



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

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

March 24, 2015

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Dever, Farmer, Riordan and Schumm present.

A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. Proclaimed the week of April 12 – 18, 2015, as Lawrence Civic Choir Anniversary Week.
2. Free State High School Robotics team presentation

B. CONSENT AGENDA

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

1. Approved the City Commission meeting minutes from 01/27/15 and 02/03/15.
2. Received minutes from various boards and commissions:

Board of Zoning Appeals meeting of 11/6/14
Historic Resources Commission meetings of 12/18/14 and 1/15/15
Horizon 2020 Steering Committee meeting of 02/23/15
Mental Health Board meeting of 01/29/15
Public Health Board meeting of 01/20/15
3. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 455 vendors in the amount of \$4,933,820.75 and payroll from March 8, 2015 to March 21, 2015 in the amount of \$2,193,372.65.

4. Approved licenses as recommended by the City Clerk's Office.

Caterer

Lawrence Arts Center
Lawrence Arts Center, Inc.
940 New Hampshire St.

Expiration

March 31, 2015

5. Approved appointments as recommended by the Mayor.

Douglas County Food Policy Council:



Reappoint Jan Hornberger, Emily Hampton, and Jen Humphrey. Appoint Tyra Kalman-Crouch as the Community Mercantile Representative

Electrical Code Board of Appeals:

Extend the expiration of term for Verlon Myers until 06/30/16 to allow for 2015 edition of the International Code Council building and trade codes reviews. Once the 2015 review process is completed, recruitment to permanently fill the remaining term of the position would begin.

Fire Code Board of Appeals:

Reappoint Tracy Green (785.843.5277) and Jay Zimmerschied (785.235.0012) to additional terms that expire 01/31/19.

Human Relations Commission:

Appoint Jacqueline Becks (785.580.3719) to a term that expires 09/30/17.

Plumbing Code Board of Appeals

Extend the expiration of term for Steve Burd until 06/30/16 to allow for 2015 edition of the International Code Council building and trade codes reviews. Once the 2015 review process is completed, recruitment to permanently fill the remaining term of the position would begin.

Appoint Doug Dillon (785.331.0528) to a term that will expire 04/30/17.

Public Health Board:

Appoint Sandy Praeger as the joint City/County appointment with a term that would expire 03/31/18.

Sales Tax Audit Committee:

Appoint Rebecca Dulaney (785.939.9461) to a term that expires 04/30/17.

Traffic Safety Commission:

Reappoint Chris Storm (785.843.4974) to an additional term that would expire 04/30/18.

6. Bid and purchase items:
 - a) Set a bid opening date of May 19, 2015 for Bid Number B1521 for 2015 Pump and Motor Rehabilitation Program.
 - b) Set a bid opening date of May 19, 2015 for Bid Number B1520 Electrical Preventive Maintenance.
 - c) **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Awarded City Bid No. 1513, Project PW1316 - Bob Billings Parkway and George Williams Way Geometric and Traffic Signal Improvements, to RD Johnson Excavating Co., Inc., in the total amount of \$681,253.
 - d) **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Awarded City Bid No. 1514, Project PW1437 - Corpus Christi Benefit District for Turn Lane Improvements, to RD Johnson Excavating Co., Inc. in the total amount of \$202,507.28.

- e) **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Awarded City Bid No. 1515, Project PW1345 - Bob Billings Parkway, Foxfire Drive to Wakarusa Drive, Pavement Reconstruction, Pavement Marking, and Sidewalk, to RD Johnson Excavating Co., Inc., in the total amount of \$939,746.50.
 - f) Awarded bid for two (2) water service installation and watermain repair crew and equipment trucks for the Utilities Department, to Laird Noller Ford, for \$158,572.
 - g) Authorized the purchase of a Groundmaster 4100-D mower for the Parks and Recreation Department, to Professional Turf Products, L.P., for \$51,570.92, utilizing the State of Kansas contract.
 - h) Authorized staff to advertise Bid No. B1507, installation of conduit, fiber, and related equipment for the 6th Street Fiber Project.
 - i) Approved change orders to Bettis Asphalt, in the amount of \$127,875.50, for the 6th and Iowa Reconstruction Project.
 - j) Approved sale of surplus I.T. equipment on GovDeals.
 - k) Approved sale of surplus equipment on GovDeals.
7. Adopted on first reading, Ordinance No. 9093, authorizing up to \$23 million in industrial revenue bond (IRB) financing for the 100 E. 9th Street project located on the northeast corner of 9th & New Hampshire Street for the purpose of accessing a sales tax exemption on construction materials. Aye: Amyx, Dever, Farmer, Riordan, and Schumm. Nay: None.
8. Adopted on second and final reading, the following ordinances:
- a) ~~**WITHDREW** - Ordinance No. 9090, prohibiting the possession of glass bottles and other glass containers in the downtown district during specified hours.~~
 - b) Ordinance No. 9089, for a Special Use Permit (SUP-14-00488) for Precious One's Learning Center, located at 1100 Kasold Drive.
 - c) 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.*
9. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Adopted Resolution No. 7109, expressing the City's opposition to Senate Bill 212, which affects a city's relationship with employee groups.
10. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Accepted dedications of right-of-way associated with Minor Subdivision, MS-15-00038, for

Northwood Addition No. 3, located at 345 Florida St. Submitted by Grob Engineering Services, LLC, for Locust Tree, LLC, property owner of record.

11. ~~WITHDREW BY APPLICANT-~~ ~~Approved a Special Event Permit, SE-15-00084, requested for Final Four tent sales at 2300 Louisiana St from March 30 to April 12, 2015. Submitted by Sun Creations, Inc. for 2300 Louisiana Co, LLC, property owner of record.~~
12. Authorized the Mayor to execute an agreement with the Kansas Department of Transportation for the KLINK Resurfacing Project.
13. Approved a Street Event Temporary Use of Public Right-of-Way Permit for the closure of the 100 block of E. 8th Street and the intersection of 8th Street and New Hampshire Street from 6:00 a.m., Friday, April 17, 2015, to Saturday, April 18, 2015, at 6:00 a.m. for the Downtown Olympic Shot Put event. Adopted on first reading, Ordinance No. 9075, authorizing the sale, possession, and consumption of alcoholic liquor in the 100 block of E. 8th Street and the intersection of 8th Street and New Hampshire Street from 12:00 p.m. – 10:00 p.m. on Friday, April 17, 2015.
14. Approved a Street Event Temporary use of right-a-way permit allowing the closure of the 100 block of E. 8th Street from 12:00 p.m. on Friday, August 7, 2015, to 1:30 a.m. on Sunday, August 9, 2015, for the 2015 Sandbar Birthday Party. Adopt on first reading Ordinance No. 9094, allowing the sale, possession and consumption of alcohol in the 100 block of E. 8th Street during the event.
15. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Approved a Street Event Temporary Use of Public Right-of-Way Permit for the Kansas Food Truck Festival, allowing the closure of the 800 block of Pennsylvania Street, from 8th Street to 9th Street, and the 600 block of E. 8th Street on Saturday, May 2, 2015. Adopted on first reading, Ordinance No. 9095, allowing the possession and consumption of alcohol in the 800 block of Pennsylvania Street and the 600 block of E. 8th Street on Saturday, May 2, 2015, from 12:00 p.m. to 11:59 p.m. during this event.
16. Approved a Street Event Permit for DLI's annual downtown sidewalk sale on July 16, 2015, from 5:00 a.m. to 9:00 p.m. and approve the exclusive use of the public sidewalk adjacent to both sides of Massachusetts Street from 6th Street to 11th Street, on July 16, 2015 from 5:00 a.m. to 9:00 p.m.
17. Approved traffic control plan for The University of Kansas to close lanes on Iowa Street for the Irving Hill Bridge Improvement Project, between 9 a.m. and 4:00 p.m. beginning May 18 - July 31, 2015.
18. Approved the request by Paul Warner for variance from City Codes 19-112 and 19-301, which require separate meters for each unit in a duplex, and deny the request for variance from City Code 19-214(C), which requires a separate service line for each unit in a duplex, with respect to Hutton Farms West No. 2.
19. Received 2014 Annual Economic Development Report and refer report for review by the Public Incentives Review Committee.

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

Moved by Schumm, seconded Farmer, to approve non-Rock Chalk Park related claims to 453 vendors in the amount of \$4,921,513.80. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Moved by Schumm, seconded by Riordan, to approve Rock Chalk Park related claims to 2 vendors in the amount of \$12,306.95. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

Moved by Schumm, seconded by Dever, to approve payroll from March 8, 2015 to March 21, 2015, in the amount of \$2,193,372.65. Motion carried unanimously.

Ralph Gage pulled from the consent agenda for separate discussion, consent agenda No. 6(c) PW1316 - Bob Billings Parkway and George Williams Way Geometric and Traffic Signal Improvements; 6(d) Project PW1437 - Corpus Christi Benefit District for Turn Lane Improvements; and,6(e) Project PW1345 - Bob Billings Parkway, Foxfire Drive to Wakarusa Drive, Pavement Reconstruction, Pavement Marking, and Sidewalk. Gage stated, "In January of 2014, I was involved in efforts to organize a public meeting at Langston Hughes School where the City Staff provided us information about the K-10 interchange and other improvements planned for Bob Billings Parkway. One out broke of that meeting was the formation of a coalition of 16 homeowner associations and neighborhood groups, people who live in the area along Bob Billings Parkway. This coalition has been working to identify concerns about the street and organized another meeting with City staff last month. The group steering committee asked me to speak tonight and to present to you information about safety issues along that road. First, I believe it's important to remember that until it was renamed to honor Bob Billings, it was 15th Street. It is not, and never has been, a parkway in a sense of Clinton Parkway. Clinton has an unlimited access roadway that has access roads and wide multi-use lanes for pedestrian and cyclist on both sides. 15th Street, on the other hand, has no access roads. Instead it has more than 50 intersections and curb cuts serving businesses, schools, churches, condominiums, office buildings, retail facilities, police department, KU Research, banks,

retirement communities, and single-family residences. 15th has no sidewalks in some areas and in others the sidewalks are broken and dangerous. Worse yet, along some stretches of 15th the average speed is nearly 55 mph. Our group's paramount concern is safety for all users of Bob Billings Parkway. In general, we suggest that 3 strategies be developed: 1) to decrease the speed of vehicles; 2) to improve access at the many intersections serving residential areas; and 3) to provide sidewalks and crossings for pedestrians and to improve safety for bicyclist. Our group had prepared a report, outlining concerns about various locations along the route and suggesting possible solutions. We appreciate the involvement of Dave Corliss and Chuck Soules, Dave Cronin and other staff members. We support the agenda items before you this evening. Their welcomed 1st steps. We'll continue to suggest and support further safety improvements along this road. It is our hope that instead of finding ourselves merely reacting to proposals, we will be involved in a proactive process with you and the staff to make this a safe roadway for the City's residents and other users. I'll leave behind copies of our memo and the full report will be emailed to you and others. If you have any questions, I'll be glad to try to answer them."

Amyx asked, "Ralph, did you say the full report is done now?"

Gage stated, "The full report is done from our prospective and will be emailed later this evening."

Amyx stated, "We appreciate the work that you and others have done to be involved in this process over the last year and we are to this point, where improvements are beginning and I know we'll have great opportunity to talk about other improvements into the future."

Moved by Schumm, seconded by Dever, to approve consent agenda no. 6(c) City Bid No. 1513, Project PW1316 - Bob Billings Parkway and George Williams Way Geometric and Traffic Signal Improvements, to RD Johnson Excavating Co., Inc., in the total amount of \$681,253. Motion carried unanimously.

Moved by Schumm, seconded by Dever, to approve consent agenda no. 6(d) City Bid No. 1514, Project PW1437 - Corpus Christi Benefit District for Turn Lane Improvements, to RD Johnson Excavating Co., Inc. in the total amount of \$202,507.28. Motion carried unanimously.

Moved by Schumm, seconded by Dever, to approve consent agenda no. 6(e) City Bid No. 1515, Project PW1345 - Bob Billings Parkway, Foxfire Drive to Wakarusa Drive, Pavement Reconstruction, Pavement Marking, and Sidewalk, to RD Johnson Excavating Co., Inc., in the total amount of \$939,746.50. Motion carried unanimously

Schumm asked, "Is that a 2015 project or 2016?"

Amyx asked, "Those are going to begin this year, right?"

Corliss stated, "What we're going to be doing is soliciting input from the neighborhood, from the adjacent property owners and starting to work up a possible plan trying to get a good consensus. Some of that work might be done in 2015 and some of it may be done in 2016. Last month on the 24th of February, you budgeted 2.25 million dollars in infrastructure sales tax, I think a little bit of debt, but primarily infrastructure sales tax funding in our capital improvement plan to do reconstruction work and then hopefully get at some of the issues recognizing that there's going to be additional traffic along that corridor."

Schumm asked, "That'll be done in concert with some other activity there, construction activity as well once we study it a little bit more?"

Corliss stated, "It could very well be, but it may be independent of that as well. We want to try and get as big as bank for the buck that we've got in order to work on that. We're not going to be able to probably do the entire corridor as far as rebuilding and other things, but we can at least start working up a prioritization and presenting that all to you and get your direction."

John Darling, Fire/Medical, pulled from the consent agenda no. 9, for separate discussion, adopting Resolution No. 7109, expressing the City's opposition to Senate Bill 212,

which affects a city's relationship with employee groups. Darling said Local 1596 drafted a letter for the City Commission which read:

"Mayor Amyx, City Commissioners, the Lawrence Professional Firefighters IAFF Local 1596 would like to formally express our appreciation and support for City Resolution 7109. This resolution publically and powerfully makes the case for non-interference in local affairs, beginning with a reference to our historic role in the fight for human freedom and equality.

We are proud of is the respectful and productive process that we have built together over the decades. Through this process, many issues have been addressed to our mutual benefit. In the end, this give-and-take has resulted in a highly-engaged workforce who is free to pursue our true calling – a tradition of excellence in providing emergency services to our citizens.

At a time when politicians in Topeka are attacking our very right to have a relationship with the City and distracting us from our mission, we are grateful to serve a community that values our service. This resolution sends a strong signal that the City Commission values public safety, and I thank you for your vocal support on an issue that is vitally important to our membership. Sincerely and Respectfully, John Darling, President Lawrence Professional Firefighters, IAFF Local 1596."

Amyx asked, "Didn't we go through the same process like last year or the year before?"

Garling stated, "Similar."

Amyx stated, "I remembered the process and it was either me or Dever that our strong message was pretty clear that local issues are local issues and they should remain here. We have a responsibility to work with our employees and we do that in a special way. We make sure we understand the needs that you and your organization and the folks that provide public safety and all the services that the City provides has everything that they need to do their job. I for one, and I know my colleagues here share the same deal, we're very proud of the work that we do and I do believe the message is quite strong. Local issues need to remain local issues.

We work hard and administrative staff making sure our local decisions are here and they're done in a very professional way. We appreciate your willingness to stand up along with other employee organizations throughout the state and locally and sounding off on this item. Thank you for your service to our community and every member of your organization.”

Mayor Amyx called for public comment. None.

Moved by Riordan, seconded by Schumm, to adopt Resolution No. 7109 as revised, expressing the City's opposition to Senate Bill 212, which affects a city's relationship with employee groups. Motion carried unanimously.

Melinda Toumi, Pinckney Neighborhood Association Vice President, pulled from the consent agenda no. 10 for separate discussion the acceptance of dedications of right-of-way associated with Minor Subdivision, MS-15-00038, for Northwood Addition No. 3, located at 345 Florida Street. She read a letter:

“Dear Mayor Amyx, Commissioners and Mr. Corliss, we want to thank Grob Engineering and Locust Tree for bringing development to the Pinckney Neighborhood. These types of infill developments had been discussed quite a lot and they could be tough to attract a developer. We had many different projects proposed and planned out at that location and none of them have been able to materialize and so we're really excited about the new plan. The neighborhood residents came to the March meeting to discuss concerns and priorities for the project from their prospective. Shorty they are: adequate parking, tree retention, green space as buffer. Regarding the parking, it's not clear whether those duplexes are going to have 2 or 3 bedrooms and of course that is going to affect the number of vehicles that each individual unit is going to have so we're talking about 6 duplexes up to 3 bedrooms that would be 18 rooms, maybe there are couples. This is looking like a lot of vehicles. Remember that those streets in that area of 300 block of Florida, there's not a lot of parking on those side streets. There are issues with the health care facilities in the area and adequate parking in the neighborhood in that area as it is right now. Again, that parking is definitely something to keep in mind. Tree

retention, we love our trees in Pinckney Neighborhood and then green space as a buffer with the new easements that have been requested. It's not really clear where those buildings are exactly going to fall on the plans and we also need our green space as a buffer. Again, thanks to the developers involved in the project. We're excited to have some more affordable housing in our neighborhood and we just ask that those 3 things be taken into consideration."

Amyx stated, "Hopefully, we'll get you an answer on the process that it's going to go through. Tonight, we're just accepting the dedication of the easement. Scott, do you want to explain the process from this point?"

Scott McCullough, Planning and Development Services Director, stated, "This is the minor subdivision before you tonight. It is taking 4 existing lots to 6 lots in RSO District. The RSO District is a district that permits duplex development so each lot could accommodate, 1 duplex/2 units, so we could have up to 12 units here. At this stage, in a duplex development process, there's no site plan involved. It's basically forming the lots and as the building permits come in for the duplex a plan is required which will place the building within this building envelope. We do show the setbacks. In our determination report, the Horticulture Manager for the City noted that we had some quality oak trees here on Florida Street, two of them, I believe, that were working with the applicant to maintain and keep alive with the placement of the sidewalk and so that's a continuation. That process will be continued after the plat is recorded and infrastructure is place there. Essentially, the application tonight dedicates additional width to existing utility easements and vacates 10 feet of West 4th Street here to accommodate a little bit large lot here, but does put in its place some utility easements there. We don't know necessarily how many bedrooms. RSO has an occupancy limit of 3 unrelated so it's reasonable to think that we could have up to 3 bedrooms per duplex unit which typically would be accommodated in driveways from the street up to the structure. The applicant is here tonight to expand on anything I may be missing about their plan, but that's the project from our prospective."

Amyx stated, "So then the space for the parking that would be on that lot would be able to accommodate 3 vehicles, you believe?"

McCullough stated, "The code requires that each bedroom have a parking space. Whether that's 2 or 3, it's going to be a little bit of a function of what the lot can accommodate, but on street parking, it's not meeting the code so it has to be accommodated on-site."

Mayor Amyx called for public comment. None.

Moved by Riordan, seconded by Dever, to accept the dedications of right-of-way associated with Minor Subdivision, MS-15-00038, for Northwood Addition No. 3, located at 345 Florida St. Submitted by Grob Engineering Services, LLC, for Locust Tree, LLC, property owner of record. Motion carried unanimously.

Jeremy Farmer pulled from the consent agenda no. 15 for separate discussion, approving a Street Event Temporary Use of Public Right-of-Way Permit for the Kansas Food Truck Festival, allowing the closure of the 800 block of Pennsylvania Street, from 8th Street to 9th Street, and the 600 block of E. 8th Street on Saturday, May 2, 2015. Adopting on first reading, Ordinance No. 9095, allowing the possession and consumption of alcohol in the 800 block of Pennsylvania Street and the 600 block of E. 8th Street on Saturday, May 2, 2015, from 12:00 p.m. to 11:59 p.m. during this event. Jeremy Farmer stated, "Just Foods has been a beneficiary of this even so I'm going to step out while you guys deliberate." Farmer recused himself at 6:20 p.m.

Mayor Amyx called for public comment. None.

Moved by Riordan, seconded by Schumm, to approve a Street Event Temporary Use of Public Right-of-Way Permit for the Kansas Food Truck Festival, allowing the closure of the 800 block of Pennsylvania Street, from 8th Street to 9th Street, and the 600 block of E. 8th Street on Saturday, May 2, 2015. Adopted on first reading, Ordinance No. 9095, allowing the possession and consumption of alcohol in the 800 block of Pennsylvania Street and the 600

block of E. 8th Street on Saturday, May 2, 2015, from 12:00 p.m. to 11:59 p.m. during this event.

Aye: Amyx, Dever, Riordan, and Schumm. Abstain: Farmer. Motion carried.

Jeremy Farmer returned at 6:22 p.m.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report regarding the Public Works 2014 Annual Report; Cultural Plan Meetings Schedule; 9th Street Corridor Project, City Hall Bike Repair Station; and, Commissioners were reminded to update Statements of Substantial Interest.

D. REGULAR AGENDA ITEMS:

1. Considered the following items related to the 2015 Rev it Up Hot Rod Hullabaloo:

- a) **Conducted a public hearing regarding a distance limitation waiver request for the 2015 Rev it Up Hot Rod Hullabaloo event to be held in South Park on Saturday, September 26, 2015, and find that the proximity of the temporary sale of alcoholic liquor for the event is not adverse to the public welfare or safety and grant a distance limitation waiver.**
- b) **Considered approving a street event temporary use of public right-of-way permit for the closure of Massachusetts Street from 11th Street to 13th Street from 6:00a.m.– 6:00 p.m. on Saturday, September 26, 2015, as well as the use of parking spaces along North Park Street and New Hampshire Street adjacent to South Park.**

Mayor Amyx conducted a public hearing regarding a distance limitation waiver request for the 2015 Rev It Up Hot Rod Hullabaloo.

Mark Thiel, Assistant Public Works Director, presented the staff report regarding 2015 Rev It UP Hot Rod Hullabaloo.

Amyx asked, "Mark is there any difference in the application between last year and this year?"

Thiel stated, "No, sir."

Mayor Amyx called for public comment.

Steve Cronister stated, "I think it is our 5th year we've had it downtown and each year we raised around \$7,000 or \$8,000 for local charity and this year it's going to the Ballard Center.

It's been a successful event to try to bring the community together downtown. It brings a lot of extra commerce to the downtown business that day and we've been real pleased with the way the events turned out and we haven't had any adverse events since we've had it."

Moved by Schumm, seconded by Farmer, to close the public hearing.

Moved by Dever, seconded by Schumm, to find that the proximity of the temporary sale of alcoholic liquor for the 2015 Rev it Up Hot Rod Hullabaloo is not adverse to the public welfare or safety and grant a distance limitation waiver and approve a street event temporary use of public right-of-way for the closure of Massachusetts Street from 11th Street to 13th Street, from 6:00 a.m. – 6:00 p.m. on Saturday, September 26, 2015 as well as the use of the parking along North Park Street and New Hampshire Street, adjacent to South Park. Motion carried unanimously.

2. Considered the following items related to the 2015 Art Tougeau Parade and Final Friday event and the 2015 Lawrence Buskerfest Street event:

- a) **Conduct a public hearing regarding a distance limitation waiver request for the 2015 Art Tougeau Parade and Final Friday event to be held Friday, May 29, 2015, at 12:00 p.m. to Saturday, May 30, 2015, at 2:00 p.m. and find that the proximity of the temporary sale of alcoholic liquor for the event is not adverse to the public welfare or safety and grant a distance limitation waiver. The public hearing would apply to the 900 block of New Hampshire Street portion of the event.**
- b) **Consider adopting on first reading, Ordinance No. 9076, allowing the sale, possession and consumption of alcohol on the public right-of-way on the 900 block of New Hampshire Street during the Art Tougeau event.**
- c) **Consider approving a street event permit for the 2015 Art Tougeau Parade and Final Friday event on Friday, May 29, 2015, to Saturday, May 30, 2015, for the closure of the 900 block of New Hampshire Street.**

Mayor Amyx conducted a public hearing regarding a distance limitation waiver request for the 2015 Art Tougeau Parade.

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

Mayor Amyx called for public comment. None.

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

Moved by Schumm, seconded by Riordan, to find that the proximity of the temporary sale of alcoholic liquor for the 2015 Art Tougeau Parade and Final Friday event is not adverse to the public welfare or safety and grant a distance limitation waiver; adopt on first reading, Ordinance No. 9076, allowing the sale, possession and consumption of alcohol on the public right-of-way on the 900 block of New Hampshire Street; and approve a street event permit for the 2015 Art Tougeau Parade and Final Friday event on Friday, May 29, 2015, to Saturday, May 30, 2015, for the closure of the 900 block of New Hampshire Street. Motion carried unanimously.

- d) **Conduct a public hearing regarding a distance limitation waiver request for the 2015 Lawrence Buskerfest event to be held Friday, May 29, 2015, to Sunday, May 31, 2015, and find that the proximity of the temporary sale of alcoholic liquor for the event is not adverse to the public welfare or safety and grant a distance limitation waiver. The public hearing would apply to the 900 block of New Hampshire Street portion of the event from Saturday, May 30, 2015, at 2:00 p.m. to Sunday, May 31, 2015, at 7:00 p.m.**
- e) **Consider adopting on first reading, Ordinance No. 9077, allowing the sale, possession and consumption of alcohol on the public right-of-way on the 100 block of E. 8th Street, and the 900 block of New Hampshire Street during the 2015 Lawrence Buskerfest event.**
- f) **Consider approving a street event permit for the 2015 Lawrence Buskerfest event for Friday, May 29, 2015, to Sunday, May 31, 2015. The event will be held in the 100 block of E. 8th Street, the 900 block of New Hampshire Street, and in front of US Bank (not in the right of way).**

Mayor Amyx conducted a public hearing regarding a distance limitation waiver request for the 2015 Lawrence Buskerfest.

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

Mayor Amyx called for public comment.

Richard Renner, producer of the Buskerfest, stated, "Some of you Commissioners may have gotten a proposal that I sent in the email and now would be the time for me to address that. Mr. Mayor and Commissioners I want to thank you for the time today. I'm going to read some prepared remarks here. I'm a member of Lawrence Cultural Arts Commission but this evening I'm speaking to you as the producer of the Lawrence Buskerfest. This should be

obvious that the arts play an important part in the culture and business in Lawrence. We have established a Cultural Arts District, hired a Director of Arts and Culture and created numerous events to promote the arts. This Commission has been very supportive and very deliberative and we certainly appreciate it, especially all the other festivals here too. I'm sure I speak on their behalf. However, I'd like to call your attention to an unmet need and suggest a possible solution. Presently, the option for a large Public Arts or Cultural Event such as the Buskerfest, the Festival of Cultures or the Freestate Festival to apply for financial support from the City as through the Lawrence Community Arts Grant Program which has a limited total budget of \$7,000. While this program is intended to enhance community participation in arts and promote collaborative programs among artists and arts organizations, the amount available is too small to support large community-wide events. This resulted in festival promoters, such as me and the Lawrence Arts Center, having to make sometimes fairly large out-of-budget requests to the City or requesting support from the guest tax, event by event, that gain by substantial support. In the past, I have requested and received funding from the City guest tax, but I will say the requirements for getting that have always been a little fuzzy for me and likewise making requests directly to the Council, I'm an amateur and I'm uncertain as to how that process and the rules go. So the large festivals are exactly the kind of events that present both visual and performing art and make it available to the public at-large, expand connections to the arts through the community and draw large numbers of outside visitors to Lawrence. For example, the Buskerfest has grown steadily since its inception and generates significant revenue for the City merchants. The Kansas Tourism Bureau has estimated that our festival brings over \$244,000 in tax revenue with only a budget of only \$25,000. Finances aside, these events greatly enhance Lawrence's regional and national reputation as a City of the Arts. The Lawrence Buskerfest, I'm very proud of this, is the largest festival of its type in the Country and all the performers know it too. I would like to suggest that the City consider a more standard way of supporting these beneficial events by establishing a well-funded and well-regulated annual granting process for

Cultural Events in Lawrence. I would also like to propose that a possible solution for funding and administration of this service, Resolution 7070, the Percent for Art, Public Art Program, stipulates that up to 2% of all capital expenditures can be set aside for art and public places. It does not require that the art be part of the Capital Improvement Project itself, although that has been how it has been traditionally used. This opens up the possibility of using these funds for Arts and Culture all over the town, including sustaining and enhancing major festivals such as the Buskerfest and the Free State Festival. The upcoming Wastewater Treatment Plant is an example of a Capital Improvement Project that could easily help fund arts and cultural events or public arts program for many years. The Director of Arts and Culture could oversee the Arts and Culture Events Grant Program and the Lawrence Cultural Arts Commission could operate the grant competition as it already does for the Community Arts Grant Program. As the City's existing advisory board on Arts and Culture, the Lawrence Cultural Arts Commission is well suited to work with the Director of Arts and Culture to develop and promote the new grant's program, solicit application and so I suggest you ask recipients for presentations to the City Commission for a final decision. The mechanisms are already in place. All that is required is for the City Commission to include the Percent for Arts and Capital Improvement Projects at the bid stage, rather than applying it after the fact has been the practice in recent years that's so there are no surprises for the contractors and approve use of Percent for Art funds in this way as well as for purchase of City owned artworks as it has been traditionally used. Resolution 7070 has been greatly underutilized in recent years. I propose that the City Commission re-engage with this program and seriously consider creative uses for these funds to open up possibility for Lawrence to grow its reputation as a Center for Arts and Culture. Doing so will benefit programs as well, including the City's interest in drawing retirees to live here as well as drawing outsiders who will spend money in the City's restaurants, stores and hotels. I hope you will consider my proposal and to make your support for Arts and Culture in Lawrence and special events like the Buskerfest, more sustainable and I believe embracing new ideas for

utilization of Resolution 7070 can offer a solution, particularly for the recent increase in out of budget cycle requests for festival funding. I am glad to answer any questions and invite the members of the Lawrence Arts Commission who are present to join me in answering them.”

Amyx stated, “I did visit with staff yesterday along with the Vice Mayor in looking at your idea and I think what we may want to do is have a study session sometime prior to the budget season starting next month, sometime late in the month and we’ll talk about this item at a great length since it’s not really an agenda item tonight, but we appreciate you bringing this to our attention this evening and I think if it’s something that you can wait a month, we’ll discuss it at a study session.”

Renner stated, “Okay, thank you.”

Moved by Riordan, seconded by Dever, to close the public hearing.

Farmer stated, “I visited with Richard about a week or so ago and one of my conversations at Merchant’s and he brought this to my attention and I think it’s a very innovative way for us to make investments in the Arts and Culture, not necessarily that we’re going to have a large piece of artwork out at the Wastewater Treatment Plant, but that we could use, I mean why would we want to do that? We could call it the number 2. We could use this funding to sustain some of these events like you said, but also there’s a lot of art that happens in this community and not only street art or performances or festivals and I think this would be way for us to not have to continually have these budget request come back to us to administer those programs to the Culture Arts Commission. It seems to me like a really fantastic idea and I’m looking forward to having a study session to figure out the best way to do that and maybe engage in Cultural Arts Commissions that we talked about last week to really get some attraction like this, but I think it’s a fantastic idea and we’ve got some really smart people in our community, Richard’s one of them and I appreciate him bringing this to my attention and I encouraged him to write the letter and show up tonight and present it to us and Richard I want to say thanks for providing this idea and I hope that we can get some traction and put some

good money towards the arts in this community. To put our money where our mouth is since we're a community of Arts and Culture. This is going to be a great step in that direction so great job."

Moved by Farmer, seconded by Dever, to find that the proximity of the temporary sale of alcoholic liquor for the 2015 Lawrence Buskerfest event is not adverse to the public welfare or safety and grant a distance limitation waiver; approve the donation of various City services; the adopt on first reading, Ordinance No. 9077, allowing the sale, possession and consumption of alcohol on the public right-of-way on the 100 block of E. 8th Street, and the 900 block of New Hampshire Street; and approve a street event permit for the 2015 Lawrence Buskerfest event for Friday, May 29, 2015, to Sunday, May 31, 2015. The event will be held in the 100 block of E. 8th Street, the 900 block of New Hampshire Street, and in front of US Bank (not in the right of way). Motion carried unanimously.

3. Consider the following items related to the Freestate Festival:

- a) **Conduct a public hearing regarding a distance limitation waiver request for the 2015 Freestate Festival to be held Monday June 22, 2015 to Sunday June 28, 2015 and find that the proximity of the temporary sale of alcoholic liquor for the event is not adverse to the public welfare or safety and grant a distance limitation waiver. The public hearing would apply to the 900 block of New Hampshire Street portion of the event.**
- b) **Consider adopting on first reading, Ordinance No. 9073, allowing the sale, possession, and consumption of alcohol in the public right-of-way in the 900 block of New Hampshire Street during the 2015 Freestate Festival.**
- c) **Consider approving the donation of various city services in support of the 2015 Freestate Festival.**
- d) **Consider approving a Street Event Temporary use of right-of-way permit for the use of New Hampshire Street, from Monday, June 22, 2015 to Sunday, June 28, 2015, for the Freestate Festival.**

Mayor Amyx conducted a public hearing regarding a distance limitation waiver request for the Free State Festival.

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

Mayor Amyx called for public comment. None.

Moved by Schumm, seconded by Farmer, to close the public hearing.

Moved by Schumm, seconded by Dever, to find that the proximity of the temporary sale of alcoholic liquor for the 2015 Freestate Festival is not adverse to the public welfare or safety and grant a distance limitation waiver; adopt on first reading, Ordinance No. 9073, allowing the sale, possession, and consumption of alcohol in the public right-of-way in the 900 block of New Hampshire Street; approve the donation of various city services; and approve a Street Event Temporary use of right-of-way permit for the use of New Hampshire Street, from Monday, June 22, 2015 to Sunday, June 28, 2015 for the Freestate Festival. Motion carried unanimously.

4. Considered the following items related to the 2015 Tour of Lawrence:

- a) **Consider approving a request from the Convention and Visitors Bureau for the donation of various city services.**
- b) **Consider adopting on first reading, Ordinance No. 9097, allowing the sale, possession, and consumption of alcohol on the 700 and 800 blocks of Vermont Street and west 100 block of 8th Street from Massachusetts Street to Vermont Street, including the intersection of 8th and Vermont Street and the plaza area between the Vermont Street parking garage and the Public Library on Friday, June 26, 2015, from 4:00 p.m. until 11:59 p.m., and the 700, 800 and 900 blocks of Massachusetts Street and the east & west 100 blocks of 8th Street from Vermont Street to New Hampshire Street, on Sunday, June 28, 2015, from 11:00 a.m. until 6:00 p.m., provided the sale, possession and consumption of alcoholic liquor are pursuant to City of Lawrence and State of Kansas law.**
- c) **Consider approving a Street Event Temporary use of right-of-way permit for the use of various city streets on June 26-28, 2015.**

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

Amyx asked, "Do we have to do a finding on the adversity of the sale and consumption of alcohol?"

Thiel stated, "No, the location for the consumption of alcohol at this event did not meet the requirements to need a public hearing."

Mayor Amyx called for public comment.

Stephanie Garrison, Eldridge Hotel, stated, "I just had a question about building access for our specific building. The map that we received recently which showed the street closures proposed for this year affect every surrounding street from our building and also the front of the Eldridge Extended, located at 8th and Vermont Street. In the past it has caused difficulties in accessing the building for guests and also departing guest luggage in the morning on Sunday. So we're really excited about having the Tour of Lawrence downtown and we welcome those activities downtown, but especially since we'll be sharing that weekend with the Tour of Lawrence and also the Free State Festival. We have concerns about our building access and so I was wondering if we could consider a temporary parking solution or valet solution which could potentially be after business hours outside of the post office in those spaces that are public parking spaces after business hours on Friday and then during all day Sunday when the Post Office is closed so that we can post a valet to help guest with luggage and we could have access for a specific place to bring vehicles around. I think our main concern is that we will be busy that weekend and in the past, it's just cause an issue. We've had to bring people all the way down the street, a few blocks away with their luggage and then pull their cars out to the middle of the street to have them load so that we can get them in and out of the building. We just wanted to make sure we were proactive with that."

Amyx asked, "What would we have to do to grant something like that? Would that take a specific request and public hearing on that item?"

Thiel stated, "No Mayor. This was the first that I was aware that there's an issue with the Eldridge or the Eldridge Extended. We would be glad to meet with you this week and work that out with Bob. We did the same thing for the Arts Center in terms of how to get people in and out of there and for their event as well as into the New Hampshire garage. I'm sure we can land on a good solution that would work for everybody."

Amyx stated, "Why don't we do that and rather than have that as part of this, you can work all of that out."

Moved by Dever, seconded by Riordan, to approve request for donation of various city services, adopt on first reading, Ordinance No. 9097, allowing the sale, possession, and consumption of alcohol on the 700 and 800 blocks of Vermont Street and west 100 block of 8th Street from Massachusetts Street to Vermont Street , including the intersection of 8th and Vermont Street and the plaza area between the Vermont Street parking garage and the Public Library on Friday, June 26, 2015 from 4:00 p.m. until 11:59 p.m., and the 700, 800 and 900 blocks of Massachusetts Street and the east & west 100 blocks of 8th Street from Vermont Street to New Hampshire Street, on Sunday, June 28, 2015, from 11:00 a.m. until 6:00 p.m., and approve a Street Event Temporary use of right-of-way permit for the use of various streets. Motion carried unanimously.

5. **Considered adopting Resolution No. 7106, establishing a pedestrian-bicycle issues task force.**

David Corliss, City Manager, presented the staff report.

Mayor Amyx called for public comment.

Tess Banyon stated, "I wanted to say that this resolution is the first step in the right direction to ensure safe routes for all. This has been a bit of journey getting here. We started talking to you folks about this about a year and a half ago. We really appreciate the work of City officials and City staff to get us to this point. We hope that you'll support it and we also hope that we see all of you at our Townhall tomorrow night. We have over 200 people that want to talk about safe routes for all and Aron is our spokesperson most of the time so she's here to answer any questions that you might have."

Amyx stated, "Aron as I told you, best wishes on tomorrow night's event. It should be a super time for everybody to be able to just have a conversation about safety and that's good. As I told you I'd be back after 7:00, but I'll head right there as soon as I get back and look forward to it."

Michael Almon, Sustainability Action Network, stated, "Looking at the resolution that's before you tonight compared to the resolution that was one month ago today, is virtually the same document. I realize that City Manager has lots of personnel items in the air that he's doing the best job that he can, but honestly, on this particular issue, the Commission has not been well served. When I look back at last month's Commission meeting, the Mayor said the direction to give the City Manager tonight of a re-write of this resolution is to incorporate the items that Michael has brought forward. Commissioner Dever said, some of the items, some of these are okay, some language was okay that he took out, so give us a couple of days to get back to David with changes that we might want to put in and then he can come forward with that. The Mayor also said, have to have any changes we want to make by Friday, that will give time to re-write and get back on the agenda and then Manager Corliss said, 'I didn't get a chance to talk to me before last month, but he thinks he could do some wordsmithing and probably get a good consensus on it. I haven't seen any wordsmithing. He did try to get ahold of me although it was late in the day, immediately before spring break, he was gone, I was gone after that. So what we have tonight really doesn't give you direction, It does not incorporate any of the items that you wanted considered from last month. I'd like to point out, first of all, that the critique that Mr. Corliss has provided focuses on the name of the taskforce as an active transportation taskforce. It's not the name, the name derives from the proposed function and the function derives, not from Sustainability Action Network, but from people who met with various organizations not representing those organizations, collaborative effort on the 21st of January and this document that you're looking at here is what that group of people recommended, not Sustainability Action Network and the main item as Carol Bowen pointed out on February 24th, from the Pedestrian Coalition, the resolution that you have tonight has no charge. What is it for? It's for bicycle pedestrian issues. It's not like a taskforce for a sewage treatment plant for example or any other taskforce. This taskforce needs to charge and far as the group who met on January 21st is concerned, that charge that we feel that it's important that

this taskforce address is recommend the purpose scope, governance and membership of an active transportation advisory board. That's what people from the KU Bicycle Advisory Committee, Sustainability Action, LiveWell Lawrence, Douglas County Health Department, all these various people from these groups Pedestrian Coalition. We all agree to this document."

Amyx asked, "Does section 2, the scope of the work of the taskforce of the current resolution, cover all of those items?"

Almon stated, "No, it covers the second one, their making funding recommendations that is in tonight's resolution, but the main one, the first one, the scope governance a membership of an active transportation advisory board, on-going board and it's not about the name, it's about permits, it's about year by year budget recommendations, not something that's a flash in the pan one-time taskforce. So that's what I'm disappointed that given anything else that has been left out of tonight resolution, that is the key one that I think is the major oversight. Beyond that, we feel it's very important that walking and bicycling would be primarily regarded as transportation. That's why we feel that the membership could be 14. There are 14 on the 9th Street Citizens Advisory Committee. The Mayor is 15, that's a tie breaker. Fourteen is a workable number, but they need to be advocates because so far we've had lots of emphasis on recreational bicycling. Most of the funding through parks and recreation and KDOT has gone for recreational bicycling. We're talking about transportation. The whole idea of a line item from last July is a non-motorized budget line-item. So we think this taskforce should be advocates of non-motorized transportation. That's the whole point. Sorry to go on for so long and thank-you David, I understand that you're trying to get this moving forward and you want to get things done. I want more than a baby step."

Amyx stated, "It seems to me, that as was suggested by the earlier speakers and the safe routes, that there's been a lot of consideration, being able to meet the needs of both pedestrian and bicycle issues throughout this entire resolution and it does go into the step of providing other recommendations, including recommendations for sustainable funding. It's a

long-term deal. I must be missing a lot here, but I just think that there are a number of things that had been taken into consideration and whatever the number it's going to be and really Michael I don't care if it's 14. That's fine, we just got to find the people to be able to serve and I'm sure we'll be able to. That's not a problem. There's a lot of hard work that's going to happen under the scope of work of this taskforce."

Farmer stated, "First of all when you get too many people on the bus, it gets hard to figure out where you're going. Fourteen, in my opinion is too many people. Secondly, I think the advisory board should discuss their own name and make a recommendation to us and in relationship to the other things that Michael said, where he just doesn't want just a baby step, I don't want to delay this anymore and I think it's just a tad bit disingenuous to come up here and continue to harp on putting this off another week and making changes and that sort of thing. We got to get this moving and there's a lot of momentum in this community for this. There's going to be a lot of public conversation and a lot of public input. Robert Ping is here from Portland Oregon, he's going to be at the Safe Routes for All Town Hall tomorrow night. I got a chance to meet with him last night. I'm excited to hear what he has to say. There's one person who has a problem with this resolution and that's Michael Almon and one person is not going to dissuade me from making a recommendation that we move forward with it tonight. It would be really great for us to have this resolution passed and on the books after first reading to celebrate tomorrow night at that safe routes meeting and I think this is the best possible thing that we can do to show the community that we want some significant momentum around this issue. The group may come back and they may say we want to be charged to do these 6 things. I think that the issue is one of the things I'm going to say on Wednesday at the Safe Routes for All Meeting is the best can become the enemy of the good. We've not gotten to this position where we are overnight and we're not going to fix it overnight, we're going to have to take some incremental steps. We're going to have to continue to make progress. Have some smart goals, specific, measurable, attainable, realistic and timely goals over the course of the

next year, five years. I'm proud of the money that we've put toward this. David Cronin sent me a spreadsheet today. I included an errand in my answer to you in an email that I sent you today. We have made some big time progress on this issue. Irrespective of whether or not it's been a budget line item, we have spent millions of dollars in the last 5 years addressing non-motorized transportation. I'm really excited about moving this forward and I'm excited about passing this resolution tonight. Again, I think that 14 people are too many. I think 11 is the right number and I think we need to let the taskforce name itself. I don't want us to tell them what we want them to do nor do I want that group to come back with 99 recommendations, I think there needs to be some specific direction that we give to that group and whether that's Mayor, you and I sitting down with that group and having a conversation with them and providing some recommendations to them or whether we have a study session with the new Commission when it gets seated in the second week in April. Regardless, I'm incredibly excited about all of the momentum and really looking forward to Robert's remarks tomorrow night and hoping that we can get this done tonight."

Riordan stated, "When I listen to Michael, I think a lot of things he says make sense, but one of the things that I have found in the last two years as a City Commission is that democracy is very slow. It's very effective many times and many times baby steps. When I look at this, I think if we had one person doing it, I think Michael would be absolutely right, but I don't think that the way democracy works and I don't think that's the way our City works. I feel very comfortable with the fact that this adequately tells this taskforce what we're looking for them to do. It does take time, but to do things right, it takes time. I feel very comfortable with this resolution. As far as the number, I don't have problems with 14. If you have a 7 to 7 vote, you probably shouldn't pass it anyway because there's too much difficulty with that and there's no sense of what we should be doing. Whether it's 8 to 6 or 9 to 5, you want a majority of the people so I don't have problems with that. I'd be opened to 11, but at the same time there are

some reasons to go 14. I could support either 14 or 11, but 14 seems to make sense to me to make sure we have a good cross section of the community.”

Schumm stated, “I’ve been to a number of pedestrian meetings and I’m probably one of the reasons that they may be here tonight because I really pushed to have this group get to the taskforce stage. It seems like year in and year out we’re seeing more and more request for non-motorized activity and more opportunity for those people who enjoy and/or need to use bicycle paths, sidewalks to get here and there, to work and to school as well as for recreational purposes. It seemed only realistic that we try to get everybody, as many people as possible, under one tent and come out with a workable plan. Right now, as we all know, we don’t have a very good program for fixing sidewalks or connecting sidewalks that don’t exist and we have incremental options and activity on bicycle paths, but it seemed to me like we need an overall plan which addresses as many things as possible and specifically, what we could look to the future for as a renewable funding source. I think that’s the real key to all this is that we need to have some idea of what we’re talking about so that would be what the taskforce needs to get their arms wrapped around is what the scope of work is going to be, prioritize that, come up with a dollar amount and say here’s what we’re looking at and here is what we need. Each year it’s some kind of renewable dollars that we can start to make headway with. That’s the same thing we’ve done with our infrastructure on streets is that when we passed the sales tax, we started identifying different streets that needed reconstruction, rebuilding and we’ve made a real dent in it and we have that renewable resource each year, at least unit 18 or 19 and that’s made a real difference in terms of our infrastructure and transportation. We need to do the same thing for the pedestrians, the bike riders and the people who would like to use the facilities. Granite, we’ve done a lot in combination of rebuilding streets with complete streets. We’ve put in new sidewalks and bike lanes, but we’ve still got a huge gap in what is needed at this time and what we’re able to do so the funding source is going to be the number one key and what the taskforce has to reconcile with. It seems to me like an advisory board, after this taskforce

completes its work is that automatically they will recommend that an advisory group be setup such that its on-going and why wouldn't you if you identify and request the need for sustainable money each year, you just want to have that and hopefully we can meld into this advisory group the many different interest that are out there so that we have one omnibus group that speaks for the different parts of this equations that are out there, different interests so that we as a City Commission then can understand that this is the program, it's not a program for this group and this group and that group, but this is the program that we need to consider. It helps us when we go into funding in trying to understand what we need and to be able to deliver that service to the body that speaks wholly for the group of enthusiast. I covered a lot of stuff here and I think most of that's involved in the resolution. Having been on a couple of taskforces, we may want to have the idea of extending the taskforce like by an initial 60 days if they don't meet their December 31st deadline. I think there's a ton of work to do and to get that all done in a comprehensive manner with a nice and neat booklet to present to the governing body by December 31st is going to be a real challenge. It just seems like it could go on a lot longer than what the December 31st deadline states. Realistically, you're not going to get started until probably May in earnest and by the time you start digging into a lot of the best practices and research, it's going to take a long time to try and come up with a plan that works for us so we may want to include in that an additional 60 day extension so that we don't run into trouble and people feeling like they have to finish up a plan right away when they're not ready to do that. It would be one suggestion I'd make. Other than that, I'm really happy that we're at this point now and I really think it's badly needed in the community and I'm really very supportive of all the interest that will be involved in this taskforce."

Amyx stated, "One of the biggest things that I think that is important as we look at the scope of the work that's going to be done by the taskforce is we're going to have a community discussion on the maintenance responsibilities that concern sidewalks. We've had a number of people come before us and have talked about the number of sidewalks throughout the

community that are in bad condition and whose responsible for taking care of that and we always have the same line about it's the property owners responsibility to take care of maintenance and construction of sidewalk issues. I think if we can have this community discussion and have a way to talk about if it's going to change or we're going to suggest change, I think that funding issue is going to be big and we did have that discussion a couple of weeks ago about we are going to have our infrastructure issue come before us and 2019 is quicker than one might think, but to have that discussion if we look at different transportation and infrastructure responsibilities and improvements and is it appropriate to consider that extension as we go back to voters to ask for that pot of money to be used on a lot of these improvements for the infrastructure. Quite honestly, I think it's an appropriate use and one that I could support and it does make a lot of sense. We're going to have a taskforce that's going to do all of that work so that's the best part of this. Jeremy, I do believe it's important to adopt this resolution tonight, establishing the taskforce especially in light of the work that's been done and the work of everybody that's been involved with the Safe Routes Program before tomorrow night and so I'm very supportive. I would like to add that language that if the deadline is not meant that the governing body can approve an extension or the taskforce can request an automatic extension for 60 days to finish their work. The comments about the 11 versus 14 members as recommended by Mr. Almon, Jeremy you strongly believe that 11 is the appropriate number. Does anyone have any feeling on that one?"

Schumm stated, "I'm okay with the 14. There are a lot of different groups involved in this and I'd like to see fairly good representation from each group that is really a stakeholder and I don't have the list right in front of me, but it seems like the city staff had identified a number of organizations that I believe would have an interest in terms of being on this taskforce."

Amyx stated, "The language that we have in the resolution says taskforce shall be composed of 11 citizens of the City of Lawrence shall have an interest in the subject of pedestrian and bicycle issues within the community. The Mayor shall appoint members of the

Task Force upon final approval of the City Commission. Do we want to spell out specifically in this resolution suggested by Mr. Almon or some combination of those organizations so they have to come from some organization and recommended by an organization?”

Dever stated, “The resolution isn’t super specific.”

Amyx stated, “That’s what I mean. It just says that somebody has an interest in pedestrian and bicycle issues. You know language like this would at least be with a different group that you would get somebody to stand up and serve. What do you think of that?”

Dever stated, “Having that list specifically. You could go to 14. I think that’s a good list.”

Corliss stated, “You do have a number of staff that doesn’t usually serve on taskforces.”

Schumm asked, “Michael, when you say that this was a collaborative effort from all of the interested parties that drew up what your statement is on the screen, was that from that list of 14? Are those the people who drew it up?”

Almon stated, “No, this is a list of the people that attended. They’re not necessarily representatives of those groups but there are some of the forward thinkers of all these groups on these particular issues.”

Schumm asked, “Is it the stakeholders groups desire to have one from each one of those 14 classes be a member of the taskforce?”

Almon stated, “Yes.”

Schumm stated, “We have on reading from 14 to 13. I had one from the Lawrence Public Schools, one from the Public Works Department. We don’t want staff members as members of the taskforce, right?”

Corliss stated, “You’re decision Commissioner.”

Almon stated, “We didn’t know better.”

Schumm stated, “Like 12, Lawrence Parks and Recreation, you could have an advisory board member from that group be on this.”

Dever stated, "If we remove staff, I mean Lawrence Parks and Recreation, we can ask if they can be a part of it, but I don't know if they need to be part of the taskforce. If you remove those, we're back down to 11 again. Staff members could be at-large and just kind of there."

Schumm stated, "Ex-officio and non-voting. Okay, maybe that's the way you do that, but I don't like to have the staff members have to be involved in the vote because then it's not a good situation. I certainly think we need staff members there to provide information and strong technical support, but to have them as a member of the committee itself it's not in the best interest of the staff, I don't believe."

Almon stated, "Our group just included those names brainstorming as providing expertise, the taskforce could draw on. We didn't differentiate staff to citizens."

Amyx asked, "Do we believe that this list is an appropriate list to fill the positions on the taskforce and that we would make the staff as ex-officio member?"

Dever stated, "May I suggest that we use this guide; we sit down; we remove the members of staff and/or appointment from that staff department in-lieu of what he suggested, and then come up with the finalist and then submit it for review and put it on the consent agenda. I think for us to nail down now that we got staff members on there, it would be difficult, plus we have 5 other items to do this evening. I'd like to have time to actually think clearly about that if possible, if we're going to remove staff from the list. Jeremy mentioned that he wanted 11. Bob said he was good with 14. We remove the public officials from it, and we're pretty close to 11, but I want to make sure."

Amyx stated, "We'll come up with that membership list and where they're going to come from, using this as a template basically on coming up with a taskforce membership, but we'll go ahead and proceed with the adoption of the resolution."

Schumm stated, "I looked at it quickly and it looks like there are 8 staff positions out of the 14."

Dever stated, "And you said that some advisory board member might be a good idea."

Schumm stated, "A lot of it's fine with me and still maintain the staff position for the expertise."

Amyx stated, "We'll come back with a list of recommended membership as a consent agenda item over the next week or so."

Moved by Schumm, seconded by Riordan, to adopt Resolution No. 7106, establishing a pedestrian-bicycle issues task force. Motion carried unanimously.

6. **Consider the following items related to the Dwayne Peaslee Technical Training Center, Inc.:**

- a) **Consider request for reimbursement of a portion of 2014 property taxes.**
- b) **Consider request for \$500,000 to support Peaslee Center renovations.**
- c) **Consider request for loan, up to \$150,000 for Lawrence Workforce Center renovations.**
- d) **Consider request for building permit and Industrial Revenue Bond application fee waivers.**
- e) **Receive request for IRB financing for the purposes of accessing a sales tax exemption certificate for the renovation; refer request to the Public Incentives Review Committee.**

Hugh Carter presented the staff report regarding their request.

Marvin Hunt, Executive Director of the Dwayne Peaslee Technical Training Center, continued with their staff report regarding the curriculum portion of their report.

Carter continued with their request.

Amyx asked, "On the loan amount for the build out of the Lawrence Workforce Center, are we happy with that payback arrangement?"

Corliss stated, "I think so. We think that will work. From an accounting standpoint, I think it will be a credit. We did that last year for the Community Shelter out of some different funds and we'll probably just do this out of the general fund. Hugh was very complementary to me and Craig, but I think we point to our governing bodies because you all directed us that this was a very high priority for the community and we've known that and we worked really hard to

keep it moving. There's one major misstatement Hugh said, he said he was 'sort' of the point person, he 'was' the point person. He's the reason why we're here this evening."

Amyx stated, "We do need to mention the hours that I know Hugh has put in on this. I do want to say that Shirley Martin Smith sent me an email that she had a family member who became ill and so she's unable to be here tonight. She's done a tremendous job with the board in making sure that we stay on course along with direction from Hugh, Marvin and others that have stood up and decided to serve. This is a tremendous project and one that as we go on community visits to our large and small employers, realizing that this technical training is a must. It's one thing that we can provide for our citizens that opportunity to become trained and able to find employment with things that employers are asking for. I think that gives everybody a leg up in being able to find a job. That is important to so many people and something I feel quite proud of."

Hugh stated, "I wish I had time to share the list of people to thank in addition to this. It's virtually endless, but maybe that's something to say for the ground breaking/ribbon cutting."

Mayor Amyx called for public comment. None.

Amyx stated, "I think that speaks volumes for the amount of work that's been done and for the great number of folks that have been talked to and people that have brought their comments forward on this item. This is truly a big deal. I do want to say one thing, Dwayne Peaslee. This is a guy that's truly about making sure that people were able to land that job. That was the goal is to make sure my kid or the guy that lives next door to me was able to find that job. This guy did it and he's was the guy that stepped up and constantly worked. It didn't matter if it was local issues that came before us, items that went before the State. What a great person and to be able to go out and visit with him, during his last days and realize that when we were asking him about having his name on this is a big deal. Dwayne was that kind of person that he didn't want his name on the front page and that kind of stuff. This was something that was really big and here was a guy that meant so much to all of us and had the opportunity to

serve.” I feel fortunate to say that I’ve been able to serve my community and my county for the years that I’ve been here, but when I get to realize that I’ve had the opportunity to meet people like Dwayne Peaslee, that’s a big deal.”

Moved by Dever, seconded by Farmer, to approve the reimbursement of a portion of 2014 property taxes; approve \$500,000 to support Peaslee Center renovations; approve a loan up to \$150,000 for Lawrence Workforce Center renovations; approve the request to waive building permit and Industrial Revenue Bond application fee; and, approve the request for IRB financing for the purposes of accessing a sales tax exemption certificate for the renovation; refer request to the Public Incentives Review Committee. Motion carried unanimously.

The City Commission recessed at 8:03 pm.

The City Commission reconvened at 8:11 pm.

7. Receive report from McDonald & Associates regarding the Rock Chalk Park audit and consider approving payment/claim of \$1,092,970.77 to Rock Chalk Park, LLC for infrastructure at Rock Chalk Park.

Michael Eglinski, City Auditor, introduced the item.

Warren Hudson, Senior Consultant, McDonald & Associations, stated, “our recommendations essentially remain the same. We revised the amount owed by the City based on some clarifications and additional information provided by City personnel and we made some minor clarification on the delivery of infrastructure section which is in Exhibit B on Items 2 and 4, but other than that it’s essentially the same report.”

Amyx stated, “Bliss signed for the batch tickets as the concrete came on site. Is that correct?”

Hudson stated, “The batch tickets were made out to Bliss Sports. Some of the batch tickets were not signed, but they were addressed to Bliss Sports II.”

Amyx stated, “You had told me that under the agreement that you thought that the concrete supplier felt comfortable with Bliss Sports versus King Construction. Is that right?”

Hudson stated, “That was the explanation given to me and I had no reason to doubt it.”

Amyx stated, "In looking at all the contracts was there a contract between Bliss Sports and King Construction. Just to be honest with you, King was paid 9.1 million for the concrete. I guess I don't understand the relationship between Bliss and King because we got these lien releases from King, but did Bliss pay for the concrete?"

Hudson stated, "Based on the attestation that King signed, as far as the vendor is concerned, they attested to the fact that they were paid 9.1 million dollars and that's all I can validate."

Dever asked, "What is your question?"

Amyx stated, "My question is, I was always under the impression that the folks whose names were on those batch tickets was the responsible party for the payment of that concrete. Warren and I talked and everybody had seen that Bliss Sports name was on all those batch tickets so I assume they would be the responsible party. If Bliss paid, then what is the relationship between them and King because King was paid also. I just want to make sure. Was there a contract between those two?"

Hudson stated, "There was a contract between Bliss Sports and King Construction Co. It was a lump sum contract for a scope of services which included the concrete work."

Amyx stated, "King was bonded to be able to do this. I couldn't understand why there was any question about whether or not they could do it."

Hudson stated, "The material purchased by King or Bliss Sports, at the end of the day, the way I looked at it from an audit prospective was that whoever guaranteed the actual materials was sort of irrelevant. Do you think that you didn't get something that was in the site plan? As long as you feel like you've got what as in the site plan then the materials provided to accomplish that task, I'm not going to say irrelevant, but I'm going to say it doesn't really matter whose name is on the invoice as long as you think you got the concrete that was supposed to be out there."

Dever stated, "They only paid once for it."

Hudson stated, "Correct."

Schumm stated, "With regards to the sample audit on the concrete which a number of tickets ended up being for other uses like the tilt up and part of the stadium, I believe, how is it that you came so close to what you thought was just an absolutely perfect outcome when indeed, it wasn't? Then the other part of that question is why did you assume that the concrete as 4 inches thick throughout the whole entire project? With the 4 inch assumption and with the batch tickets in hand, mathematically everything worked out just fine until you take out a bunch of the batch tickets that don't belong there and then we look at the fact that the concrete was a different thickness than 4. That's the issue I need to have explained to me. How you ended up in an audit situation with the finding that you came up with when it looks to me like you used 2 different, well one was an erroneous thickness and the other one was a lack of the proper sample size of tickets."

Hudson stated, "Which either one of them would have negated the quantitative analysis performed in that audit. That was part of a 3 to 4 step test that we performed on the concrete. It was by no mean meant to be a standalone review to ensure that you got what you paid for. What we did is we went back and looked at the timing of the review of City personnel measurements that were conducted by City personnel, testing reports by City personnel, and testing done by outside firms, looking at the quality and the specifications of the concrete. We used the quantitative test to sort of a last ditch review to make sure that we agreed with the findings of the City Auditor who went through and looked at the processes initially, related to the oversight by City personnel on this project. To specifically answer your question about how did we get so close, I can tell you it was dumb luck. We went though and looked at the batch tickets that were delivered, my understanding was that the section of the batch ticket that said area, which I believe there were only 3 different versions which was surface water and sewer. My assumption was that if it said surface, it was related to the surface project of the infrastructure. Whether or not it said footing or what have you that might be a note that the

driver had in order to know where to deliver the concrete, not necessarily what the concrete was used for. I looked at surface water/sewer. When I came up and tabulated those tickets and looked at what I thought were related directly to those tickets, it just so happens that we were within 2 percent of the quantity and at that point in time after the other observations looking at the City's personnel review of construction, the measurements and the fact that you've got testing firms out here looking at the specification, we had no reason to search further. Now if there had been a massive variance, I might have asked why there is such a big swing between quantities, but because it came out so close, it's a fluke really, but it came out and I didn't have a reason to continue testing at that point. The 4 inch thickness was the result of an October 17, 2012 memo, by the City that stated that the thickness for parking lots would be 5 inches on the site. Now what I did is I took into account displacement of dowels or any rebar or any other thing that's in the concrete and said that that would be an inch of displacement so you would have 4 inches of concrete and an inch of something else in that concrete structure. I was trying to get a high level view or estimate of the total amount of concrete used in the project so I thought that at the time, 4 inches was my best estimate."

Schumm asked, "Was that spec not available to you in terms of what the thickness was of the street, of the parking lot, of the sidewalk and curb?"

Hudson stated, "I'm glad you asked that. The specifications for the street were available and that's something that we found in our second round of audit testing. However, those specifications were not directly referenced in the development agreement so they were utilized from my understanding, but they were not incorporated contractually as part of the development agreement. The second part is that there were no specifications done for the parking. My understanding is that the parking was done to City specification or City direction, there were just no written drawings related to that. I had no basis to look at quantities."

Schumm asked, "So you only looked at the development agreement and what was in that development agreement."

Hudson stated, "That was the scope of the review, was to look at the compliance with the development agreement and the development agreement had exhibit I which had a good faith estimate of quantities necessary to accomplish a certain structure. You had a site plan that you were trying to accomplish in a good faith estimate of what people thought it would take in order to accomplish that site plan. That's not an assured quantity that is necessary, that's an estimate so I didn't have anything specifically to go back and look at quantities installed because there were no as-built. There were no specifications done, related to the parking and Exhibit I is an estimate. We have to go away from more of quantitative to the qualitative review of the project."

Schumm asked, "Would you characterize the fact that you came out so close by using, other than the correct inputs as just a mere coincidence?"

Hudson stated, "Mere coincidence."

Schumm stated, "In fact when you put all the tickets together, take out the tickets that go to the till cup, take out the tickets that go to the stadium and everything else, it comes out, I believe within 10 percent. Is that not correct which is a very reasonable amount and it shows that more concrete was delivered than we used and that will build correctly based on the concrete amount that was charged?"

Hudson stated, "Correct, which is what you would expect."

Schumm stated, "I guess the point that kind of irritates me is that the answer would have been correct if we would have had the right inputs because on the whole program after it was all said and done, we lined up 1700 tickets. When you add them all up it comes out just right. The outcome of the staff's audit shows that we got everything we paid for and actually more. There's more concrete that was delivered than we used and everything was fine, but then the analysis you performed showed the same outcome."

Hudson stated, "Correct, but the fact is that it was one test of many. We conducted several other tests related to the oversight of the construction of the infrastructure project."

Quantity was not necessarily the only decisive factor that we used to say that you got what you paid for.”

Dever stated, “So, in light of what you just said, I just would like a clarification from you on the value of doing a volumetric to aerial analysis extent on the concrete as it’s delivered in a fluid state and then it’s poured in place and measured in an aerial extend in different dimension. You are converting, using what I would call estimates to begin with.”

Hudson stated, “Correct.”

Dever stated, “I guess for me, I never quite understood why we were doing this analysis based on what I would say a statistically inaccurate way of determining quantities because every time you make an assumption, it’s based on faulty data in that you don’t have a complete thickness of this aerial extend of concrete. You’re just making assumptions and if you make assumptions then you really can’t come up with a number that’s the same every time, unless you just use random numbers that you create based on specifications. I guess what I’m trying to figure out is, in my world, I feel like I want to be able to repeat the same number every time if I’m going to audit and check something and I check my numbers on trying to convert data from milliliters to some other unit of measure. You want to make sure there’s a direct correlation, but in this instance we’re basically you can do this conversion, but it’s not recommended to do number one, unless you have scientific and accurate measurements of the thickness of those areas and can guarantee those measurements across the boards. I thought it was odd that you were doing this to begin with only because I like to be able to repeat the analysis that I do every time I do it, if possible and hopefully the results are accurate to its true definition. Whether it’s right or wrong, it’s the same number every time. I guess that’s what I’m trying to say. I have a hard time understanding the value of that exercise and no disrespect intended, but I feel like the actual physical measurements of the concrete that’s out there done by the staff would be the best attestation of the quantities that are out there and that you’re spot checking those numbers or spot checking that field data would probably be the most repeatable way of coming up with

the same number as opposed to trying to convert these different units of measure in a very inaccurate way. I know staff went through and tried to come up with a formula for conversion. I think it's probably reasonable, but even those numbers are not real because we didn't uniformly measure thicknesses in every location and we can't. We wouldn't want to be drilling holes in our brand new concrete so it's silly. I guess what I'm trying to get at is there's a lot of talk and a lot of speculation and a lot of hand wringing over this batch ticket. I respect that you came here and I respect that you followed up on your work, but can you tell me whether or not the value was in purpose of evaluating these batch tickets and trying to correlate an aerial measurement of the materials that were applied."

Hudson stated, "We went down this road before we realized we didn't have as-built drawings representing basically what was finally put into the final product. Honestly without as-built, you're right, it's kind of a pointless task, plus there's a lot of linear measurements and surface measurements that are not volume measurements that you have to convert. You have to make a great deal of assumptions in order to convert that. In retrospect, should I have done that test, probably not? Did it really accomplish anything? I can tell you that based on the follow-up work we can't really place any reliance on the batch tickets, but honestly I don't think it really matters. The batch tickets were not how you paid for the project."

Dever stated, "Right, we did not walk to the register with the batch ticket and pay based on those."

Hudson stated, "Correct. It wasn't a unit price contract. You paid 9.1 million dollars for parking lots and roads."

Dever stated, "I guess I wanted you to say that because I was very frustrated because I like to be precise and accurate. In this instance I couldn't be either because I really wasn't sure what we were trying to achieve and if somebody else came along and tried to repeat the same exercise and they tried to use the same numbers, it's almost impossible because the as-built

don't exist and we don't really know what the thickness is. You know what minimal thickness is, but we don't know the actual thicknesses in many cases."

Hudson stated, "Right and you might be able to get it in the ballpark and you might not."

Dever stated, "Which is why I think I understand why you used a unit, 4 inches, but Vice Mayor Farmer created a spreadsheet to try to do these same calculations and I think they all came to the same conclusion, that there's more concrete out there than we paid for, but I guess really what I wanted to know and want the public to know is in your estimation whether or not that exercise from an auditing and statistical standpoint was it as of much value to the overall product that you provided."

Hudson stated, "No, at the end of the day once we were able to go back and look at it and all the facts came in at the end of the audit, obviously it would be helpful if you could go to the end, see what was available and then go back and do the test, but we were trying to do the test in the most expeditious way we possibly could which means we're dealing with the information we have at any given point in time. When the city provided delivery tickets, my understanding was that they were not all the delivery tickets, but I tried my best to match it up to the individual line items, I thought it related to. That was another assumption that I had made. You have a lot of assumptions that are rolled out there and basically my objective was to validate what had already been tested by the City Auditor and what I had already observed through looking at physical reports and logs from the Public Works Department."

Riordan stated, "Not being an engineer, what I understand is that you did multiple tests. This is one of the tests and even though this particular test that we've talked about with the batch tickets was in error, it didn't change your conclusions about the two questions that were asked. You still have the same opinion based on the fact that you had other information that helped you to arrive to that conclusion."

Hudson stated, "That is correct."

Farmer stated, "I have a question for Michael Eglinski. I asked you this yesterday and if you were doing this audit, would you have looked at the batch tickets at all? Would that have been one of your test or would you have relied on other mechanisms to show that there was more concrete delivered and measures out there than what we paid for?"

Eglinski stated, "You're putting me on the spot a little bit here because I haven't done the planning work that I would have to do, but given what I remember of the development agreement, I don't think I would test the concrete tickets because that's not a pay item. Again, I haven't looked at the development agreement since probably a year ago now. I don't think it's necessary to reach a conclusion about compliance with the development agreement."

Farmer stated, "One more for Warren. I wanted to ask him that because he had mentioned that to me yesterday and I feel like that's an appropriate point that there were other test that were done and you were just making assumptions, but in a sense, trying to be thorough to test every possible avenue in which somebody could come back and say, one, two and three tested out, four didn't check out so you got to do more testing. My questions to you is, there had been some who have articulated to us that the veracity of the audit is called in to question because of this error in calculations. Can you first of all address that? Secondly, speak to how common something like this has been in previous experiences that you've had in your 25 years of experience and thirdly, just speaking specifically to the project in general. I'll ask you the same question that I asked the last time that you were here and that is, what assurance can you having seen the entirety of the information that has been made available to you with cooperation from Bliss Sports, KU Endowment, City Staff etc., what assurances can you give to the public that while the process by which we arrived at this conclusion may not have been ideal, but as far as the entirety of the infrastructure, there is more out there than what we paid for and how certain are you that that is in fact the case?"

Hudson stated, "You're first question was about the veracity of the audit. The initial objective of the first audit was to basically provide a risk assessment or an overview of the

project and determine whether or not there was a need for additional testing and whether there were significant risks that existed that might need a more granular level of review. When I came out here, I tried to provide probably a little bit more than I should have in that area because I did not need to do the quantity review in order to perform that particular objective. I performed the quantity review because the batch tickets were available and they were presented to me by City personnel as complete for at least certain projects and I thought it was worth the time to do an analysis of those items to determine whether or not we had significant evidence that quantities that were outlined in Exhibit I, were delivered. That also included me walking the project site counting various items, including tennis courts, lights, landscaping and getting a sense of the overall magnitude of the footprint of the project and how much concrete was necessary in order to achieve that footprint. Once again, the quantity review was just an additional step to say, okay all the observations I've made from City personnel logs, the measurement made by City personnel and the testing reports that were provided by Alpha-Geo Tech were sufficient in order to ensure that what the City expected was designed and built out there. It was nice to have and it wasn't a have to have."

Farmer stated, "On that before your move to the next question, if you would have not arrived at the 1.4% conclusion that you did and let's say there would have been a discrepancy of 12%, just pulling a number out, greater than 3, greater than 6, something that would have caused you to see a red flag and say something is not right here, not arrive to the numbers by virtue of coincidence that you did, what other testing mechanism could you have done or would that have been inclusive just on the basis of the fact you didn't have all the batch tickets?"

Hudson stated, "If City personnel would have known that all the batch tickets were not available at that point in time or were not found yet, then yes, that test is useless. Whether or not my assumptions were correct or not without the batch tickets being accurate, you have two sides to of the equation that were incorrect so either one of them would nullify the test. If we would have gone in and tested this and found out that there was a tremendous amount that

appeared to be specified over what was delivered, it would have raised questions and I would have continued to ask if City personnel and anybody else I could, what is the reason for that or what mistakes am I making in my calculation. Because it came out so close, I didn't have any reason to ask the question and once again it was an additional level of comfort that the previous observations were in fact, representative of you've gotten what you paid for."

Farmer stated, "So the two remaining questions, one being have there been similar processes followed in previous audits that you've done where you've done your audit and provided your recommendations and gone back and maybe seen an error in calculations or an assumption that was used that was wrong, could you speak to that? Secondly, what would you say is our hired auditor to the taxpayers of Lawrence and Douglas County who were footing the bill in totality of 22.5 million dollars? Did we get a good deal for what we paid for?"

Hudson stated, "As far as whether or not this happens on any audit, it happens occasionally. The audit is only as good as the information provided and is good as the assumptions that I make. In this case, both was followed. The way the standards reads, for those of us in Michael's and my profession is that if we notice something material that effects the finding, that effects the conclusion of the audit, we will reissue that report with the revisions of that finding. In this case, even though the calculation was incorrect, it still did not affect the final conclusion of the audit. Once again, it was one of several tests performed on infrastructure and whether or not you guys got what you paid for. As far as assurances related to the audit, I'll go back to what I said initially at one of the previous council meetings, that this had a level of oversight for a project of this size that frankly, I have not seen. It was a very dramatic, almost an excessive amount of oversight for a project of this size. You had City personnel performing measurements, you had City personnel reviewing concrete pours, and you had testing firms providing data to public works outlining thicknesses of concrete. At any point of time, public works had enough data to be able to determine whether or not they were not getting what they paid for and in fact, there were some minor adjustments made on some of the individual

quantities related to items where public works determine that things had not been built to what the City desired such as the fire brick without the durable aggregate. There was plenty of evidence there that said not only was public works reviewing the project, public works had made strides and steps in order to correct anything they felt was deficient. So from an audit prospective still, I have no doubt that you guys got what you paid for and it was in compliance with the development agreement.”

Amyx stated, “There’s disagreement obviously on whether or not it was lump sum contract or whether it was a cost plus and I still read part of it as saying, that it’s cost plus was 2.5% percent with a maximum cap at 22.5 million dollars. Were you able to establish the actual cost of all those improvements or were those figures readily available?”

Hudson stated, “Yes.”

Amyx asked, “Do you have that exact figure?”

Hudson stated, “If we do not include the construction management fee which really we shouldn’t because Bliss Sports exceeded cost by such an amount that there’s no way he earned his fee. The total cost on this project was \$13,211,798.”

Mayor Amyx called for public comment.

Jim Budde stated, “Warren, I just would like some clarification on one thing that you bought out the last time. When you were asked how much it would have cost if it would have gone to a bid process versus a no-bid process, I believe you said about and additional 1.8 million dollars. Is that correct? “If that was the case, it was cheaper to have a no bid than it would be to have a bid process and the no-bid is the thing that’s getting all the heat, but it was cheaper an evidently it was effective.”

Hudson stated, “Every project is a little bit different. There are a lot of moving parts involved in a construction project because it’s not just a simple thing about hiring one person to go out and do one simple project. We had a rec center, we had infrastructure and there was also a portion that Kanas Athletics was involved in this as well. The ability to coordinate all the

construction activities may have resulted in some economies of scale. You might have saved some money by having basically one contractor out there or one developer handling many aspects of this project, mainly because they didn't have to achieve some sort of learning curve in order to determine where they were when they stepped on the project, they already knew. All the planning, all the timing was controlled by one entity and in some cases that is very beneficial. As far as the analysis where we came out that 1.8 million dollars, that was not necessarily saying if it had been bid you would have paid 1.8 million dollars more, that was saying that from 2010 forward, based on project data, accumulated by the City of Lawrence for similar projects are for similar aspects of the project that related to infrastructure like curb work for streets, parking lots, what have you, that based upon what had been bid in these prior projects, this would cost 1.8 million dollars less than you had been previously on other similar projects. The assumption is that that was something that would occur each and every time when you were to bid this project out. None of this project happened at a specific point in time when this specific set of circumstances and economic environment that was conducive to what was paid during this specific point in time. I can't say that if you had not bid it, it wouldn't have been cheaper, more expensive, who knows. The fact was you had 22.5 million dollars in cap on this development agreement and the developer, for the infrastructure side of this project was completely at risk because had the rec center exceeded the 10.5 million dollars, that was going to eat into the infrastructure budget up to zero. If the rec center had come out to an extremely pricey entity, the developer was on the hook for providing the infrastructure for money essentially, if it came to that extreme. Could you have bid out the infrastructure, yes you probably could have, but at the end of the day the developer was on the hook for the entire remaining amount and he had to provide the infrastructure no matter what. Whether or not it's fair, I don't know. At the time someone had to be looking at this as a good business decision and I think it turned out to be a pretty good business decision for you."

Monte Soukup stated, "RCP LLC is pleased that the McDonald and Associates audit confirmed our position, that the infrastructure improvements met or exceeded the specification established under the development agreement and that the cost incurred by Bliss II in constructing and developing the infrastructure improvements were compliant with the terms of the development agreement. I'd like to take this opportunity to make one point of clarification on McDonald and Associates report. In the paragraph that addresses the City recommended adjustments to the amount, that should be considered for payment, a statement indicates that the work was not to specification which essentially implies that something was specified that was not delivered and in some cases that was the case, however, in more than half of the costs identified for non-payment, were for improvements that exceeded what was required by the contract documents and thus were deemed not per specification. We don't disagree that the City should not be obligated to pay for this. They were outside of what was required so the City shouldn't have to pay more. We do however, wish to clarify for the record, that both the city staff and the auditor confirmed that the City of Lawrence accepted improvements in excess of what was contractually required with a value of approximately \$750,000."

Amyx stated, "I'd like to say that there is probably a lot more to say, but I think we've come to that point where it's decision time. I think there's been a lot of work done by a lot of people and that even though I may have questions about whatever process was followed, I think the Commission has made pretty strong statements about the process in the future and how those things are going to happen, but we've got to deal with this one tonight. That's why it's on the agenda. Even though I may question the process that we used, I will say one thing, on behalf of the folks that I serve with and to staff that has worked on this project, we have a great number of people that are using the facility and I would imagine overtime one of those places that may be the big places to come visit and our state and throughout this region and I do believe overtime it's going to be something that we're truly all going to be proud of. I appreciate all the work that everybody does and has done on the project. I want everybody to understand

that my vote has nothing bad to say about the facilities. I want everybody to understand that and it's purely process, but I do want to my colleagues that I serve with I think it's a big time project."

Moved by Schumm, seconded by Dever, to receive the report from McDonald & Associates regarding the Rock Chalk Park audit and consider approving payment/claim of \$1,092,970.77 to Rock Chalk Park, LLC for infrastructure at Rock Chalk Park. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

8. **Consider adopting on second reading, Ordinance No. 9086, establishing a Neighborhood Revitalization Area (NRA) at 705 Massachusetts Street and consider authorizing the City Manager to execute a Cooperative Agreement between the City, County, and School District on the administration of the NRA. Consider authorizing the City Manager to execute a Performance Agreement between the City and the Applicant.**

Schumm withdrew from the discussion at 8:57 p.m.

Britt Crum-Cano, Economic Development Coordinator, presented the staff report.

Amyx asked, "The version of the performance agreement that gives us the total authority to decide whether or not a rebate continues to happen or can be pulled from the project, is that correct, based on factors?"

Corliss stated, "Correct. We provided the draft performance agreement and the applicant has some suggested changes to it. I think one of the issues is if there is non-compliance with the law and the land use requirements for the property, will the City Commission in its sole discretion be able to look at that issue and decide whether or not the rebate in whole or in part should continue. We tried to draft the performance agreement and I'll point to the section that's there. It looks like it's in section 3, right before number 4, if the Company, that's the applicant, that's the property owner, fails to comply in whole or in part, with the conditions of the Plan, the plan sets out all the different things that are going to be built, the cooperative agreement that says who all are the different entities or this agreement and the City may withhold all or a portion of any rebate until full compliance is achieved, or may otherwise

terminate the NRA in this agreement in the governing body's discretion. Staff's met with the applicant yesterday and again today and this afternoon, Mr. Anderson provided a suggested language change and he may be best to walk us through that language. He does point out that he believes that it is appropriate that the language provide a clear path for opportunity for the applicant to cure with some level of notice. My stance was is that what we historically do and I didn't know that we needed to set that out, but I think there is some value in having that set out in the agreement. One of the issues then that the applicant also has a concern about is whether non-compliance might be triggered by an action from a 3rd party and the example is a patron doing something illegal on the property, minor in possession having an illegal substance. That's a violation of the law. It occurred on that property so the issue would be how that impacts the tax rebate. I think we have that situation occur obviously in any number of different establishments whether they get public incentive or not so the issue is at what level does the Commission want to be involved in that issue. We talked about that in this room before. When we received this request we specifically identified that as an issue as we were going to process that and recognize it and it was going to come back to you all as well. Obviously, those situations occur, in most instances through no fault of the owner/operator. It is possible that in some situations you might have an owner or operator that might operate in a way where it might be a continuing public safety problem and we might want to ask in this room, do we want to continue the property tax rebate. We haven't talked all that much about this issue. I want to give you all the maximum discretion to decide that. They point out that they are about ready to make a substantial, financial investment in the community at this location and the issue is at what level can they have assurances that their financial pro-forma is actually be successfully executed. We're trying to work that out. I think that the language that Mr. Anderson provided, the Barber Emerson suggested changes, he's got also a cover letter there where if you go again then to the end of section 3, it still has the same language that I already read to you earlier. If the Company fails to comply, in whole or in part, with the conditions of the Plan, the Cooperative Agreement,

or this Agreement, the City may withhold all or a portion of any rebate until full compliance is achieved, or may otherwise terminate the NRA and this Agreement in the governing body's discretion. For example, if there is a problem with the historic guideline compliance, there's going to be issues obviously with the certificate of occupancy or after its occupied there are changes there might be issues under our land use code. This language would still then be able to provide you with the ability to talk about that issue in this room with the applicant to see whether or not that impacts the tax rebate in addition to impacting the occupancy, but if you look at, under section 3, Mr. Anderson has struck out alcoholic beverage in section C and then has the language in regards to D about the company, again that's the applicant, shall implement best practices and use its best efforts to operate in substantial compliance with all applicable alcohol beverage license. It's going to be that substantial compliance as opposed to strict compliance standard. I think there is a difference, but I think that's in recognition that they have concerns about perhaps losing the tax rebate based on the action of 3rd parties. That's what we're trying to narrow it down to really that. My bias is to give you all that discretion. Their concern is not necessarily with this Commission or any future Commission it's just with certainty over a 15 year time period as to how they would be able to essentially bank the ability to know that they've got this rebate. Again, Mr. Anderson is more articulate to be able to describe it. I think that's the narrowed issue in regards to the two different agreements. I think that there's suggestion about the cure period is acceptable. I think that's how they operate in this room anyway. You see there in 8, they've got an opportunity to cure and in section 14, the cure period that's just an opportunity that they would know about it before we would act on it. I think that's how we operate traditionally as a Commission. It may be appropriate to spell that out and I don't have an objection to that, but I do think it's appropriate that if there is non-compliance particularly with the land use requirements on that property that this body, the City Commission has at its sole discretion, the decision as to whether or not to continue the rebate in whole or in part."

Mark Anderson, speaking on behalf of the applicant, stated, "We did meet yesterday and again this morning with staff and I appreciate their time. I appreciate the articulate position Mr. Corliss has expressed that in this instance, this is high profile project. It's a significant NRA Rebate at 15 years, 95% and therefore, in staff's opinion, there are provisions that are put in the proposed NRA Agreement that have not been posed in any other NRA Agreement in the City of Lawrence, to date, that I'm aware of. We appreciate that tradeoff and I'm not here to tell you that we're asking to delete or knock out provisions in the agreement. In fact the applicant understands the City's position. The only thing is there are two things missing that we feel do need to be addressed in the performance agreement. The first has to do with the phrase 'alcoholic beverage laws' in paragraph 3c. That brings into play a lot of potential issues that we cannot control directly. They're outside the applicant's direct control, the involved potential 3rd parties and by that I mean members of the public and we cannot control them. We can do our best to control them, but we can't give you a strict compliance, certainty, guarantee that there will never ever be any violation by any member of the public, at any time. We just can't and I think you understand that or I certainly hope you understand our position on that. In talking with staff and explaining our position, and listening to staff's position, that the applicant should be held to a very high standard, again because this is a 95%, 15 year rebate. We sort of struck upon the idea of what we could do is pull that out of paragraph 3c, articulate it separately and simply say, as to the issue that involves 3rd party behavior, we absolutely agree we would do the absolute best we can, again, using an objective legal standard of best efforts and we will exercise best efforts to comply with all the alcoholic beverage laws. That explains that revision. The other revision Dave touched upon and indicated he was okay with the concept of a cure period, in other words, due process or an opportunity to at least be notified if we're in non-compliance. This kind of a project will have lot of new employees. We're going to create a lot of new jobs. We're going to have employees in an out. If there's a violation, it's conceivable that you could hear about it or know about it before we do. We want an opportunity to at least be

notified of any alleged non-compliance issue and a 30 day opportunity to cure it and that is consistent with my review of other NRA Agreements in Lawrence. Now with those two revisions, even as revised, this NRA Performance Agreement still imposes more conditions on the applicant and sets a higher bar for compliance than any other NRA Performance Agreement that I've found in the City of Lawrence. My understanding is that this Commission dealt with this heightened scrutiny issue, the language at the end of paragraph 3 that Dave read, that you dealt with that issue about a year ago on a NRA project at 100 East 9th Street and that the applicant at that time, has similar objections that I raised to City staff and that this Commission agreed to actually delete that language entirely from the NRA Performance Agreement. We're not asking you to delete it. We did a year ago for another applicant, we're not asking you to do that. We've made what we consider to be nominal revisions that work around the issue of non-compliance that's a result of matters outside our control, triggered by 3rd parties. We think this is a great project. We look forward to going forward with it. We think with these revisions to the NRA Performance Agreement that it will be acceptable to our investment group and to our lenders and I would ask you tonight to support the NRA ordinance and go ahead and pass it on second reading, subject to the revisions that I've proposed."

Mayor Amyx called for public comment. None.

Amyx asked, "Jeremy do you still have the information that you had on the numbers that came in on the various taxing units and what was that total figure again versus what we have now? We currently are collecting \$4900.09. I spent some time, over the weekend, looking at those numbers and it's substantial."

Farmer stated, "We're collecting right now, \$1,100.94, the City only."

Amyx stated, "The total amount of the taxing unit was like \$5,000."

Farmer stated, "\$4,900.22."

Amyx stated, "This is something Commissioner Riordan said a couple of weeks ago when this item was before us, something to the effect of supporting downtown. It was one of

those things where I was really doing some sole searching, especially after the fact that I voted for an abatement on this property many years ago. This is an opportunity to make one of the last expansions of vacant property along Massachusetts Street, downtown. I went up and down that street multiple times and there's not a whole lot of empty space left downtown. It's an opportunity with the total amount of dollars that are going to be realized at the 95% abatement are pretty incredible. Every once in a while, is this a dollar and cents issue, yes, it probably is in the end, but it's also something about being able to expand the right expansion in that space. Obviously, the Eldridge Hotel makes all the difference in the world. The big thing is because it's so high profile, the safe guards that we expect through our performance agreement, there's going to be a balance here, I assume, at the end of the day. I want to do whatever's necessary to avoid a situation that we have any incidences because of alcohol and I know that you all do too. The other thing is because it is so high profile and Nance, David and others who have been before this Commission always referred to it as the historic Eldridge Hotel. Our responsibility is to make sure that our historic guidelines are met and when the time comes for an occupancy permit, if it hasn't met it, we will give it time to have it corrected, but understand that's extremely important to me. I guess where I'm heading in this is I can support this request under those parameters. I don't want problems with alcohol and I want to make sure that we've met all the guidelines that we have in place and does this agreement allow us to do that."

Dever stated, "I can tell you that I ready his understandings and I know are City Manager is an attorney and I think we need to do whatever makes those assurances and I think the applicant made it clear that aren't out looking to dodge them, they just don't want it to encumber their ability to seek financing or receive proper enjoyment of the property and financing thereof. I think that's an undue burden, but I don't have problem burdening things if we're going to help with tax abatements, but I do want to make sure they're enforceable and reasonable."

Amyx stated, "Absolutely and the big here is it takes a lot for me to come up and say yeah, I was wrong, but I can admit that. In all honesty this project belongs in that vacant space,

but because of the public participation, is the recommended language from the client's council, strict enough to cover the concerns that I may have?"

Riordan stated, "I think you make a good point when you say, minimize or try to lessen, but you can't say eliminate. I think that's the key. I think these particular changes allow the correction of the problem, assuming that it can occur, it allows a reasonable correction of the problem and allows reasonable ability for the City to say, this is going to be done in the right way, however things can go wrong, but it gives us a remedy to resolve that conflict. I feel comfortable with the new words that are there and I know last time we were here, we talked about the amounts and there had been some significant changes with the County going with 85% and I've been thinking about this and one of the things that you said Mayor, at that time, was that you had difficulty with the fact that it was 15 years and I'm wondering if the fact that 85% seems to be a reasonable figure for the County and would 10 years be a reasonable amount for the time period for this to agree and that a 10 year NRA might be more appropriate than a 15. Is that something you could support?"

Amyx stated, "Obviously, it's something I could support, but I think in going back through my notes, it was pretty clear last time that anything other than what was requested was not going to work, unless its changed. I assume it probably hasn't. Okay, so you've got us at 15 and 95%, the County at 15 and 85%, and you got the school district at 15 and 95%, but that's only if they get kids that come from this project into the schools. Is the language that is proposed by the applicant in the performance agreement and are there safeguards in there to protect us? Dave, your best opinion from the alcohol concerns that I have and the performance requirements that we need for the historic guidelines that needs to be followed specifically on this project."

Corliss stated, "Let me tell you why I think so and Toni needs to chime in as well. I've looked at it and Toni and I've been talking about this. The way that we have written this is there's strict compliance with the land use requirements for the property. There's a brick out of

place, we're going to go through the cure period so you got to get the brick back in place. You all will decide whether that's a big deal or not, but its strict compliance. I think that will be an issue I think it's probably going to be and outstanding addition. In going back to the end of Section 3; If the company fails to comply, in whole or in part, with the conditions of the plan, the plan sets out all those requirements of your downtown design guidelines. We've got the ability to withhold in whole or in part or you can terminate. When we talked about this their concern about the strict compliance language was in recognition of the fact that it's going to be a public accommodation. They're going to have 50 rooms and any number of different activities. We know that things happen in a public accommodation whether it's a restaurant or a doctor's office or barber shop or a hotel or a restaurant, it happens so the issue is how do we put the applicant, the owner on notice that we want to pay attention to this issue, but recognizing that any establishment that sells alcohol, it's possible for them to sale alcohol to someone that has a fake I.D. and if that's a problem, the law will appropriately prosecute that. If that happens in one instance, does that mean that then they would then be subject to losing the rebate. What Mark's trying to write here is to say, the company shall implement best practices and use its best efforts to operate a project in substantial compliance with all applicable alcohol beverage licenses. If you find that they have not, than you can go to the end of section 3, it's still applicable. If the company fails to comply with this agreement, it says that they're going to do it with all of their best efforts and to be in substantial compliance then you can say we're going to go through the cure period and say why shouldn't we hold a rebate because you're not in substantial compliance with the alcohol laws because you've got the most MIP's anywhere in the community or there's other issues. I don't think the current applicant, but we always have to think about the fact that applicants can sell their property, it can be with someone else and it's a very prominent location in the community. So we've got any number of different other remedies, obviously we start with law enforcement. We've got other means to deal with that, but the issue is would we then still have to provide a tax rebate. I think that if they were not using best

practices and they were not using best efforts to be in substantial compliance in regards to alcohol, then you'd have that ability to consider pulling the rebate. We don't have the strict compliance language there because they have concerns and I understand that. If you have strict compliance language there then that would mean there was one MIP, (Minor in Possession) that a Commission could say okay, there's been one minor in possession there, a 20 year old got a beer and they weren't supposed to and they got a ticket and then we're going to say alright, we're going to pull the rebate. I don't think the people in this room would do that. I would like to put the trust in the Commission to do that. Their response is they want to trust the document that gives them the ability to say we've been in substantial compliance and 1 MIP is not that big a deal. I do think, for the record, that if there's substantial non-compliance, with alcohol laws you've got a better stay then what we had earlier drafted because you're going to be able to point to this and say you're in substantial non-compliance with the alcohol laws, we're going to put you under cure and if you don't cure, we're going to pull the rebate. I think we're addressing this issue appropriately here. At least, that's my opinion. You could go back to our language and it would be strict compliance. They think that that's going to be very difficult for them to be able to proceed with the project, if they have that language in regards to alcohol. Mark, is that a fair statement?"

Anderson stated, "Yes."

Corliss stated, "It really is what level of discretion you want. I think you all should have the maximum amount of discretion that you want."

Amyx stated, "Commission Riordan you bring up a question about whether I would support a 10 year versus a 15 year. Where are you going with that?"

Riordan stated, "Thinking about this, my thought is I feel more comfortable with a 10 and an 85%, knowing what I know at this point in time and then wondering if the Commission would agree with that or disagree."

Amyx stated, "How important is that downtown slot to fill with this facility?"

Riordan stated, "I think it's very important and that's why I'm thinking that a 10 and 85% were really quite a good number with talking different people that I've talked to about finances and the size of the building and things like that and with having that type of information, I think that for me, I'd feel more comfortable with that number."

Dever stated, "As opposed to 15 and 95%. Can you elaborate so that I can understand what you learned?"

Riordan stated, "The size of the building, the cost of the building, those types of information might support a 10 and an 85% as far as the PIRC Committee information that this is based on."

Dever stated, "So you want to give them less money as opposed to more?"

Riordan stated, "It would be less."

Dever stated, "So we started at 15 and 95% and you want to go to 10 and 85%, the same thing as the County did. I guess we're going to need to get clarification from the County."

Amyx stated, "The County approved 15 and 85%, not 10 and 85%."

Dever stated, "Okay."

Riordan stated, "The recommendations are 10 and 50%."

Amyx stated, "If we were to do exactly what the County did and the Vice Mayor just figured out what would the cost to the applicant be and it would be about \$49,000 if we went 15 and 85%. We would be consistent with the County and the school district does what they were going to do."

Dever asked, "What would 10 and 85% do?"

Farmer stated, "That's going to take a little bit. Was that in your analysis?"

Crum-Cano stated, "In the supplemental data I did some comparisons and if you took the comparison of the first scenario with is all taxing jurisdictions and an 85% versus, the original scenario of all taxing jurisdictions at a 95%, the difference was \$213,053."

Dever stated, "For all jurisdictions?"

Crum-Cano stated, "Correct."

Dever asked, "Can you breakout our jurisdiction?"

Farmer stated, "I'm not seeing a 10 year, 85%. I see a 10 year, 95%."

Crum-Cano stated, "I think it's on the last page of the supplemental data. I have an NRA rebate amount summary chart and I've got it broken down by jurisdiction and I have the original request, all taxing jurisdictions at a 15 year, 95%, that's the original scenario. All taxing jurisdictions at 85%, that was the alternate scenario 1, alternate scenario 2 is the County at 85% and all other at 95%."

Farmer stated, "Scenario 1 is taxing jurisdictions at 85%, but that's a 15 year, right? That's not a 10 year."

Crum-Cano stated, "Yes, that is correct. I don't believe we have a breakdown between the 10 year and the 15 year. This is just a breakdown between the different percentage rebate participation."

Farmer stated, "We never saw the 10 year, 85%. That's my point."

Amyx stated, "But the number that you just gave me is that the City would not give back \$49,000."

Farmer stated, "That's correct, essentially, \$2,700 or \$2,800 the first year and \$3,800 in year 15 for a total of \$49,102 over the 15 year period."

Amyx asked, "Terry, what do you think of that?"

Riordan stated, "We had could stray from the 10 year, 50%, but we go up to 85% and I feel more comfortable with that number. I still think that provides a good incentive for them to build and provides appropriate use of tax incentives to encourage this particular spot to develop."

Dever stated, "The only question I have is, I don't know what the number is and I feel uncomfortable. I would want to see what that is before I agree with you or disagree, because I don't know what the number is."

Amyx stated, "Britt, we need 10 and 85% and if you can bring that figure around somehow. We want to know that number. Does the applicant have that number available?"

Nancy Longhurst stated, "No. This is the second reading which at one point was just to be on the consent agenda and go through. I think we had done a good job of presenting the situation for the hotel and what we needed. I think we did a really good job and that hasn't changed. I'll read you something that I had written that I just wanted to address a couple of things. On February 18th, I did attend the County Commission meeting. After presentations were completed the following occurred as to why the County went with the 85% abatement over 15 years. It was a great discussion. We had great support from the County Commissioner's. Commissioner Jim Flory verbally said he was supportive of the 95% abatement from the County at 15 years. That cost benefit ratio was .96. Commission Mike Gaughan verbally said he was supportive of a 75% abatement for the County at 15 years. The cost benefit was 1.22. Commissioner Nancy Thellman verbally said she was extremely supportive of our project, but asked the Commissioners to split the difference at 85% abatement for the County at the 15 years. The cost benefit had not been run and the performance for the 85%. The County made the decision in order to get the County's cost benefit ratio in line with their policy. The Commissioner's asked us decided to do a compromise of the 85% to meet the ratio. There's a difference here, this is about the County's ratio and the reason why they did it. We were fine for the City. They asked me if I could live with that and I said yes because this is only as it relates to the County portion and if the City, School District and State stayed at 95%. The County's decision was only based on property tax and not the new County sales tax revenue in the amount of \$118,000. The Eldridge NRA yields the best return of all the approved NRA's for the City, hands down. We did a really good job of sharing this information with you. Our project does generate approximately 9 million dollars of new revenue for the general public over the next 20 years. I don't see how that could even be a factor in wondering if it's not a good deal or not for the City. This is amazing and is going to be a great project for Lawrence, Kansas and for

the historic Eldridge Hotel which I'm very passionate about. This is my second time to be back there as a general manager, I was in the 80's. This is something that I believe in. We all believe in this wholeheartedly. This is second reading and to us, this is done. I really ask for your support tonight."

Farmer stated, "My sense that moving it to 10 years and having it be 85%, you know Commissioner Riordan is speaking to the 10 year 50% threshold that was passed by the Commission back in 2011 and I completely understand where you're at in relationship to wanting to hold fast more so to have at least one of those be compliant. I think that if we're going back to the beginning of this project for me, I would say let's have that conversation, rerun the numbers and do it that way. I'm not comfortable at this point recommending not only 5 years less, but also 10% less when we've already done first reading. If we can settle on 15 years and 85%, I feel comfortable with that number because it's really only a difference of \$49,000 and just looking at the return on investment, it's still somewhere north of 580% and so this is a large capital investment in downtown. I know a lots been talked about how much do we value in-fill development and I think we have had that public conversation and I think we have discussed how we don't want a whole lot of sprawl to take place. Mayor, you very correctly and astutely pointed out that there really aren't any vacant lots in downtown that are waiting to be developed right now. In the grand scheme of \$190,000,000 budget, we're talking about \$2700 in a year. It's not a lot of money. I don't think it's going to make or break the project, 10 years, 85% would be significantly less, just based upon my own anecdotal just quick figure number here. Mayor, I would like to make a motion if that's okay."

Amyx stated, "Sure."

Farmer stated, "That we move to approve the Eldridge NRA for 15 years at 85% and that we move forward with the suggested changes that we've all talked about in relationship to the performance agreement."

Amyx asked, "And those changes brought forward by the applicant?"

Corliss stated, "The ones that staff will be comfortable with."

Amyx asked, "So it's the ones that the applicant brought forward late this afternoon?"

Corliss stated, "What you have here is Barber Emerson applicant's suggested changes to the performance agreement added 3-24-15. That still provides for the authority of the Commission to alter the amount with an appropriate cure period if there is not compliance with basically the land use and public safety requirements and if there's not substantial compliance with the alcohol beverage law."

Amyx stated, "So 15 years, 85%, along with the suggested changes and you believe there's a safe guard with the alcohol."

Corliss stated, "I think that it's a fair way to proceed way. If you're going to sell alcohol you're going to have some of those issues, but if you've got substantial non-compliance. If you've got a history of issues there, I think we're going to be able to point to that section and say, we're going to have a hearing talking about your rebate."

Farmer stated, "The real issue here is PIRC chickened out with the conversation and when we talked about the claw backs in the performance agreement, we really don't have a policy so what this is going to be, is it's going to be really driven by who the City feels like it wants to do business with in a sense or comfortable with on the basis of who comes up here and suggest revisions. I remember when Bill Flemming came up here for the 9th and New Hampshire project, he flat out said, you've got to take it out and we had a conversation about that and now this development group is not suggesting that we take it out, but alter the words. I really think that we need to have a robust conversation at PIRC in relationship to how we want to execute these performance agreements and what sort of standards we want to have. We have to have, as a City Commission, the integrity to stick to it. I completely understand not wanting to be controlled by virtue of pulling tax abatements by virtue of the actions of a 3rd party. I don't know what the fine balance is there. It may be great to figure out what other communities do and what the industry standard in relationship to all that is, but I feel like the PIRC group, we

need to have some more conversations around actually setting a good policy rather than just kind of going and changing it every time we have somebody who wants some sort of a tax incentive. That's on us to exercise that sort of direction and get back down to them, but that would be my recommendation too. So I'll probably wait to make a second motion for us to refer the policy back down to PIRC in relationship to performance agreements because I think that Dr. Riordan might support that sending that back down to PIRC. We can't chicken out in having that conversation. If you look at the minutes from the last meeting it was just kind of like, well we can't really do that, but we probably should, but we're out of time. That's how that conversation went down and we need to give it some more attention than that. I don't know whether that's a study session. You guys remember the meeting, right? I'm not throwing any of you under the bus, I'm just saying the PIRC group and we chickened out in having that conversation and we need to not chicken out and having that conversation. It's not fair for us to constantly be shifty and caging in change based upon what attorneys are okay with and what City staff can live with. That's not fair to them and it's not fair to us. We have to do a better job as policy makers of setting good policy."

Amyx stated, "So second reading if we make any changes to that, we can make them tonight and it doesn't have to back through any process."

Corliss stated, "I see that attorney shaking his head yes."

Amyx stated, "Once it's printed in the paper it's a done deal, right?"

Corliss stated, "Right."

Dever asked, "We can go down without having to back to a second reading?"

Corliss stated, "That's correct, you can amend it at this point on second reading. What I do not know and I don't want to slow the process down. If you're agreeing to with what the County did, the School District is at 95% at 15 years. I'm just pointing that out."

Amyx stated, "We have a motion on the table at a 15 year, 85% with the language that has been recommended by staff and the applicant."

Dever stated, "You've calculated the sum."

Amyx stated, "\$49,000."

Dever asked, "You did that and how confident are you in your assessment of that number?"

Farmer stated, "That's the City's portion only."

Dever stated, "I understand."

Farmer stated, "It's the 95%, the \$27,351 essentially minus 10%, that's the difference because it's the same time period. It's just 10% less which equates to \$49,121 over 15 years."

Amyx stated, "Again, Nancy number that she gave is less \$49,000 over 15 years is still correct, right? How much are we going to bring in?"

Farmer stated, "We'd actually bring in \$49,000 more over 15 years and that's just in property tax revenue and doesn't affect the sales tax and guest tax revenues."

Amyx asked, "Do we have plans in place during the construction time to make sure all that is going to work with parking and all?"

Corliss stated, "We are still owed a site plan that would then have a construction phasing and construction mobilization plan. There are discussions about using some of the portion on Massachusetts Street. One of the great things about Mass Street is that we build right up to the sidewalk, build up any many cases right up to the alley and right up next to buildings. There's not a whole lot of room to store the cranes and materials and those types of things so we're going to have to have some good discussions with the applicant and then come back to the Commission and make sure we're involving all the adjacent property owners that will be impacted by the disruption on Mass Street, disruption in the alley, perhaps disruption in the parking lot at 7th and Vermont. Those things have been discussed but nothing has been to the point where were ready to start talking with you all about that. That will have to come back and it's probable an 18 month project. I'm not answering your question I'm just giving you some of the issues we're going to have to deal with as we help this project along."

Amyx stated, "I only bring it up because I know that those are going to be issues that are going to come along in the future. Again, based on the information that Jeremy ran before and staff has run, the numbers of this project are really to the positive of the City and that's the only one I'll speak to. The 85% looks like something that can garner support. I guess I'd go along with that."

Dever stated, "A lot of switching going on, that's good dynamic."

Amyx stated, "I appreciate Commissioner Riordan's study of the issue and I know that we got the policy in place and that's what the policy is for."

Dever stated, "That's a good point."

Amyx stated, "Is this the right project at that location and is this incentive the mechanism that can make this happen. It appears to be that it is and it does take into consideration the concerns that I have when it comes to the occupancy permit time comes, if there's anything out of line we can take care of and that the alcohol issue can be resolved."

Moved by Farmer, seconded by Dever, to amend Ordinance No. 9086 on second reading for a 15 year, 85 percent NRA, establishing a Neighborhood Revitalization Area (NRA) at 705 Massachusetts Street and authorize the City Manager to execute a Cooperative Agreement between the City, County, and School District on the administration of the NRA. Authorize the City Manager to execute a Performance Agreement between the City and the Applicant be based on staff's and the applicant's recommendations. Aye: Amyx, Dever, and Farmer. Nay: Riordan. Motion carried.

Moved by Farmer, seconded by Riordan, to direct staff to place on PIRC agenda, a look at the performance agreements as a whole and also the City's policies in relationship to tax incentives that it provides that were passed back in 2011 for a study session or several meeting for consideration by the City Commission at some point, prior to end of summer. Aye: Amyx, Dever, and Riordan. Motion carried unanimously.

Amyx asked, "Is your motion to ask for PIRC to hear it? So they'll make their own deal as to whether or not it's a study session or an action item."

Farmer stated, "That's correct."

Schumm returned at 9:57 p.m.

9. **Consider motion to recess into executive session for approximately 20 minutes for the purpose of discussing possible property acquisition. The justification for the executive session is to keep possible terms and conditions of property acquisition confidential at this time.**

Moved by Schumm, seconded by Dever, to recess into executive session at 9:54 p.m. for approximately 20 minutes for the purpose of discussing possible property acquisition. The justification for the executive session is to keep possible terms and conditions of property acquisition confidential at this time. Motion carried unanimously.

The City Commission reconvened at 10:17 pm.

E. PUBLIC COMMENT: None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

H: CALENDAR:

David Corliss, City Manager, reviewed calendar items

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Dever, seconded by Riordan, to adjourn at 10:20 p.m. Motion carried unanimously.

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


Diane M. Trybom (City Clerk)