup> & Massachusetts St.

New License

4. Approved appointments as recommended by the Mayor.

**9<sup>th</sup> Street Corridor Citizen Advisory Committee:**

Burdett Loomis, Marcia Hill, and Tom Larkin.

**Cultural Planning Steering Committee:**

Sarah Oatsvall, Kate Dineen, and Bob McWilliams.

5. Bid and purchase items:
- a) Set a bid date of March 24, 2015, for Bid No. B1518, Project No. PW1513 – 2015 Overlay, Patch, and Microsurfacing Program.
  - b) Set a bid date of March 31, 2015, for Bid No. B1517, Project No. UT1428 – 10<sup>th</sup> Street and New York Street Watermain Relocation.
  - c) Awarded the bid for two (2) rear load refuse body trucks for the Solid Waste Division to the low bidder, Downing Sales and Service, for a total of \$190,532.
  - d) Awarded the construction contract for Bid No. B1501, Project No. UT1416 - Kaw and Clinton Water Treatment Plants Roof Replacement, to low bidder, Diamond Everley Roofing Contractors, for the base bid in the amount of \$297,180, and authorized the City Manager to execute the construction contract.
  - e) Awarded the bid for one (1) half ton 4 x 4 truck for the Parks and Recreation Department, to the low bidder, Laird Noller Ford, for \$21,854.
  - f) Awarded the bid for two (2) half ton 2 X 4 trucks for the Parks and Recreation Department, to the low bidder, Laird Noller Ford, for \$40,780.
6. Adopted on first reading, Ordinance No. 9090, prohibiting the possession of glass bottles and other glass containers in the downtown district during specified hours.
7. Adopted on second and final reading, Ordinance No. 9087, establishing No Parking along both sides of George Williams Way from 6<sup>th</sup> Street, north to its end; and along the north side of Rock Chalk Drive from George Williams Way, west to the City Limits.
8. Approved a Special Use Permit, SUP-14-00488, for Precious One's Learning Center, located at 1100 Kasold Drive. The proposal includes four (4) pre-school classrooms accommodating approximately 50 children on weekdays. Submitted by Precious One's Learning Center, for Christ Community Church, property owner of record. Adopted on

first reading, Ordinance No. 9089, for a Special Use Permit (SUP-14-00488) for Precious One's Learning Center, located at 1100 Kasold Drive. (PC Item 2; approved 8-0 on 2/23/15)

9. Approved a Text Amendment, TA-14-00535, to the City of Lawrence Land Development Code to add a *Use* that provides incubator space for business/entrepreneurial collaboration and prototyping. Adopted on first reading, Ordinance No. 9091, for Text Amendment (TA-14-00535) to the City of Lawrence Land Development Code to add a *Use* that provides incubator space for business/entrepreneurial collaboration and prototyping. *Initiated by Planning Commission on 11/17/14.* (PC Item 4; approved 8-0 on 2/23/15)
10. Authorized staff to submit grant applications for the restoration of the receiving/holding vault at Oak Hill Cemetery and for the documentation of Oak Hill Cemetery using in-kind matching including staff salaries.
11. Approved a street event permit for the 2015 Lawrence St. Patrick's Day Parade to close various streets downtown on Tuesday March 17, 2015 from 9:00 a.m. to 3:00 p.m., for the 2015 St. Patrick's Day Parade.
12. Authorized staff to request that the Kansas Department of Transportation develop an Exchange Agreement for FFY 2015, enabling the City to exchange federal funds at ninety percent (90%) for state transportation funds.
13. Authorized the City Manager to sign an agreement with Christine Harris Connections and Creative Community Builders to complete a city-wide cultural plan for Lawrence.

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

**Moved by Schumm, seconded Farmer,** to approve non-Rock Chalk Park related claims to 169 vendors in the amount of \$4,212,881.71; and payroll from February 22, 2015 to March 7, 2015, in the amount of \$1,976,559.92. Motion carried unanimously.

Schumm asked, "Are these vendor items on-going supplies that we're buying or is this still from the original construction?"

David Corliss, City Manager, stated, "It's a mix. For example, one of the things we're doing at SPL is compost recycling which is not something that we're otherwise geared to do so we have a contract with Missouri Organic Recycling. That's not a joke, that's the name of the company, and we pay them \$128 a month to come out and pickup stuff so that's on-going. Some of the items such as some additional chairs, you're familiar with what we believe is a success of the site so we had to add some more chairs. That's probably more one time. Break

room supplies, it's the coffee and the office area that's probably a continuing expense and the Plug and Play is how we go ahead and pay certain things on line so that's probably a continuing expense. Commissioners, it's probably a mix of on-going expenses and some one-time items. There are obviously on-going expenses that you see."

Schumm asked, "Does that roll into the regular kind of expenditures once the capital items are all paid for? I mean like, we don't break out the swimming pool."

Corliss stated, "No, we've been asked to break these expenses out. That's what we're doing. Some of them are on-going type operating expenses and some of them have been outfitting the facility all following our purchasing policy as to how we acquire these different items."

Farmer stated, "You were the one that asked to have them removed, so do you want on-going operating expenses still separated?"

Amyx stated, "I guess. One of the things that I would have is once that, just to be honest with you, probably my point has been made and once we make the final payment, whenever that may be, I may just ask to have these put into the regular claims so that we don't have to do that. If I do find something that I think I can't quite support, I'll probably pull those out. Fair enough? I know this slows us down."

Schumm stated, "I really didn't know if it was construction stuff or not."

Amyx stated, "The City Manager and I talked about this last week and same kind of deal. I appreciate that."

**Moved by Schumm, seconded by Farmer,** to approve Rock Chalk Park related claims to 4 vendors in the amount of \$14,940.30. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

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

David Corliss, City Manager, presented the report regarding the Public Works 7<sup>th</sup> Annual Engineering Stakeholders meeting; upcoming events and services hosted by the Solid Waste

Division; large value replacement, 10<sup>th</sup>/Kentucky – UT1405; Avalon Road waterline replacement traffic control and 9<sup>th</sup> Street closure; Department of Utilities to publish annual update to standards and details; Boys and Girls Club utilize Sports Pavilion Lawrence; and, 2014 residential lot inventory.

**C. REGULAR AGENDA ITEMS:**

1. **Conducted public hearing to consider the vacation of a public access easement at 1301 West 24<sup>th</sup> Street as requested by property owner Collegium KU 1301, LLC.**

David Cronin, City Engineer, presented the staff report.

Mayor Amyx opened the public hearing and called for public comment.

**Moved by Dever, seconded by Schumm,** to close the public hearing

**Moved by Farmer, seconded by Schumm,** to approve the vacation of a public access easement at 1301 West 24<sup>th</sup> Street. Motion carried unanimously.

2. **Considered adopting on first reading, Ordinance No. 9092, amending section 6-108.17, repealing existing Chapter VI, Article 6, and enacting in its place Chapter VI, Article 6 of the Code of the City of Lawrence, Kansas, 2015 Edition and amendments thereto, pertaining to taxicabs businesses and taxicab vehicles.**

Brandon McGuire, Assistant to the City Manager, presented the staff report.

Schumm asked, “Who would inspect the taxi meters?”

McGuire asked, “Under the proposed code?”

Schumm stated, “On the lower right hand side it says ‘police no longer responsible for inspecting taxi meters.’”

McGuire stated, “We didn’t include an inspection requirement. It would be a complaint driven requirement if somebody felt they were being shorted or cheated and they filed a complaint and then we would follow-up.”

Schumm stated, “Seems like the lack of definition we’ll end up trying to figure out who’s responsible for it.”

Corliss stated, "It would be our recommendation that we do not inspect them. We're not really staffed or housed. I'm not sure exactly how that would fit in. If you direct us to, we will. We would probably just tell the police department to do something on a certain basis."

Schumm asked "Is there an independent company that certifies meters and things like that?"

Corliss stated, "I'm sure there could be."

Schumm asked, "If you get a complaint how are you going to adjudicate it?"

McGuire stated, "So, a taxi meter, when it's installed, and the technical experts correct me if I'm wrong, has a seal on it and if it's tampered with then that seal would be broken. So, if we did have a complaint that we followed up on, it would be clear that it had been opened up and tampered with. One other point on that, I think there's only one company that uses taxi meters right now. Lawrence is geographically sized such that it doesn't make a lot of sense to use taxi meter. I think they were used more for companies that make runs to Kansas City, to the airport, that sort of thing, but the others it seems like there is a flat fare around the \$10 range, by all of our taxi operators and a lot of them use digital technology now for credit card payments and that sort of thing."

Riordan stated, "I just want to make two points clear. One, it says the applicant should have a background check. It wasn't totally clear to me that you went through it but it sounded like it. Would each employee have a background check too?"

McGuire stated, "We would not conduct background checks on employees. That's not our recommendation because we're not recommending that we get in the business of regulating taxicab drives and employees of taxicab companies. The taxicab companies that do currently have employees conduct those background checks on their own. The requirements, as proposed, would that anyone applying for a taxicab business license, which there are currently 8 taxicab business operators, so all of those individuals would undergo the background check as part of their business license application."

Riordan stated, "That concerns me. The second thing is that I rent a limousine here in Lawrence, a motorized vehicle that is for hire that carries passengers, party buses that park next to me that has 40 students in it. As a motorized vehicle that is for hire that carries those people around, those are taxicabs, by this definition in my opinion. I'd like a legal opinion, but it sounds like that definition is awfully loose to me."

Amyx stated, "We'll get an answer to that in a second. Terry, a question on what you just asked, you're concern about the employees?"

Riordan stated, "No, we're here to have safety of the public. You get into a taxicab thinking that it's going to be safe but there no surety that the person who's driving didn't have a DUI within the past 2 years. There's no security that if you put your child in a car that that's not a child molester, or your adolescent girl, or your daughter that's going to KU does not have somebody who is having things driven by people that might have that. The companies might make this something that's important but I'd like to hear how we, as a City, are protecting those passengers who think they're being protected and maybe in large cities that doesn't happen either, I don't know. I get into cabs in New York City and I'm more feared of my life on how they drive than who they are. I just would like to ask that question to get an answer either by the taxicab drives or by staff because we're here to protect the citizens and this is something that I think is a quasi whether we're actually doing that or not."

Randy Larkin, Senior City Attorney, stated, "Regarding limousines, they would fit under the definition. I don't know if they aren't exempted out. I don't know if it was our intention to license limousines but they would fit under that definition as it is. Regarding the taxicab drivers we could definitely license taxicab drivers, the decision was to license the business owner or the permit holder and then make them responsible for the people that drive the vehicles just for the purposes of so we weren't licensing everything and we had limited resources. That was the thought process behind that but that could definitely be done."

Riordan stated, "I don't see any reason why the City would have to do it. I'm just saying that I would like those people to be vetted that they're safe and maybe that's what they do and this is just a new question but I'd just like that answered. Now, a party bus would also be unless he's Fred Flintstone. That's a motorized vehicle for hire to carry passengers."

Larkin stated there are certain federal regulations that that would fall under and I don't know if that would meet taxicab for the purposes of this definition. There are certain federal regulations governing large vehicles that have certain things and they're under a different regulation that's not really a part of this."

Riordan asked, "Is that a motorized vehicle?"

Larkin stated, "It is."

Riordan asked, "Is that carrying passengers?"

Larkin stated, "Yes it is."

Riordan stated, "It's for hire so therefore it's under the taxicab."

Larkin stated, "I think we're pre-empted from doing certain things with it, under the federal regulations."

Riordan stated, "Thank you Randy."

Corliss stated, "If that is the case, I would certainly defer to Randy's legal knowledge on this. We might want to make an express statement so that all of the readers don't have to know about the federal pre-emption rules. We can just say these large vehicles are not covered."

Riordan stated, "Yes, I think we should have something in the regulations."

Larkin stated, "If we wanted to exempt out limousines for example, we can add that or if we want to leave them in, that can be done as well."

Riordan stated, "It's not a big point but I think it's an important point."

McGuire stated, "I did, also, just want to thank our taxicab companies because they were very helpful through this process with us."

Mayor Amyx called for public comment.



Tim Riling, Attorney representing Ground Transportation stated, "Brian Sorenson asked me to come before you with comments. He participated in that meeting and Jayhawk, who I don't represent, but I know they're here as well and they're represented by their owner. When Brian started his business, Ground Transportation, the City Code that existed, 6-605, which talks about that the Commission's responsibility with respect to taxicabs, and as Commissioner Riordan points out, the most dangerous thing we do every day is get in a car. That's just a common thing that we do but in this particular service business unlike my service business and other service businesses we have, people are hired and being paid to hopefully drive safely, little children, people in the community and that's part of the basis for the regulatory scheme here. One of the things in taking into consideration his business, which he's made a financial commitment to and strive to try to do what the code has said, is to have a situation where he makes a financial commitment based on the existing code which talks about the Commissioner's looking into and investigating whether there is a need for more taxicab service in this town and basically relied on the language of 6-605 which says you're supposed to take into consideration the system of transportation already operating, the probable congestion or traffic of additional basic taxicabs and the question of whether or not the existing systems of transportations are rendering the service required to meet the needs of the public and basically all the fact. What I see today, is that language is basically going to be taken completely out. I just point that out in the sense that in some respect, some of these cab companies, including my client, were relying on the present code provision in investing in these companies. One of the things, as I said, in this service industry is the concern that Brian and other taxicab companies have is, and I looked at other taxicab codes. I've looked at Wichita, looked at Topeka, looking at Kansas City is a very difficult thing to do because the water is muddied in the sense that, if you talk to Overland Park, they say our cab companies are regulated based on if they're picked up at Overland Park. If they're driving them to Mission, that's a different story. So you got regulatory schemes all over the place because as we all know that Mission, Overland Park,

Olathe, all kind of blend in. A lot of time people don't even know what community they're in until they're in it, and sometimes they don't even know that they're in it. I didn't even look too closely at those but I did look at places like Manhattan which is somewhat similar the population of Lawrence although smaller, looked at Topeka and Wichita. One of things that Brian would like you to consider and Ground Transportation would like you to consider is adding some additional requirements and those requirements are; require them to have a commercial place of business. So, why would that be important? I'll explain that. Also, to add a situation where you have to have a number of taxicabs, you just can't have one taxi. His consideration would be that you require at least 2 or 3, whatever you think is appropriate. Other communities like Wichita, I will tell you, and obviously we know Wichita is bigger than Lawrence, and Topeka is bigger than Lawrence, but they have requirements that you have a central location, they have requirements that you have a certain number of taxicabs. Topeka requires at least 8 cabs, and I know it's bigger so we're not pretending to be Topeka, but Wichita requires at least 10 cabs. I think it goes back to the reason why these codes exist is not to stifle competition but it's to make sure that the people that are providing the service are serious about it and they're going to be accountable for it. Accountability is a big thing and I do that all the time. In my business I probably spend about 25% of my practice dealing with auto related either accidents or issues, DUI's, those types of issues. The concern that I would have, just as a citizen, in representing people, is if you allow just one person that has a car, a cell phone and a house to operate a taxi business, that basically is everybody and the financial commitment isn't there and the problem I see and I've run into this in my businesses, there is insurance coverage, sure there is, but if you can't find these folks, that insurance company is going to say null and void, they're not going to honor them. Every insurance policy that I've ever seen requires cooperation from the owner and if the person is a fly-by-night and they're operating one cab and this is somewhat of a transient community in some respects and they're gone, then how do you protect the residents of the City. Part of what we're asking you to consider here is based on having some kind of

reliable legitimate business that will be responsible for claims that occur from this business. As I said, it's a very dangerous thing that we do every day. The insurance requirement as it exists is a good change. I did see one thing in terms of, I think it was the City of Wichita, instead of insurance requirement, if you can prove that you have assets that meet what you think is appropriate, like \$300,000 if that's the coverage. If you as a business owner can show you have \$300,000 worth of assets at the time, then the insurance coverage at least in that provision you can operate without insurance. That's totally up to you, but that's a consideration that I would like you to at least give some thought to. Requiring just an address in an apartment is really something that I think the business feels strong about. That having a commercial business where a consumer or a resident of this community can go to and if there's a complaint that they have and a lot of, I know Wichita requires it and other communities require that, Wichita requires a central place that business opens and staffed a minimum of 8 hours a day, 5 days a week and this code as you said, has been changed recently so that's a situation where they've recognized that there needs to be some kind of central place. They also have a dispatch system that's required."

Amyx asked, "Excuse me, do you have a lot more."

Riling stated, "I'm an attorney, I always have a lot more."

Amyx stated, "That was as polite as I could ask."

Riling stated, "Toni will tell you if I say I only have one thing more to say, that means I've got three more things to say. Can you give me 1 more minute?"

Amyx stated, "Okay."

Riling stated, "One of the other things that I notice in the appeal process, and I think this is an important thing, is there's no provision for an appeal fee, if somebody wants to appeal the denial. The other thing I think is really important is what as you as a Commission, because it's going to come to you, if the City Clerk says, this person is denied. It's going to come to you as a Commission and you're going to review it, almost like an appellate board, but there's no

discussion in the code about under which you operate in terms of the parameters of what you review. I think just as a lawyer, that's important for you to consider. What are your parameters? Are you supposed to just look and make sure that the City Clerk, acted within the City Code, or do you just have fiat power to do whatever you want. I don't know. The other thing that I'll pick up on the criminal background and I raise this with Randy, and I looked at other codes and they do not allow this, if you've had a diversion on a criminal act, especially DUI, you are not allowed to operate a taxi, if you've gone through a diversion and that's something that is ambiguous that I see here because that's spelled out one way or the other, I think that would be important for you to address as to whether you want to include that, but certainly it wouldn't take that much to say, 'If you got a diversion that doesn't count as a conviction, it you do, it does.' You can even say do you have a diversion on the DUI. I can tell you as a DUI attorney, diversion count as a second conviction if you get in front of a judge again. It is considered to be a conviction for that type of purpose. So I think that's another thing that you would look at. One other thing that Brian has run into is cruising. It's prohibited in Manhattan and it should be prohibited in Lawrence, cruising is not allowed. In other words, he's running into situations where people get their one car and they hang out at various places, I won't mention, but they're downtown or late at night and they just basically try to get business and that is prohibited in Manhattan and I think it should be prohibited in Lawrence."

Schumm asked, "Why is cruising prohibited in Manhattan, in 25 words or less?"

Riling stated, "I don't know, I haven't talked to them, I just found that out today, but I think that they don't want just like lawyers, they don't want lawyers going around trying to get business, I can't go out and get business. I'm just speculating, but maybe some traffic concerns, especially if it's downtown."

Brian Sorrenson, owner of Ground Transportation, "A lot of times we'll get called to a bar to pick up somebody and by the time we've gotten our taxi dispatched there's been another cab that came through their and picked up our fare. We were called there to pick up a certain person

and another cab would come and show up and they'd just see a taxi and they'd run out there and jump in there. We've lost a lot of customers due to that fact that they're just going from one bar to the other just picking people up. There's a taxi stand downtown, we use it regularly, at 9<sup>th</sup> and Mass and then we get calls and we'll pick up a fare once in a while, you'll hail a cab downtown, but it's pretty rare in this town. That's done in larger cities. A lot of college students will still think they come from Chicago or New York, but they do hail a cab, but it's not as common here, most of the time they're called out to a fare for somewhere."

Schumm asked, "How many cabs do you have?"

Sorrenson stated, "I have 9."

Schumm asked, "How many are in service."

Sorrenson stated, "I have 6 of them in service and then I'll usually put a 7<sup>th</sup> one on, on a Friday or Saturday night, so I use about 7."

Riordan asked, "How do you vet your people that they haven't had any type of criminal background, they have a DUI, things like that? What do you do?"

Sorrenson stated, "I do private investigating work as well so I have access to do background check and stuff myself. I check all my guys out pretty regularly, plus I'm in very close contact with them. I just recently installed cameras in all my taxicabs which I think is a plus for the safety of the passengers as well. Brandon and I just talked last week about somebody in Wichita that someone had gotten raped in a vehicle or a taxi driver was accused of it or whatever and I really believe these cameras will help with that for the safety of the customer as well as the drivers. I think you guys were kind of geared on safety and I think this is another step that we can do to help with the safety of the passengers as well."

Riordan asked, "Would you have problem if we required background checks on everybody."

Sorrenson stated, "No, I wouldn't."

Rob Tabor, President of the Jayhawk Chapter of the National Federation of the Blind, stated, "With me is my good friend and colleague Bob Mikesic, Co-Director of Independence Incorporated and he would like to address you all on this ordinance as well. By the way, I am an attorney by training, but don't hold that against me, I think I can confine my comments to 3 minutes, give or take, that's what we do as a lawyer. While I do think that this is an excellent idea of updating the taxicab ordinance and I certainly want to congratulate Mr. McGuire for an excellent piece of work on that project. I studied the memo and it's quite detailed and quite impressive, however one of the things that are not addressed is ensuring that the taxi operator is providing full and non-discriminatory services to passengers with disabilities. All passengers of course are an important stakeholder in this matter, but those with disabilities as well. We heard Mr. McGuire say that this is an ordinance that dates back to 1957 so a lot of things have happened since, one of them being the American's With Disabilities Act. We have a guidance document that is available for the approval of Commissioners, staff, any stakeholder that wants to look at it. I think it's very helpful and very informative. One of the things that we would like to see addressed is a requirement for disability related training to be provided for taxi operators and drivers. This is one of the essential pieces to ensure compliance with the ADA and other non-discriminatory statutes based on disability. Independence Inc. and the NFB, we can assure you, can certainly and would be happy to bring resources to bear to provide or otherwise assist with such a training process and we're certainly willing and eager to do that. Another consideration would be, let's say that you have, if a taxi cab operator installs a taximeter and lot of those in Lawrence do not because if you have a flat rated fare schedule obviously you don't need a taximeter, but I got to experience a talking meter in a recent trip I took to Washington DC and it was very good to have the assurance of having independent verification at the end of my trip as to what the fare would be. It was nice to have that verification other than just having to depend on the driver to tell you how much you owe. I think those would be good considerations and it sounds like there are a number of concerns tonight and I think my basic request would be

that instead of taking action on this tonight, I'd like to see the Commission defer action on this ordinance and at least look at some additional language that could be just incorporation by reference or things like this, but anyway, I will defer now to Mr. Mikesic and I think he has some other pieces regarding physical disabilities that he would like to address you all."

Bob Mikesic, Co-Director of Independence Incorporated, stated, "I apologize for coming into this so late. Rob and I just found out about it yesterday otherwise we would have communicated long before now. So we would like to encourage the City to take a similar approach that they took when they amended Chapter 10 to be substantially equivalent to the Americans with Disabilities Act in the area of employment and public accommodations that privately owned places of public accommodation. To make it easier for businesses to know how to comply by having local, state and federal law provide the same requirements and since the license would be issued at the local level, it would be an opportunity to conform to all requirements on all levels, it's like when you get a building permit, if the City requires and they do reference the current ADA standards for accessibility, then the person's assured that there would be compliance on all levels. Appendix D to the 49 CFR, Part 37, transportation regulations of the ADA, it does state that every transportation provider who serve people with disabilities must have been trained so they know how to provide services in a safe way and safe operation of the vehicle, and the people with various types of disabilities are properly assisted for example, loading a chair in the trunk, how to fold it up, some are rigid frames so the wheels come off and to do it in a way that doesn't damage the chair and so that they know maybe how to communicate with people who are deaf and properly assist a person who is blind so they can approach a vehicle and get them out in a safe manner. People who use service animals to know that those service animals are performing assistance in various environments so they're allowed to accompany an individual when they're on public and private transit as well as in places of public accommodation when they're providing assistance in some way. The education component is certainly important. In terms of how to respond to complaints if it was adopted in

an ordinance or at least some language whether there's full enforcement based on discrimination of all protected classes that's your decision to make, but that could be an expansion that would be consistent with how you cover various groups, employment and places of public accommodation. There's certainly some mention or reference to education and training that needs to be kept current for both the safety and operation of the vehicles as well as the drivers and all the various customers that are there."

Riordan stated, "I would recommend that we add language to remove certain vehicles, that we look at ADA, and the question of the number of vehicles is an interesting one. I'm not sure exactly how to address that appropriately."

Someone asked, "What do you mean?"

Riordan stated, "The reasons for and the reasons against requiring that. I think they make some good points. We had some of the discussions when we talked about mobile food trucks, the benefits and the deficiencies of that. I don't know if I'm educated enough and can think up here all the pluses and minuses of that, but I do think we ought to ask staff to look into that and make a decision based on fact rather than just us coming up with something in the blue, whether that's good or bad. I think that ought to be looked at and decided whether you should have a minimum of 2, 3, 4 or whatever number that's there. Rather than argue it out tonight, have staff do it and see what's reasonable and come back to us and tell us."

Schumm stated, "I like your suggestion on individual background checks. I think that's important and also the argument of appeal, what the grounds are for appealing. If some guy has a child molestation conviction we're not going to waste time listening to an appeal on that. So, what are the grounds for an appeal if they're turned down?"

Randy Larkin, Senior City Attorney, stated, "I just want to point out that the process would be ministerial. If they meet the standards for it then they would get the license. If they don't meet the standards, they don't get the license. The appeal would be whether or not the



City Clerk made an error making that decision and if you determine, 'yes' there was an error. It's just a safeguard. That's the whole purpose of it."

Amyx asked, "Going through a background check, is that something that we would administer or is it something that we could require the owner of the business to have his people going through that background check and they have to hold some type of certificate or license or that kind of thing."

Riordan stated, "I would recommend that we not do it, but that the business does it."

Larkin stated, "The way it's drafted now, the responsibility is on the owner. We could make that a little clearer to what we want them to do. We just left it as kind of a blanket responsibility for the taxi business permit holder to make those background checks. If you wanted to give us more direction as to the details as to what background checks you want us to do, we can just pass that on to the taxi cab owner."

Schumm asked, "Do you want them to certify to the City Clerk that the finding of the background check or do they just file it in their desk at their office? You do have turnover in businesses, we all know that, and I hate to be burdensome but, on the other hand, if we want this to be a regulation which we think is important than we need to make sure it gets done and is current. I don't know how you want to handle that within the scope of the ordinance."

Amyx stated, "We could require the owner to do it and then he or she has to bring whatever that certification is."

Schumm stated, "Turn the certificate in to the City Clerk. You could do it that way."

Riordan stated, "I think that would be particularly important if we do allow one taxi cab company because it would be hard to do a background check on you and regulate that appropriately."

Amyx asked, "How about this no cruising?"

Schumm stated, "I understand taxicabs situation where he gets called out and the fare is gone but, on the other hand, if someone is impaired and awaiting a cab, then they say heck it's

not coming, I'm just going to drive home as opposed to getting into something that's available. I kind of look at that as taxicab competition and I don't know how you'd regulate that. It's going to happen even if you regulate it. If there's a cab there and somebody wants a ride, they're going to get in. Obviously, when it's raining or cold, everybody wants a cab and if somebody sitting there waiting for a fare, they're going to hop in."

Riordan stated, "I think that's an important problem to the taxicab drivers and I think that's something that would be nice to address but I don't see any way we can enforce that. I mean, what are we going to do? Put a policeman on the corner and ask them. I don't think that's something that we can do. I think these other things are. I think there were some good points brought up but cruising, I don't know how you can regulate that. We ought not to be doing things that we can't regulate."

Schumm stated, "What's good for one is good for all too. Obviously, the gentleman said occasionally they're hailed in the middle of the block, well is that in the middle of the block out in front of a bar? I mean, I don't know. It's going to be too hard to define that and to enforce that is going to be impossible. I'm sympathetic but I don't know how you would get around it."

Farmer stated, "Now would be the time to bring up the placard issue. It got defeated and went down in a blaze of glory with rental registration but maybe now would be a good time to bring up placards so in the case of filing a complaint, I think people need to know who to call and can call the City Clerk's Office with that. I got to be honest, on the rest of the stuff; I appreciate what Mr. Riling said, adding requirements to have a commercial place of business. I see this maybe a little bit differently. We're a community that we want to encourage small business and we want to encourage entrepreneurs and folks to get their start and I felt like from the beginning that the two largest taxi cab companies are trying to shoulder out all the other small business owners. I'm not going to be for a lot of regulation other than what Mr. Tabor and Mr. Mikesic said. I think we've been a community that's been very supportive of folks with disabilities and I think that making folks do some sort of training to handle folks even if folks with

disabilities call specific taxi cab companies. I mean I think that's hugely important because it does take a little bit more care and concern than just picking somebody up. It might do them some good in picking up somebody with just relational skills in general. There's so much that we have to learn from folks with disabilities because of how they have to live and I think that would be something that would be prudent for us to consider but as far as cruising, as far as having a commercial place of business, as far as more regulation, I mean I don't really buy the argument of financial investment and that's why these taxi cab companies came here and how this is going to be unfair. I just don't buy it. I don't think that's a good argument at all. In relationship to this, I think we need to do whatever we can to ensure that whoever wants to start a business in Lawrence, Kansas can do so in a manner that serves our community and it's our job to protect the health, safety and welfare of our citizens and not to govern with an iron fist making it impossible for the little guy to start up his or her own business."

Schumm asked, "But you're okay with the background check."

Farmer stated, "Absolutely, but again with that what Mr. Mikesic said is true, the ADA, Appendix D, Part 39, and every provider who serves people with disabilities must have been trained so that they're aware of how to provide services in a safe way and making sure the safe operation of a vehicle etc. and to ensure that people with various types of disabilities are properly assisted. I think if we do have a responsibility to step in, I think that is the government's role to ensure that the innocent and vulnerable in our community are taking care of and if we do have a role in this in this entire conversation, it's not to dictate who does and doesn't get to do business here, it's to dictate that every person in our community who steps inside one of those taxi cabs is safe and will be served in a healthy and proper manner."

Riordan said, "I think Jeremy makes some good points. I would say as far as the number of taxi cabs, I would ask the staff to look at that from a health and safety point of view, but not from an economic point of view. Although there are some economic reasons you could do. I think it's not within our purview to be doing it."

Amyx stated, "What I hear is looking at now is to refer this back to staff placing in the ADA requirements for training and education of the drivers and the business owner. We're going to have additional study on the number of cabs as asked by Commissioner Riordan. We're going to require that all drivers go through the same background check that an owner of a business will go through and that that there's got to be some kind of notification of those drivers' background checks with the City Clerk's Office. We're not going to get into the market study, the assets instead of insurance."

Schumm stated, "Just do insurance, it's a lot easier if somebody gets hurt."

Amyx stated, "Talking about the place of business, we could probably get into this for a long time. In some cases if the place of business is probably going to be that cab. The requirements somehow that the public is notified somewhere in that cab that there's a sign or something that say's this is somebodies business and that there insured by or whatever the language is necessary to notify the public that that is a business. There needs to be something in there that people can see. I like all the other requirements that Brandon had put together along with the help of the drivers and the cab companies."

**Moved by Schumm, seconded by Riordan,** to defer on first reading, Ordinance No. 9092, amending section 6-108.17, repealing existing Chapter VI, Article 6, and enacting in its place Chapter VI, Article 6 of the Code of the City of Lawrence, Kansas, 2015 Edition and amendments thereto, pertaining to taxicabs. Motion carried unanimously.

3. **Consider rejecting the bids received for the Maple Street Pump Station - Project PW1133 - Bid No. B1503.**

Matt Bond, Stormwater Engineer, presented the staff report.

Schumm asked, "The last couple of infrastructure projects have come in quite a bit higher than the engineer's estimate. Is that because the price of construction is going up?"

Bond stated, "That's some of the reason. On this particular project, it's probably because of the very nature of the project itself. On the normal storm sewer that we put in is a lot

shallower than what we have for this project so that's driving some of the costs for this up. In talking with the two bidding contractors on our project, they indicated to me that there's a lot of work out there so they're being choosy on what they've picked so they're picking the ones that they can see that are more profitable."

Schumm asked "Is this the second one that's come in quite a bit higher or has there been another one as well."

Corliss stated, "We received good bids that were within budget which I really didn't pay a lot more attention to and also with the engineers estimate for the traffic signal at George Williams Way and Bob Billings Parkway and we also got good bids that were within budget and within the engineers estimate for the rebuilding of Bob Billings Parkway between Wakarusa and Foxfire today. There's also a special assessment benefit district that was below the estimate. I'm not minimizing what Matt's talking about, but with any number of different factors I think you have to look at when you're talking about this."

Schumm stated, "I was just wondering in general if construction has started to take a step up."

Corliss stated, "We've seen that with wages a little bit. That's obviously a key factor as well. There may be a little bit of a lower employment rate. There is any number of different factors. Depending on who you want to talk to you will probably going get a little bit of a different interpretation."

Amyx stated, "As we talked yesterday Dave and Matt, I'm a little bit concerned that we only have two bidders."

Corliss stated, "That's a good point too."

Amyx stated, "I just think we put out very good projects and it concerns me a little bit and as I asked yesterday, I know that you've had the opportunity to review any of the language that we have in our bids. Is there anything in there that would take away from a company wanting to bid?"

Corliss stated, "Mayor that's a very good point. I think we always want to keep our ear closely tuned to contractors and subcontractors and we've got requirements in our bidding document that they believe are adding cost that might be unnecessary. We want to look at it, but we want to not just react too quickly, we want to understand what those changes might be. This is a very important project for the community, for North Lawrence. We want to do it and we're going to do it. As I was telling you earlier Mayor, we have the money in the bank. We're not debt financing this project which is very different than the next project you're talking about and the next item after that. We have the money in the infrastructure sales tax account and we've got the money to proceed with the project but what we want to do and Matt elaborated on is we want to go back to look and see if we can redesign portions of the projects still accomplishing the major public goals, the major public safety goals associated with this to make sure we can get water out of areas that might be damaging property or eating roads. We want to look at that to see if we can't come back and ask you for a new bid date on the project."

Amyx stated, "I think that's good, but I do want to bring up again as we're looking at redesigning or making changes to this project at the same time we're doing that let's make sure that our bid documents that there's nothing in there that's going to stop company a from coming in an just saying I can't get tangled up with that. I appreciate all of the projection that we're providing everybody but sometime if we take somebody out of the game just because, I'm not going to do that."

Corliss stated, "It's possible to write requirements that would be so onerous that somebody's going to say, because I can be choosy, let's go someplace else."

Mayor Amyx called for public comment.

Ted Boyle, President of the North Lawrence Improvement Association, stated, "You've heard this before that we've been waiting for this pump station for 20 years now and so we want it done right and we want it done efficiently and Matt, Stormwater Engineer has kept us posted on the good things, bad things about this pump and we understand that it's anywhere from 2

million to 2.5 million over and so we definitely want this job done right the first time so we can wait a little bit longer, as long as it's not another 20 years. Only two bidders, that's not enough. We need to get more in the game and I don't know whether there's so much work out there that the other contract are not bidding on it or maybe the levy freaks them out or something. It is kind of a difficult project under the railroad tracks and then through the levy so we want that levy put back with as much as integrity as it has today."

Corliss stated, "This is a 2015 project and we're going to get it underway this year. We need some time and we don't know what date we're going to ask you for a rebid."

Riordan stated, "I disagree with the staff's recommendation."

**Moved by Riordan, seconded by Dever,** to reject the bids received for the Maple Street Pump Station. Motion carried unanimously.

4. **Consider rejecting all bids and set a new bid date of April 7, 2015, for Bid No. B1467, Project No. UT1304 - Contract 4 Wakarusa Wastewater Treatment Plant and Conveyance Corridor.**

Dave Wagner, Director of Utilities, presented the staff report.

Amyx stated, "Several weeks ago when we were getting ready put this thing to bid, we were actually looking at bids coming in right, we'll be able to have some expansion in this thing and maybe able to incorporate that into the deal. That's obviously out the window."

Wagner stated, "We believe that's out the window. It would be great that we have a change in the bid environment. We received really low bids, unless the Commission wants to consider additional revenue at this point in time, but I know the answer to that one. We don't believe its deliverable. One thing it did provide us, it gave us a dollar amount for what that extra capacity would be which gives us some indication and I think it was in the neighborhood of 6.3 million dollars for doubling the size of the plant. I think that gives us a bellwether of what it's going to cost in the future when it is time to do that improvement and add that. We've got a design that has a building to be expanded and double in capacity with a relatively small investment. We at least have that number in our pocket and are an idea about what it's going to

take to go forward which means the baseline from an expandability point of view, it's a pretty good project.”

Amyx stated, “With the other project, we are reviewing our bid documents and the language to make sure there's nothing there that's taken away.”

Wagner stated, “Absolutely. We're going to talk to Toni as well as Dave about some feedback we've got on contractors, both on some flood insurance certificates that we think we can straighten out that might help us save some money as well as some language that was issued by addendum that might be of some concern. So we'll be bringing those to the attention of Toni as we heard feedback from certain entities within the construction environment. There might be some adjustments there that would reduce their risk because we've asked that question, is there anything that scares you that increases the value of the project and they've given us constructed feedback that I think we can listen to.”

John Keller, Black and Veatch Engineering in Kansas City, stated, “We received bids that were about 10% higher than our bids for the project.” We did meet with the general contractors and talked to the 3<sup>rd</sup> general contractor who pulled out maybe the last day or the half day before. We do believe we have a very competitive bidding environment right now. We saw this from the 2 bids and we did reach out to the community, Kansas City, Wichita, and North Dakota, looking for other bidders to let them know about the opportunity here in Lawrence. As I said we did review our bids with the contractors and we saw that on the Maple Street Pump Station, some of the unit prices that we came in on that project, we believe was the result of some of our higher than expected bids. The piping, we believed that had to contribute to it. The language that we talked about is the liability, some insurance risk, all these things that we can change in our re-bid. A lot of the escalation costs were added to this project. When you think of a 32 month project and you're bidding asphalt, you're buying it for 50 or 60 dollars a barrel, you don't know what it's going to be in 32 months so that risk was passed on to the contractor. When you actually look at the bids themselves we had a couple of additional facilities and that



would be the clarifier and the B&R Basin, those costs we were right on target with that and those were self performed by the contractor. Where the cost we believe got away from us was the administration building where you had additional electrical and mechanical and I think that's where some of the higher costs were coming into play. We definitely see a change in the bidding market. I know that a recent project bid on a bridge, not too far away, higher concrete costs. Talking to a local contractor, it's hard to get labors right now. They have to pay more of a per diem to keep them on the job site and I believe all of this had been transferred to the owner. We're also seeing a change in the bid market and if you think about the bid market, we're as good as one of our last estimates. We take past information and we use it for our bids and we call contractors and suppliers. We had recent project bid in Kansas City, last December and our number was 7 million dollars and we had 20% lower and 10% higher. If you look at as a whole on the last 2 or 3 bids here in Lawrence, you see a changing market and we believe the market is changing and fewer workers and we're just adding to the project and that's where we're behind on our estimate on that."

Wagner stated, "What John was getting at with behind the market is the database that we use to maintain and provide estimates, for example concrete. We're not going out and getting bids like a contractor is so we're using data that we got from previous bids to help us maintain a database. We're using that information to project and estimate, but we can't get that data. If we're trending upwards in the market, we're usually behind that a bit in that we're not catching those bid date pricing similarly if we're on a downward trend, we maybe estimating high compared to that. We've been cycling through that. I definitely see us on the upward trend now and the availability of work. We did have good bids and good bid participation, but like we heard earlier, I think those contractors are more choosey with what they pursue and maybe not as aggressive with the numbers they put out there. They're not trying to keep their doors open any more. It's a good market for contractors. I think that's one of the pieces that are catching us with this particular situation."

Amyx stated, "There's going to be other communities in the country right now that are putting these kinds of projects out. I know it's probably less than a handful. Are they experiencing the same kind of things? It may not be communities that you're doing the engineering for, but I know you hear it from other engineering companies. Are they experiencing the same deal or is it just to the Midwest local or what is it?"

Keller stated, "That's a good question, we had a comparison of a Fargo bid so very exact same situation occurred with their water treatment plant, Fargo where the contractors numbers were higher and the rebidding was the fine tuning of that. The discussion there was North Dakota and the labor resources there were significantly different from than what we're seeing here. We don't have that level of limited resources, but I think we're starting to see that more for the cost it's hard to say, I'd say it's more regional than a national thing."

Dever asked, "Could you tell me when you adjust numbers; where you get them; and, how you calculate the estimates because we're talking about 5 million dollars just under that. I guess there is the expectation that you all would have a real time, or pretty close to understanding where things were 12 months ago, where things are 6 months ago, and where things are today. When time of year did you estimate the project?"

Keller stated, "We fetched are estimate right before Christmas, so about December 19<sup>th</sup>."

Dever asked, "Did you talk to the City about adjusting the estimates based on the trend you guys were seeing in other words there was no trend between December and March."

Keller stated, "We did not have any specific discussion at that time."

Dever asked, "Had you bid any projects between December and March to kind of get a feel for what direction the market was going?"

Keller stated, "We did a project late November, early December."

Dever asked, "That was in North Dakota?"

Keller stated, "We bid a project in Johnson County for Johnson County Wastewater in December. The one that was bid in North Dakota was bid a few weeks ago."

Dever asked, "Was it a rebid?"

Keller stated, "Yes."

Dever asked, "Did they come in lower."

Keller stated, "That one did, yes. The first estimate was about 14 million dollars higher. They went back and pulled things out of the project and then they rebid the project and it came in below the engineer's estimate."

Dever asked, "What kinds of things did they pull out of that?"

Keller stated, "They had some deep foundation work that they changed. It was a water plant membrane so they pulled out some of the equipment. Those were two of the items. They went back and pulled significant items out. We looked through, is there anything redundant that we can deal without, the change in material?" Is there something the City could do at a cheaper cost so we're not paying contractors markup? There was some equipment for this project that we're using to disperse the solids on the fields. The City was going to buy that versus having to go through the contractor. So those are the types of things that happen as far as what we're proposing for this project."

Dever asked, "So back to that questions, what data were you using? I know this is only a 45 million dollar project, but it's a lot to us and I think that when you're talking about 100 million that makes this look small, but there's a real concern that we try to get close because we can't continue to put this off and obviously, we have limited resources available. Do you believe that the numbers you gave us on the front end were indicative of the trend going up and we still exceeded that or do you think you used numbers that didn't catch this trend in construction and we just shot low because we weren't anticipating some of the cost increased based on the economy?"

Wagner stated, "I would say somewhere in the middle. We have been trending out for some period now. I think we're seeing a regional impact, like John mentioned, we're really close on equipment and concrete, but those trades and those other subs that are participating in

other project in the area, I think is where we may be missed and we say that because we had the conference center added and between the two bids it was about 19 to 38 percent low on that piece. We had limited information and hadn't been able to sit down with the contractor and say okay, what did you have, what did we have and really get to the bottom of it. The 10% is all market. I think we do have, and John alluded to it, probably \$800,000 to \$1,000,000 in site work that when we saw the Maple Street Pump Station Unit prices was kind of a confirmation that we shot low on the unit prices for our concrete pipe for storm water on site and for the effluent 1:40:28.9, we have a 2200 foot pipe that goes to the river that's buried 25 feet deep. I think of the \$5,000,000 there is hopefully about a million there that we can identify. We suspect we're low on Pump Station 10, due to the complexity of that construction. We had some feedback from the contractors in regards to the unit prices that they used for the concrete work there, relative to say the big basin. We tried to account for that, but based on the feedback we got, we might have been low on that one so we're suspect and that's why we're asking for that as a separate item in the revised bids so that if we truly are where we think we may be with that, that might be something that we would pull out and redesign, and capture that savings. We've talked about the flexibility of that Pump Station and it's a pivot point for connecting Wakarusa to the existing systems so we've made it very flexible and is there opportunities there, I think there are. Once you take out the site work and the potential Pump Station 10, I think that's the last piece that is maybe more of the market situation, until we get deeper into the numbers and understand more of how they lined up their numbers. Every number that we tossed across the table in a general discussion of what did you have, they say that's what we had. It was very difficult for us to pin point how we could be off by that much. The other piece that I missed was the discussion about the risks, flood insurance and supplemental language, waiver rights, and the escalations were the other piece of that puzzle."

Amyx stated, "Vice Mayor is probably going to find this hard to believe, but I wasn't around the last time we did a wastewater plant. The question I have is we told the users of our

facilities that we were going to build this facility and it was going to be a certain size and other stuff, by shrinking this down or by removing parts of it. Remember, we told the paying public that was going to use this thing that we're going to have this 5 year plan and raise water and sewer rates and the whole deal to be able to take care of this thing. Are we selling them any less of a project here or a product that they expected, based on the money we're collecting, because it's a lesser project?"

Keller stated, "In terms of treatment capacity, to treat wastewater to meet the permit, 'no'. Some of the discussion items that we're talking about included, for example, redundant equipment. So we've had redundant equipment as part of multiple facilities so if something breaks, we can go to a second 100 percent redundant system. That is one component that we're pointing out. So there is some flexibility issues that we're maybe impacting Dave and his staff with, but we also have flexibilities so again, that Pump Station 10, if we truly have the challenge of compromised treatment, we've got Pump Station 10, we've got access for holding, we can divert to 8<sup>th</sup> Street and address that so it's not necessarily, in my opinion, nice to have, it's a piece that we feel confident that we can eliminate at this point."

Wagner stated, "Mayor to try to answer your question from people that have to operate it. I think there some things that we're considering to look at valuing out that at some point in time, if funds become available that we'll probably want to put in there, we really pride ourselves on reliability and redundancy and up time on those units. Some of those will present some challenges and maintenance that we wouldn't otherwise have to face. Shutting some units down instead of being able to continually to operate, but with the two plants and the flexibility that's provided by PS 10, some of that's built into the design as well. I'm confident that the reduced facility will do a really good job of meeting the water quality standards that the state has put on us and that overtime it will be a reliable, well-maintained and none of those facilities are cheap to operate and maintain, but we'll still get some value out of there and good materials that don't cost us a lot of money to keep maintaining or painting, or those kinds of things. I think we're

looking at reducing that down to a level that we can afford. It's kind of like me going to the checkout line in college and I had all these things that I know I really needed and they ring that up and I go 'oh crud' something not going to come at this point in time and I'm going to have to do away with something. We're prioritizing that, but still we're going to need to sustain the base function of what we promised on delivery and I'm confident that project will proceed that way and we'll get a good reliable facility. We may have to go back overtime and invest some money as monies become available and we can prioritize some other things as well to make sure we get some of that redundant equipment back in, more on a timeframe when it's needed. A lot of that stuff will run for 5 or 10 years before we need the secondary unit and those are some of the sacrifices we're looking at. With the re-review whenever you look at something else we've seen some values in some things that we can do without. Through the adversity of having to go back through there, I think we'll be able to have a better project than we had before from a value prospective. So we'll gain some value back with some of the additional things that we've sited with concrete work or maybe being able to take on some of the risk for elevated energy prices as we move forward, hopefully to work towards the market a little bit and understand the new market environment that we appear like we're in on the bidding environment."

Amyx stated, "We maybe reducing the scope of this project and reducing the size and whatever parts that we're going to reduce, but we're not reducing the fee that we've asked people to participate in. I just want to make sure that the reliability that people expect, because of what we sold to the public, is still worth the value that we placed on it and the costs we asked them to bare. I think that's all I'm asking here."

Wagner stated, "I understand."

David Corliss, City Manager, stated, "That has to happen. It has to perform all of the Master Plan objectives as far as its capacity and compliance and those things. If you put in an asphalt road as opposed to a concrete road and do some of the other things that we're talking about, we're going to be able to see those cost, the way this is outlined, you're going to see all

those cost as that comes back. To some extent you maybe trading cost now, cost in the future for some of the maintenance items and we'll help you through that as we get those bids."

Mayor Amyx called for public comment. No comment received.

Schumm stated, "Be this is election season and people are in an uproar about large projects and there's a lot of discussion that all large projects should be voted on and we're talking about a 50 million dollar item here tonight. There's not one single person from the public here to speak about it so should we put it up for an election? Should we get the people involved? The people say, you don't include us in your discussion, but yet we're going to spend 50 million bucks."

Belinda Sturm, Wastewater Engineer at the University of Kansas and train the City's water and wastewater operators, stated, "I've had the opportunity to sit in on the Planning meetings. It's been a great opportunity as someone who teaches wastewater design to see how this has gone, over the last year. I can tell you it wasn't pointed out probably because of hubris and knowing that they're over budget a little bit, but you're getting a 2.5 mgd plant, the Master Plan called for 2. Initially, if you look at those numbers you're going to get more than what you called the public to get. It's my professional opinion that you're going to get a very well operated plant that's going to do state of the art nutrient removal. It's going to improve the water quality over what we're getting at the Kansas River Plant. There are some items on this that probably when we get the bids back, I will argue for some of the redundancy because I do work with the operators and I'm sure Mr. Wagner will do the same. There will be a lot of arguing, that's one thing that you can be assured of. I'm probably very well educated public as someone who designs plants and teaches, but this is going to be a good facility. I wish that we would have gotten lower bids. My dad's a construction superintendent. He does estimating, not on the Midwest so I can't speak of the market in North Carolina versus here. It's unfortunate that they came back at this time. Is that good public comment for you?"

Schumm stated, "That's a great one. I had no doubt in my mind that we were getting a great facility that's going to do what we want it to do, but I was just kind of sharing with my colleagues here, the contrast in what I hear when you go to a forum where you people are running everything, you're not listening to us, you're not allowing us to vote on things, and here is an extraordinary large project in which, except for you, we had no other comments tonight. Sometimes, it just depends on what the project is, I guess, and where people think they want to be in terms of voting for stuff. Granite, sewage is not a very popular or fun project."

Farmer stated, "I agree with you and the last time we talked about this, when we bid the contract and then we were talking about the entirety of the investment, it was 75 million dollars and nobody was here. It's certainly an interesting observation."

Corliss stated, "We put it on two agenda's to dramatize it importance. This is one of the most important decisions that will be made in this room, this decade."

Amyx stated, "Let's make this thing happen somehow, but here again let's make sure it meets or exceeds all the things that we expected in the Master Plan."

Farmer stated, "Dave, let's say and no disrespect to the two of you that are running, but let's say 3 new Commissioners get elected and don't want to do this project, for whatever crazy reason because they don't want to spend the money, whatever. Those bids come back on the 7<sup>th</sup>, are we approving them on the 7<sup>th</sup>."

Corliss stated, "No."

Farmer stated, "Those bids could be rejected."

Corliss stated, "It will take us a week or two. It will be the new Commission that will authorize me to sign the contract. Keep in mind this is not just a singular project. We've got 21 million dollars in the ground so far from this project. I sent you all photos of the sewer line. More importantly than that, is that this project is essential for the community's growth. We've tried to dramatize that without being too dramatic. This increases our wastewater treatment capacity by 20 percent, but what we have to do is we have to get the project within the rate plan and we



think we've got a good plan for doing that. I will be and hopefully we'll all be convincing the people that sit in this room in April that it's a worthwhile project to proceed with."

Farmer stated, "I hope you're right."

**Moved by Schumm, seconded by Farmer**, to reject all bids and set a new bid date of April 7, 2015 for Bid No. B1467, Project No. UT1304 – Contract 4 Wakarusa Wastewater Treatment Plant and Conveyance Corridor. Motion carried unanimously.

5. **Consider the issuance of debt related to Water and Wastewater Master Plan Improvements and consider adopting Resolution No. 7107, authorizing the amount of \$17,400,000 to fund the projects in the water and wastewater master plans, pay for issuance costs, and establish a debt service reserve fund. Consider adopting Resolution No. 7108, authorizing the issuance of Water and Sewage Revenue Bonds, Series 2015-A, in the amount of \$90,680,000 and setting a sale date for April 7, 2015.**

Bryan Kidney, Finance Director, presented the staff report.

Mayor Amyx called for public comment. None.

Schumm stated, "A minute ago we were at \$50 million and no one is here to speak and now we're at 90 million and we can't get anybody to speak. The contrast keeps going on and keeps getting more interesting."

David Corliss, City Manager, stated, "You understanding that the timing of this, we'll be getting the bids on April 7<sup>th</sup> and then we know that April 7<sup>th</sup> is election night and we don't like to have lengthy meetings. These items usually don't take long. If you have an earlier start date, we'll be in coordination to make sure that we'll have all that information for you to accept the bids. I think what's at 11:00 a.m. is the sale and will know shortly what our recommendation will be after that."

Schumm asked, "What happens if you sell these notes, you get your 90 million in change, a new Commission decides not to go forward with the Waste Water Treatment Plan, you got the money, but you don't have the 3 votes to make it move forward?."

Corliss stated, "What we will have to do is repurpose that debt and we'd look at probably a number of other different options. It doesn't happen that often, but Bryan can go into it a little bit."

Kidney stated, "Correct. If Utilities was unable to find an additional 21 million dollars to repurpose as the City Manager mentioned, then we can potentially put it into an escrow to refund the bonds. That does have associated costs, but these are very specifically revenue bond dollars and it would need to be pretty much for utility purposes, the 12 million dollar portion of this."

Corliss stated, "I don't want to be overly dramatically about it, but if we don't proceed, we'll be able to deal with that issue. The community's going to have other issues."

**Moved by Schumm, seconded by Dever**, to adopt Resolution No. 7107, authorizing the amount of \$17,400,000 to fund projects in the water and wastewater master plan and Resolution No. 7108, authorizing the issuance of Water and Sewage Revenue Bonds, Series 2015-A, setting a sale date for April 7, 2015. Motion carried unanimously.

6. **Received a report from the Public Works Department on Rock Chalk Park Infrastructure batch tickets.**

Chuck Soules, Public Works Director, presented the staff report.

Amyx stated, "We did not pay for this concrete."

Soules stated, "The City has an inspector on the job, they watch, they verify the construction as it progresses and we go ahead and measure it. We also took a number of cores to verify the thickness, so not only the inspector is checking for the thickness, we went back and cored it and made sure we were correct on the thicknesses."

Soules continued with his staff report.

Amyx asked, "On both the infrastructure and non-infrastructure tickets, the first day of pour was 9-11 or 9-12 of 2013, those were the first pours that were done out there, right?"

Soules stated, "Yes."

Amyx asked, "Our inspectors had notes on all the stuff that they did, right?"

Soules stated, "Correct."

Amyx asked, "If somebody had questions are those items that we can refer them too?"

Soules stated, "Yes, that's where we confirmed the location of all of these."

Amyx asked, "If somebody had a question whether or not we paid for part of this non-infrastructure stuff, it's going to show in the inspectors notes that that couldn't have happened, right?"

Soules stated, "Whether or not we paid for it, wouldn't be in the inspectors notes. Whether or not there was work being performed infrastructure would be. We're only paying for the infrastructure that was put in and inspected. If they took some concrete over and did some footings, we didn't watch that on the infrastructure site. We didn't track where those went."

Amyx stated, "We're assured that these non-infrastructure tickets went to part of the project out there, but was not our responsibility under the development agreement."

Soules stated, "All of our mix is on streets, sidewalks, curbs and they're all KCMMB. We had the access road for the KU lot and it came out and it had one these mixes and we do have that ticket. Our inspector saw it, raised the red flag and contacted the appropriate people. We told the contractor that we're not paying for it. It is not included in what we're recommending for payment. There's concrete out there, but it's not KCMMB mix and we're not paying for it."

Amyx stated, "On that particular fire lane, the plan called for 1671 cubic yards and yet the measured part that we accepted was 670 cubic yards, a difference of about 1000 cubic yards. That is the figure, the 670 and not the 1671 is what we paid, right?"

Soules stated, "Is what we're paying, yes."

Farmer stated, "I've got a comfort level with the amount of concrete that was measured by our inspectors because there are logs to show that they were out there every day and making very copious notes about what was being measure, what was being poured and that's sort of thing, so I've got a comfort level with the 15689. I think it will be incumbent upon us to

assist folks in understanding the public and the media. When you look at the concrete volume plan according to exhibit I of the development agreement, it was 17,471 cubic yards.”

Soules stated, “Correct.”

Farmer stated, “We only measured 15,689 so on the surface it looks like there’s a big miss somewhere, but the reality is there probably is somewhere, and I’d be interested in finding this out Chuck and I was thinking about it when you were talking, how much in total and I don’t want to muddy the whole conversation, no pun intended, how much in total cubic yards are on the fire lane and access road because we paid for 670, but there’s more than that out there so essentially that variance would not be, do you see what I’m saying?”

Soules stated, “We’ve looked back.”

Farmer asked, “So how much on that access road and fire ramp, in total, it was planned at 1671. I know we paid for 670. How many cubic yards of concrete are out there, in total?”

David Cronin, City Engineer, asked, “You’re question is regarding the square yards of the access road that was poured in on non-KCMMB mix?”

Farmer stated, “I’m talking cubic yards, the spreadsheet and the memo that says, the attached spreadsheet, Rock Chalk Park Concrete shows the plan estimated quantity of concrete in cubic yards, 17,471 in the Development Agreement, the measured quantity is 15,689. There’s a difference of 1,001, cubic yards on item 101 in Fire Lane and Access Roads. We paid for 670 which were why there is such a large discrepancy there. How much total concrete is out on that fire lane and access road in cubic yards because essentially what we paid for is not actually the amount of cubic yards that are out there on that road because of the different mixes?”

Cronin stated, “The amount we came up with from that road, on that access road was approximately 900 cubic yards.”

Farmer stated, “So 900 cubic yards in total?”

Cronin stated, “Correct. I believe it was 3880 square yards and I think it equaled to 890 to 900 cubic yards. I could run through it real quick and confirm that, but it’s in that range.”

Farmer stated, "So essentially 230 more cubic yards than, I mean on the measured quantity which is what we paid for them. I just think it's going to be incumbent upon this when this item appears on the agenda to make sure to explain that to both the public and the media because a lot of the rest of the stuff is not that far off, but there's certainly a discrepancy there and obviously what was measured is what we paid for, but there's also more concrete out there that we didn't paid for because as you said, it's a different mix. When you see a glaring like measure and plan and think, why we are missing a 1,000 cubic yards of concrete, I think it's incumbent upon us to make sure to explain that to folks."

Dever stated, "Another level of complexity when you have a measured area then you have a conversion to cubic yards and then you have a measured area, but rejected so we subtract or deduct for the amount that was not appropriate material and didn't pay for it. This is not a one to one relationship to any of this and I think that's the problem with all this measurement. It's just not accurate."

Farmer stated, "Right. Well the tabulation for cubic yards is certainly, because of the varying 10 cubic yards might have been delivered to the site, but we don't know how much slashed out the way there or how much was stuck to the truck."

Dever stated, "We don't know exactly how much concrete was used in each installation because there's not a box with ledges on it which you pour to and then you stop. There are undulations in the subgrade and there are variations of thickness. There's no direct correlation between the cubic yards in the truck and the square yards, but there's a pretty good estimate. Then you talk about removing quantities that were not paid for because it was not the right mix, but were still left out there and we didn't pay for it."

Farmer stated, "Right. I mean it certainly gets confusing. I just think when you're looking at plan versus actually measured, that could provide folks going 'Why did we get shorted there in essence, because I know that's the conclusion that some may draw for the purposes of

gaining some attention. I would also say, so in relationship to the batch tickets Chuck, so when are we going to see this procedure.”

Soules stated, “Dave just had engineering staff in today and told them this would be the way it is. We have to write the process and procedure up.”

Farmer stated, “I think we should make sure that gets on the agenda with the final payment.”

Soules stated, “We just got our bids today and Bob Billings, when that project starts we will have that in place.”

Farmer stated, “I think with the final payment that procedure should be in place.”

Corliss stated, “We’re doing it from now on. I don’t know where we are in the process. I don’t know what work it’s going to require. We going to do it and we’ll let you see a process and a procedure, but we’re going to find out where all the projects are and we’re going to do it for all of them.”

Farmer stated, “My last question, we’ve got the amounts in here for what we made them tear out and then re-pour. In relationship to, because it was reported that no infrastructure work was done in January or February, but we did have infrastructure work done in February.”

Soules stated, “That’s in the report.”

Farmer stated, “That’s verified by the inspector’s logs that we’re left out of that.”

Soules stated, “Yes.”

Farmer stated, “The inspector log said, and I can’t remember off the top of my head, how many cubic yards were poured of concrete for infrastructure in February, according to the inspectors log? Was it 479?”

Corliss stated, “Square Yards.”

Farmer stated, “Which I think it equated to 72 cubic yards because this was the 5 inch parking lot thickness. So if I did my math right and then there was 80 yards or 90 cubic yards according to the batch tickets delivered. Maybe it was 82 and 90, but it was close. I just want to

make sure to go on the record to say that that in-fact work was done. It was documented in the inspector's logs and the batch tickets are comparable to what went out there according to things I was looking at this weekend."

Corliss stated, "But the January batch tickets still showed the concrete was delivered in January."

Farmer stated, "It was the non-KCMMB mix."

Corliss stated, "Right, it was non-KCMMB mix."

Farmer stated, "Which we didn't pay for."

Corliss stated, "Correct."

Farmer stated, "And was not related to infrastructure."

Corliss stated, "And it was not related to infrastructure. If it was installed at the recreation center as far as that project, that work did occur and our February report included January and February because we didn't do any January infrastructure work, but looking at a batch ticket that was in the information that went to the auditor."

Farmer stated, "Which it shouldn't have."

Corliss stated, "Which it shouldn't have and that was our fault that inference could have been that there was work being conducted when we said there wasn't, but the January/February report did say, and it wasn't erroneous reported, but the report did say that there was work done February. If you look at the January/February report, it does talk about the 479 square yards of concrete. It actually has a photo if it occurring."

Farmer stated, "In the Infrastructure Report. I wasn't talking about staff's report."

Corliss stated, "I understand, but that's because the batch ticket for the non-KCMMB work was given to the auditor."

Farmer stated, "Correct, which again, it shouldn't have been."

Corliss stated, "Correct."

Amyx stated, "There were 16,469 cubic yards of this infrastructure mixture that was installed somewhere on that site. Is that correct?"

Corliss stated "No, there was 16,469 cubic yards delivered. It may have been put in the ground and we said that's cruddy work and tear it out."

Amyx asked, "We paid for 15,689, the difference to the 780 again were things we may have ordered torn out or redone."

Farmer stated, "No, 173 was torn out and redone."

Soules stated, "173"

Farmer stated, "You're looking at a difference of 607 cubic yards."

Corliss stated, "The slot could be just that they had some delivered. We know in one instance they poured it on the ground which happens on a large construction site because they were done for the day. They obviously had to tear that up and haul it out. I know that when Sarah and I were walking the paths earlier on there was a huge dump of concrete out on one of the paths over Baldwin Creek and we said that's got to go. That was obviously delivered to the site and it had to go so there were a few examples of that as well."

Farmer stated, "I feel like I know all about batch tickets and concrete, way more than I ever wanted to."

Corliss stated, "All we did was want to report back to you and we've provided that report and stand to listen and be held accountable. There's no action item unless you direct us otherwise."

Amyx stated, "One of the things I would ask the Commission to do, we've got to have the item on the agenda sooner than later. We don't meet next week because of Spring break and the soonest is the 24<sup>th</sup>. It gives everybody time, if you have other questions that you might want answered after getting all this information. Comments and questions should be given to the City Manager's Office and anything else we can get answers for and we'll schedule this item to be on the agenda by the 24<sup>th</sup>."



Farmer stated, "The contractor poured through the island areas for paving efficiencies. Is that in the inspector logs or was that just anecdotal because that's what happens?"

Soules stated, "It just happens."

Schumm stated, "I came down on Thursday afternoon for about 2 hours and went through all these things with the staff because I'm very concerned that the audit hold up its integrity and I met with Chuck, Dave Cronin, Dave Corliss, Mark Thiel, and Carol Fittell and we went through as much of the same thing we did tonight but in greater detail and I subjected them to a lot of questions because I wanted to make sure I knew where it was at. I really believe that first of all, we got more concrete than we needed and we paid for what we used. There were no shortages of concrete, if anything there was an overage and everything was installed and inspected and when you look at the final numbers which they gave us with this schedule one tonight. I was satisfied that we got what we paid for. We paid for the square yardage not the cubic yardage. Cubic yardage was used for information for the inspectors in the field to make sure they had the right aggregate and all the rest of the things he talked about. After spending that time there, I was satisfied that we got what we paid for and there was no short changing of any kind. I had to find out for myself, based on the discrepancies of the Auditor's Report and I couldn't understand exactly how all this was coming about, but I wanted to be here in person to quiz the staff and find out for myself that everything was appropriate and at this point I believe it is."

Farmer stated, "We do need to let it be known and I mean no disrespect to any of our great staff that works so hard, but we screwed up and I am deeply sorry to the public for that and what we need to make sure to do is just like with any goof up that happens is we have to figure out why it happened and then make sure it doesn't happen again. That's what I want with this final payment that we make sure to have that conversation to assure the public that we recognize how it happened and then we assure them that it's never going to happen again. I think that's an important conversation to have parallel with the final payment and that sort of

thing because it's one thing to say like 'oops' and it's another thing to take responsibility and then to ensure that we're putting processes in place to make sure that this kind of stuff isn't going to happen again. Sorry, I just wanted to make sure to add that there."

Amyx stated, "We've all said a number of things over the last couple weeks and I do appreciate the time that I had to be able to spend with our staff last Thursday afternoon. When that phone call came, I could kind of tell it was a kick and I felt like I've been kicked hard. Vice Mayor's right, messed up. We'll be looking at all kinds of procedures to put in place so that we don't do it again. We've had the discussion last week a little bit about no bids and now were going to do those or now were not going to do those. I mean it's going to have to be an emergency where water is shooting out of the sky before we bid on a no-bid pipe of some kind. I don't know what it would be but there's going to have to be some kind of standard put in place that we understand that or staff understands our feelings in carrying out responsibility of no bids. I think we've had some of the discussions already about the changes that will be made and we'll look forward in going through this process and cleaning up things that we believe are important to protect the public."

Schumm stated, "I said I was here on Thursday afternoon when actually I was here on Friday afternoon. I made a mistake. I had a busy week last week and was real busy Tuesday."

Amyx stated, "I appreciate everybody's help on this. I'll wait to hear any other questions or comments that you all have and direct it to the City Manager's Office. Dave, you'll be able to get answers to any of those things."

Corliss stated, "Absolutely."

Amyx stated, "We'll get this back on and again thank you and to all the staff for being able to have this looked at. Would you like the Commission to receive the item or we don't really need to do anything and I'll wait to next Thursday."

Corliss stated, "It was just meant to provide a briefing, there's not going to be any action and obviously just add this today."

Schumm stated, "It's going back on the agenda in two weeks."

Corliss stated, "We'll provide all the links of materials, if that's what the Mayor's direction is and that's what we'll do on the 24<sup>th</sup>."

Amyx asked, "Any other thing that we need answers to, let's get them in or if there's anything in here that you all have questions about, let's make sure that it's there and we get it on the page, okay? I hate to have you spend your spring break on it, but that's the deal."

**E. PUBLIC COMMENT: None.**

**F. FUTURE AGENDA ITEMS:**

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

**G: COMMISSION ITEMS:**

Riordan stated, "I don't have a Commission item, but I think last week I talked about the fact that a republic is what we are as a nation where you elect officials to make hard decisions and good decisions. One of the public partially misunderstood that and thinking because that we are a republic we don't listen to the public and that's not true. Looking at just one of today's items the taxi would be a good example of where something is brought before us, the public speaks, we listen to them and then we change. It's not that we don't listen, but rather that we try to make decisions for the public, maybe not sometimes popular decisions, but good decisions."

**H: CALENDAR:**

David Corliss, City Manager, reviewed calendar items

**I: CURRENT VACANCIES – BOARDS/COMMISSIONS:**

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

**Moved by Schumm, seconded by Dever, to adjourn at 8:35 p.m. Motion carried unanimously.**

**MINUTES APPROVED BY THE CITY COMMISSION ON JUNE 9, 2015.**

*Diane M. Trybom*  
Diane M. Trybom (City Clerk)