



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

COMMISSIONERS
LESLIE SODEN
STUART BOLEY
MATTHEW J. HERBERT
LISA LARSEN

October 13, 2015

The Board of Commissioners of the City of Lawrence met in regular session at 3:00 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and Commission members Boley, Hebert, Larsen and Vice Mayor Soden present.

A. EXECUTIVE SESSION (3:00 – 5:00 p.m.):

1. **Consider motion to recess into executive session for approximately two hours for the purpose of discussion of non-elected personnel matters. The justification for the executive session is to protect the privacy of non-elected personnel.**

Moved by Commissioner Herbert, seconded by Commissioner Larsen, to recess into executive session for approximately two hours and reconvene in the Commission Room at 5:00 p.m. Motion carried unanimously.

Upon conclusion of the executive session, Mayor Amyx made the following statement: We had a productive discussion with our executive search consultant, Greg Nelson, in executive session regarding the City Manager recruitment. At this time I would entertain a motion to direct Mr. Nelson to schedule interviews with the eight (8) applicants discussed in executive session. We anticipate the interviews will occur in the coming weeks, depending on the parties' schedules. Those interviews will also be in executive session to protect the privacy of non-elected personnel. Mr. Nelson will provide more information regarding the search in the regular portion of tonight's meeting.

The Commission considered a motion to recess until 5:45 p.m.

Moved by Commissioner Boley, seconded by Commissioner Herbert, to recess until 5:45 p.m. Motion passed unanimously.

The Commission reconvened at 5:45 p.m.

B. RECOGNITION/PROCLAMATION/PRESENTATION: None

Mayor Amyx recognized the Explorer Program which allows youth to gain insight in a possible career while at the same time providing leadership training; and, recognized the two firefighters that were killed as well as the firefighters that were injured during a fire rescue that took place in Kansas City, Missouri.

Mayor Amyx

It would just have to be a pretty terrible feeling to wake up today and realize that that happened in your community. That would be tuff. Chief, pass along to the men and women in our department, how important they all are and we want to make sure forever that we provide the necessary training and



equipment to carry out the job. Also, to Captain Fellers, the same deal and our first responders and we work as a team. We want to make sure that our employees know that we're thinking of them. I would ask for the Commission's support in sending a letter to Mayor James and Chief Berardi.

Moved by Vice Mayor Soden, seconded by Commissioner Herbert, to send a letter of condolence to Kansas City Fire Department, Chief Paul Berardi and Mayor Sly James of Kansas City Missouri, regarding the loss of their two firefighters. Motion carried unanimously.

C. CONSENT AGENDA

It was moved by Commissioner Boley, seconded by Commissioner Herbert, to approve the consent agenda. Motion carried unanimously.

1. Approve City Commission minutes from 06/02/15 and 06/09/15.
2. Receive minutes from various boards and commissions:

Community Development Advisory Committee meeting of 09/10/15
Lawrence Douglas County Bicycle Advisory Committee meeting of 08/17/15
Mental Health Board meeting of 08/25/15
Planning Commission meeting of 08/24/15
3. Approve all claims. The list of approved claims will be posted to the agenda the day after the City Commission meeting.
4. Approve licenses as recommended by the City Clerk's Office.

Drinking Establishment

Expiration

Cielito Lindo Margaritas Inc. 815 New Hampshire St.	New License
Jazz, A Louisiana Kitchen Future Notions Inc. 1012 Massachusetts St.	New License
Fork to Fender Torched Goodness LLC 1447 W. 23 rd St.	New License
India Palace KDB Company Inc. 129 E. 10 th St.	September 30, 2015
El Mezcal Mexican Restaurant La Liona Corporation 1819 W. 23 rd St.	October 31, 2015

Retail Liquor

Cheers Liquors
LV LLC
1414 W. 6th St.

September 30, 2015

5. Bid and purchase items:
 - a) Award the purchase and installation of 156 street trees to American Lawn and Landscape at a total price of \$48,335, for completion of the 2015 Master Street Tree Project.
6. **REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Accept dedications of easements for Final Plat, PF-15-00347, Burrough's Creek 2nd Addition. Submitted by Landplan Engineering, P.A. for BK Rental LLC, property owner of record.
7. Authorize the relocation of the Crosswalk and Adult Crossing Guard from Davis Road and Harper Street to a point adjacent to the Kennedy School access driveway, together with the purchase and installation of solar school beacons, and appropriate signs and markings; including the removal of the old school beacons, signs and markings.

Consent Agenda Item number 6, accepting dedications of easements for Final Plat, PF-15-00347, Burrough's Creek 2nd Addition, was removed for separate discussion.

Scott McCullough:
Director of Planning &
Development Services

Mayor, this item received some correspondence late today that may benefit the commission if I review the plat and its context a little bit. I think it would answer some questions before the commenters present at you some information. A final plat has gone through our department planning office. It's an administrative process that the final plat has been approved. It comes to you for the acceptance of dedications of rights-of-way, and easements. In this case, just easements, because the right-of-way is all along 12th Street. Where we're talking about is at Haskell Avenue, and 12th Street. This is a Nine lot, one tract parcel. Nine residential lots here zoned RS, in this zoned OS (open space). At the time of the preliminary plat process there was discussion between the future ownership group, and the city about dedicating this tract A for park purposes. Through a series of discussions, the city declined that dedication and donation for various reasons, we can go into if you'd like to. What it left us with is still the need to put this area in a tract, primarily because of floodplain issues. A little more context here. This is the property. There was talk about completing, or extending trail here either behind the properties, to the park. What happened was instead, we are doing a sidewalk to connect the park to the trail system on the west side of Haskell Avenue. What I'd like to do though is alleviate some concerns that showed up in the comments. I think the crux of the comments had to do with the potential for this open space tract to be used for purposes other than just pure open space. The protections that we have built in for that not to occur, is within the zoning which is zoned OS. It does

allow some uses and activity, but the other protection is that this is not only flood plane in the light pink, but floodway in the darker red. There's no development allowed per our code within the floodway. Also as a tract of land versus a lot of land platted. There are no building permits able to be issued for any development there as a tract of land. Only lots can receive building permits. It also does not have any access to the road system. When I read the note it came with an err of a devious nature that the owner, the current owner was somehow backing out of an agreement that he had made with the city for the park donation. Really it was the city that didn't accept the park donation. All other parts of trying to protect that as open space remain intact, and have been built into this project. There's a much greater history to this. My closing comments are that this is a really good outcome, in my opinion, given the history here with 12th and Haskell recycling in the mix. That we're getting some residential lots along 12th Street, some open space to alleviate storm water, and to address storm water issues. Also some aesthetics in the area. With that I'm happy to answer any questions.

Mayor Amyx:

Okay any questions for Scott right now?

Commissioner Herbert:

I know you said there was a back story, and you didn't necessarily want to go into it, but would you mind going into it a little bit exactly why the city rejected the designation as a park?

Scott McCullough:
Director of Planning &
Development Services

Sure, and Mark Hecker, Assistant Parks Director is here as well. At the time of the discussions ... a few items I can talk about. One is the cost it takes to get from this side of the creek, to hop over to this side of the creek, and then complete the system. This was a little more feasible connection than the sidewalk along 12th Street. That's one issue. The other is that parks department has a lot of park land here in the area, and didn't necessarily need park land. A third element is that it was at a time when the city commission was directing staff to try to get rid of some city owned property, not take more in when it didn't necessarily absolutely have to have it. Because there was a good deal of park land there, because we didn't necessarily need it as park land, and liability, and maintenance, a lot of things were driving that decision.

Vice Mayor Soden:

How wide is that sidewalk at 70 feet?

Scott McCullough:
Director of Planning &
Development Services

That's going to be a 5 foot sidewalk. It's a local street.

Commissioner Larsen:

Will that connect the trail system?

Scott McCullough:
Director of Planning &
Development Services

It will not connect directly to the trail system. You'll have a street crossing here at Haskell, but essentially what it does is take the path from this property line, eventually all the way over to the sidewalk along Haskell, on the East side of Haskell.

Mayor Amyx:

Any other questions? Okay, thanks Scott. Don't go away. Michael.

Michael Almon:
Brook Creek
Neighborhood Association

Good evening Mayor and fellow Commissioners. This is my first opportunity to welcome Commissioner Larson, so I'm glad to see you up there. I appreciate those explanations Scott. Some of that seems on the mark, but still we're not quite sure that would be the best course to follow. When we wrote this letter, we realize that 4 of the 5 Commissioners know nothing about the back story, and we didn't want to dredge up a lot of old details from the past. We wanted you to be aware of what the history was to put it in context. You don't need to go into a lot of detail on that. As far as why we want this to be park land, and how that transfer could take place could be any number of ways. Brook Creek neighborhood has wanted this to be park land for at least 15 years, let's put it that way, even before that property became a problem back in 2005. I will put this map up here if I can. It's not very clear. This is the parcel in question. Here's 12th Street and Haskell Avenue. This is the Burroughs Creek Trail. There is a cross trail from 12th Street, past the public works garage, to Haskell right there. From the discussions with Parks and Recreation, and Planning Staff, Struct/Restruct, practically anybody that we've spoken to over the last 5 years, the intention was for the Burroughs Creek Trail to cross over onto city property, a bridge across Burroughs Creek to tract A, with this trail continuing, not necessarily this way, but the bicycle plan for Douglas County has a trail going north across the Kansas River, across this way. This seemed like an excellent way to carry it through. Secondly, this area over here is Brook Creek Woods. It's a natural wooded wilderness park. We figured if this area were added on as park land it would be virtually no maintenance. It wouldn't be a burden to Parks and Recreation necessarily. We envisioned tract A just being an extension of the Brook Creek Woods. That's our perspective on why we think it should be park land. As far as having it donated, I don't think the reason for the City to decline necessarily meets the objectives here of what the neighborhood would like. The park land dedication, the land dedicated as a park is not contingent on this trail going through there. We want the park land for the sake of park land. The administrative determination, various statements say, discussions about donating the tract so the shared use path could be extended. As plans to use the shared use trail tract A have not materialized. It implies that this dedication donation to park land shouldn't happen now

because there're no plans for a trail. That's irrelevant. Whether there's a trail or not, we still want it to be park land. That's why we're concerned that this be dedicated, and donated to the city. It was indicated on the preliminary plat, which is a plat for Mr. Beau Kilo. His preliminary plat, condition 10, approved by the Planning Commission. This condition should have been resolved, which it hasn't, by the administrated determination, or it should carry through to the final plat, one of the two. We want to see it on the final plat. If the city decides at that point to decline, okay, but we want the intent to be clear on the final plat just as it was on the preliminary plat. We don't want this to just end tonight. Back in 2013, when this plat and the 3 rezoning for the industrial property, building lots, and tract A, Brook Creek neighborhood requested that none of that be finalized until ownership has been transferred, because many a slip between, what's the phrase ... you never know what's going to happen. This is a prime example of what's happened that nobody thought would happen, not anticipated. It was not purchased by Struct/Restruct. Their intention to donate it also has not materialized because they don't own the property yet. Mr. Kilo still owns the property. It's his preliminary plat. We would like his statement on that preliminary plat to carry through. As far as what can take place under OS zoning, it's not all a flood way. It is a floodplain, but active transportation ... I mean, I don't know if it would be a go-kart track, or a dirt bike track, could be a microwave tower. I mean there's number of things that could go there. We want it to be park land as well as open space zoning for all those areas mentioned. Enough said. You've seen the letter and the details in the letter. I appreciate your time.

Mayor Amyx:

Questions for Michael? Any other comment? Thanks, Michael.

Byron Wiley:

Hi. I live at 1200 Elmira, near 12th and where Elmira intersects. I don't have much else to add. I think Michael summed it up. All my thoughts ... I mean, I had other questions. Scott answered them. I was unaware that the plan had changed, and the reasons that it had changed. I still think the route that follows the creek would have been a very nice connector route, if there're not funds to fund the infrastructure of the bridge, I think that could be put off for another time. I have nothing else to add except that I agree with what he said. Thank you.

Mayor Amyx:

Okay, thanks Byron. Any other public comment on this item? Okay back to the Commission, thank you. Okay Scott, a question. What are the liabilities of the ownership of that property as a park? Did we look at any of that?

Scott McCullough:
Director of Planning &

In terms of in the process?

Development Services

Mayor Amyx: As park land.

Scott McCullough:
Director of Planning &
Development Services

As park land? It's just adding to all of the different park facilities that parks and rec has to be responsible for. There was a lot of discussion about this property and at one point the ownership did want us to consider a more activated park. A BMX trail. Parks and Rec was a little cool to that idea, just because of some of the access issues. As sort of a dangerous sort of sport, how do you get fire and medical personnel back there, given the desires to fully activate as well, the residential lots up on the street. Again, through much discussion and many reasons the city did not pursue that dedication of park, or the design of the plat probably would have been different. We would have gotten an access easement. A pedestrian easement was in the works at one point from 12th Street back. While I appreciate the neighborhoods input, I'm not sure that the code gives them standing to dictate who donates what, and who accepts what. Those are private land transactions. They presented a plat that met the code. Together, we determined that it wasn't feasible to accept this as park land, and so once that decision was made at a city staff level anyway, the plat was designed and drawn to the proposal you see here tonight. By the way, it doesn't preclude absolutely any future need of parks and rec to come in, and secure a trail, or an easement for a trail in the future. It's still designed appropriately to do that, if funding becomes available, and if that's the decision of the city.

Mayor Amyx: Okay.

Vice Mayor Soden: Is there any liability if there was flooding, if we were to own that property?

Scott McCullough:
Director of Planning &
Development Services

I'll let maybe Mark, or city attorney's office address liability questions.

Mayor Amyx: Mark, do you have anything?

Scott McCullough:
Director of Planning &
Development Services

We certainly have a lot of park land in flood ways. That's pretty typical.

Mark Hecker:
Assistant Director
Parks & Recreation

That's what I was just going to say. It is fairly typical that we have a lot of flood ways are park properties, so this wouldn't be anything that's new from what we're doing. It is connected to another park, so that has some pluses to it. I think it's been awhile since I've looked at this, but a lot of the difficulties that we had was just routing the trail through there. We had to

cross the creek a couple of times, which would have been expensive. We weren't excited about it. I don't know that we hated it, it's just one of those neutral things that if we had it great, if we don't great. A little indifferent to it, I guess. How's that?

Mayor Amyx:

Okay so we have the 5 foot sidewalk on the property, and we don't believe that there's a need for other pedestrian right of way to be obtained at this time?

Scott McCullough:
Director of Planning &
Development Services

Correct.

Mayor Amyx:

That's basically it. We believe that we have the controls in place to make sure that on that tract we're in control of what future development may happen at that site right?

Scott McCullough:
Director of Planning &
Development Services

It would take a good amount of reprocessing this to get any kind of ability to develop that tract A, correct.

Mayor Amyx:

Okay. I guess there are two questions. One does the majority of the Commission believe that it's necessary, at this time, to require an additional right of way, a pedestrian right of way on that property? That would be one question and number two; do we believe that the safe guards on the development are in our quorum as required on tract A? Maybe another one, do we want to own that property?

Commissioner Herbert:

Scott you may have already answered this, but as I'm reading the letter that came from Brook Creek Neighborhood Association there seems to be ... I've now read it through twice, and I'm trying to find it. I felt like when I read it through the first time there was an indication that we had some sort of contract, be it perhaps not written, but an oral contract that the land was to be donated. Does anything like that exist? Is there any sort of legitimate claim that this land has to be, not necessarily even park land, but under city control or donated?

Scott McCullough:
Director of Planning &
Development Services

In the preliminary plat was the document that showed the intent, which at the time did include, not Mr. Kilo, but the future ownership group that they wanted, that they intended to make this land available for the city. There was no contract or agreement written, or otherwise. At the time of preliminary platting, we were in discussions together. Parks and Rec, and the applicants. We thought that the preliminary plat should reflect the intention of the owner. It wasn't agreed to by the city and the owner obviously, that that was the ultimate outcome, but the plats are supposed to show intent of the applicant. That was the intent at the time. The discussion moved from

there in various ways, and various directions until the time that they ended up platting the property.

Mayor Amyx:

Along with what Commissioner Herbert said, at any time during the entire process of dealing with this property, did the governing body or the planning commission, or whomever, make a deal that we were going to accept that land as part of this development plan?

Scott McCullough:
Director of Planning &
Development Services

No, there was no authority for the planning commission to make that kind of statement. They did accept the preliminary plat that showed the intent. The last ...

Mayor Amyx:

Could that be a condition of approval?

Scott McCullough:
Director of Planning &
Development Services

I think it depends on the nature of those discussions at the time, and whether there were discussions, and documentation that showed intent between two parties. Again, at the time, there were merely discussions.

Randy Larkin:
Senior City Attorney

We have no legal right, or agreement by which we could force them to give us the property at this point. There was no agreement, or arrangement, or even meeting of the minds that would say that was going to be a park.

Mayor Amyx:

My question would be did we by appearance, did we by vote, did we ever say in any way that it was our intent to accept that property as part of this development agreement?

Randy Larkin:
Senior City Attorney

There's no documentation that would establish that as being the case.

Mayor Amyx:

Other than on the preliminary plat?

Randy Larkin:
Senior City Attorney

There was no representation that the party was willing to donate the property to the city. That was not done, and so there's no deal. There's no transaction at this point.

Scott McCullough:
Director of Planning &
Development Services

Mayor, I might also add it wasn't a completely free donation. The last discussions we had with them were a donation in lieu of city funding some of the infrastructure improvements. The sidewalk, water lines, those kinds of things. Again, that's why I say the discussion moved around a bit, it was a negotiation like any land discussion about what it would be, and then it fell under its own weight between the parties that were discussing it.

Commissioner Herbert:

Okay, and that's kind of what I was wondering, because that was my understanding too, was that there was going to be infrastructure built, and that the park was essentially repayment for that. Presumably none of the infrastructure was

ever built?

Scott McCullough:
Director of Planning &
Development Services

It will need to be built, but it's going to be built at the applicant's expense.

Mayor Amyx:

Other questions? Comments? Then the item that is before us tonight is to accept the dedications for the final plat of Burroughs Creek, 2nd edition. I think that, as I appreciate Michael and Byron's comments on this, I do think that we have met probably the intention that we've had throughout this entire process. I believe that the plats are good and that we should accept the dedications. Anything else?

Moved by Commissioner Herbert, seconded by Commissioner Boley, to accept dedications of easements for Final Plat, PF-15-00347, Burroughs Creek 2nd Addition. Submitted by Landplan Engineering, P.A. for BK Rental LLC, property owner of record. Motion passed unanimously.

D. CITY MANAGER'S REPORT:

Diane Stoddard, Interim City Manager, presented the report regarding the Annual Public Works Snow Day Activities Planned; the Public Meeting to discuss traffic around Cordley Elementary School; the Parks & Recreation Programming Highlights; the Parks and Recreation Special Populations Highlights; and, the Planning & Development Services Monthly Project Report – August 2015.

E. PUBLIC COMMENT:

Joe Mullins:

Good evening. My name is Joe Mullins, 1305 Jonathan Drive. I rise to speak about Castle Drive. I happen to live just around the corner from 13th and Kasold. What's going on with option 1, and option 2 has been presented to numerous meetings and in the community, is that what's driving the problem with it is that most of the people that live on or close to Kasold don't like the change that the city staff is proposing in option 1. If you look at the poll that was done by the Journal-World, 71% of them don't want it changed. What's happened is, when we have something like this to come down, it's usually the result of bad policy. What we have with the city is we have a large complete streets policy that, in my opinion, is not really looking into what's best interest for the residential, or even the arterial of the streets of the City of Lawrence. I'm also planning to go Thursday night to go meet with the MPO, part of the planning organization to explain to them they are going to do the same thing. They need to change their policy. Policy as such is failing when they're trying to do something important to policy that is such an abysmal failure with the public than what they want. They don't want this thing on Kasold where it's reduced down from 4 lanes to 2 lanes. You at the body right there can make the change to the policy. That's your job is to make sure that the staff follows the policy. The

policy needs to be changed. I'm not going to go into the details tonight, but there are a number of them in here that I've read about this policy that needs to be changed. That was the extent of it. If you want to know, also not just from Journal-World, but if you go back to 2007, 2011, and 2015 of the City of Lawrence surveys that they've done, the vast majority of people in there do not want to impede the East-West, North-South travel in this city. We have enough of a problem getting around this city as it is, and we do not need to do this kind of thing that you're planning to try and do on Kasold Drive. Thank you for your time.

Mayor Amyx:

Thank you. Other public comment?

Bill Fleming:
General Council
Trenor Architects

I'd like to comment on Item 3, but if you're going to accept public comment after you discuss Item 3, I can wait.

Mayor Amyx:

Please do because this is time for general public comment. Thank you.

Bob Schumm:

I live at 1720 St. Andrews Drive. That's 1 block West of Kasold. I'm here to tell you that I think this body should seriously consider the complete street option. I've lived there for 40 some years, driven Kasold a couple of two, three times a day, some days. There is not much traffic between the intersections of 15th and 8th Street. Most of your traffic is on an east/west axis. The Journal-World article that I read said 71%, the title said 71% don't want this to happen, but then as you read on in the article, once the people were shown a diagram with the complete street diagram, that changed to 46% were against it, and 51 or 2 were for it, with a margin of error of 2 or 3%. Basically, it's a flip of the coin when you get all the information in it. I can't say enough about complete streets, and how good it is for this community, and how much more people getting out and around in terms of the trail system, and everything that we've worked on in the past 4, 5 and 6 years. We have good recreational opportunities for cycling, and pedestrian activity. We don't have good transportation. We don't have connecting points. That stretch on Kasold is a super opportunity to make some connections between 15th and 6th. It's a flat stretch. I take it all the time, because when I cycle back from downtown, I go up 6th street and then cross Kasold. I'm not afraid of riding in one of those lanes, because there's not that much traffic. You have an opportunity to do this, but the kicker is that you've got a chance to save a million bucks at the same time. I just don't think that people, there's just a number of people who believe that you've got to have 4 lanes to have quick transportation opportunities. The roundabout, and when you say roundabout people just go crazy. The roundabout on Wakarusa is a marvelous demonstration of how fast traffic moves through that through-way. Then when you go further north you hit Harvard, and you're

stopped up 4 and 5 deep, and it takes forever. These things do work, and it's not some invention that our city engineer made. Go across the country, go to Europe, go to Mexico, or go anywhere in the world. This is what's happening. This is the state of the art. I hope you'll consider it. Thank you.

Mayor Amyx:

Thank you.

Commissioner Boley:

Diane, I have a question about this. There are two options that are being presented by public works on this project. Is it just one of them that are a complete streets design? Or are both of them complete streets design?

Diane Stoddard:
Interim City Manager

Part of the reason why we're presenting the two, is because a former Commission directions and looking at that. One is definitely a complete street design, and I'll defer to Mark on the elements of the other one.

Mark Thiel:
Assistant Public Works
Director

Chuck is out of town. Yes all of the projects that we've looked at, we've applied the complete streets policy to, depending on the design, would depend on how much of the complete streets are actually feasible to do, but yes we do apply that.

Commissioner Boley:

So it's not just one of them is a complete streets design. They are both complete streets designs.

Mark Thiel:
Assistant Public Works
Director

Yes Commissioner.

Commissioner Boley:

Thank you, I appreciate that clarification.

Chris Tilden:

Good evening Mr. Mayor, Commissioners. I'll keep my remarks brief because I'm going to talk about Kasold too, and I know that they'll be a formal discussion of this. I do want to speak to ...

Mayor Amyx:

Can we have your name too?

Chris Tilden:

I live at 1121 Williamsburg Court. Former resident of 7th and Kasold, so I have lived along that corridor for many years, and certainly travel it consistently. First and foremost, I want to thank public works for what's been an awful lot of discussions already about the project. I certainly think they done their homework. There's an awful lot of discussion about the crazy idea that's been thrown out here, and I do think it's worth noting that there have been 37 road reduction projects in the City of Austin. They've published an extensive report, and shown in every case that there's been no impact on the traffic flow, and its corridors with the reduction of roadway. Considerable increase in safety reduction and accidents. It's been done 39 times in Seattle; dozens of times in places like Des Moines, Grand Rapids, the

list goes on, and on, and on. The Federal Highway Administration, in looking at the body of evidence, had said that road reduction is one of 9 proven counter safety measures, makes roadways safer, does not detract from the quality through the bit of cars along these, so I just want to speak to the fact that it's not a crazy idea that's being thrown out. These projects have existed since I think, the first report on road reduction, in terms of number of lanes, was done in 1999. There's a lot of body of evidence, and I'm sure there will be more discussion about this when we get to the Commission, to the day when we actually discuss it. I think it is important that we recognize that there really is a strong body of evidence. I really appreciate the work that public works has done in not only listening to the public, but also looking at best practice.

Mayor Amyx: Diane just real quick, and I don't have my calendar handy right now, but what date do we have scheduled to consider the Kasold item?

Diane Stoddard:
Interim City Manager Mayor, I don't recall right off.

Mayor Amyx: It is in November though.

Diane Stoddard:
Interim City Manager I will certainly provide you an update on that next week.

Mayor Amyx: We've got a whole list of items that we are attempting to make sure we get to in a timely fashion, and Kasold Drive is one of them, just so that you know. We'll be letting everybody know on that. Is there any other public comment?

Frank Janzen: As you all know we would only take any trouble certainly with a grain of salt. I didn't come to talk about that. Just what Mayor Amyx mentioned, let me elaborate on the fire fighters. They were fighting a one block long apartment complex. They had gone up to the 2nd floor and pulled two people out to save them. They were standing outside the building. The wall collapsed towards them instead of inward, that's why they died. Since we spoke earlier about the College Career Center, Mayor Amyx just went out there a couple weeks ago to inaugurate the operation there. I have always thought of Lawrence ...

Mayor Amyx: So did Commissioner Herbert and everybody. Lisa was there also.

Frank Janzen: You were all there, good. I don't know if you saw them when they gave the inauguration. KU sucks all the air out of education in Lawrence, because it's huge. I believe that the story is that Douglas County was the last County in the State of Kansas to get this kind of career center in town. Next door, of course, is

the Peaslee Center which draws people from Johnson County; they draw teachers from Johnson County Community College, from Metro Community College, and from Flint Hills which is based in Emporia. Then you have people like Bill Self which kick in a million dollars to the Taj Mahal Sports Complex. Basically, what these people need is to have their vocational education count in the same level as a Bachelor's Degree, so they aren't forced as many of these High School students are around Kansas to go to college. We don't need that. They can get a career just like this. I have two points. I wanted to thank Mayor Jeremy Farmer. What he did was he moved this public comment up to the beginning of the agenda instead of at the end. Mayor Amyx may remember more than a year ago, I was here to speak about the social service league thrift store down that the Allen Press building. I waited, and I waited, and I waited, because it came at the very end. The Commission went off to executive session for 30 minutes. They came back at 11:15 -11:30. The room was empty except for me, and Chad Lawhorn. Later on when I looked at the video that these guys filmed, they cut it off when they went to their session. One of the good things that Mayor Farmer did was to bring this up. I think he also took away the shot clock. As we know there are some people who are repetitive in their comments, and sometimes Mayor Amyx has in fact interjected, and said excuse me there are other people waiting, but other times he doesn't. I would almost advocate bringing the shot clock back. Even 10 minutes, 20 minutes. A long time available, but at some point they need to get concise information, and get it wrapped up within 20 minutes. Otherwise this thing goes on until Midnight. The second point, the last point is the microphones. Commissioner Soden often is relaxed back, and she'll come up forward when it's time to talk. Sometimes Mayor Amyx and Commissioner Boley have their little conversations that are not facing the microphones. Commissioner Herbert, as I told him after one of the forums in the library when he was campaigning, he has a very forceful, good voice. Probably because he is a school teacher. He has to get it across to the classroom. What I was going to recommend, lapel microphones for you guys, and perhaps with the staff as well because the lapel mics would be there all the time, you wouldn't have to be adjusting to the microphones that are in front of you and the staff as well. These guys in the control booth are the unsung heroes, because they are the ones who basically control the situation. I have found out from Cable 6 they have no way of knowing, the people who are watching this at home, on the internet, or on their TV screens. There's no way for Cable 6 to know how many people are watching. The people who are watching, send a post card, or email to let us know what you think about the issues you are watching.

Mayor Amyx:

What's your address Frank?

Frank Jansen: 1338 New Hampshire.

Mayor Amyx: Thank you for your comment. Thanks for your comments about the clock. Any other public comment? Okay, thank you all. Now we are on to the regular agenda.

F. REGULAR AGENDA ITEMS:

1. **Receive update from Ralph Andersen and Associates regarding the City Manager Search.**

Greg Nelson:
Ralph Anderson & Associates

Good evening, Mayor and City Commissioners. Thank you for the opportunity to provide an update on our executive search. We're an executive search firm. We strictly public sector search for our executives, and we're about midway through the process. I just thought it would be a good time to give an update where we're at in the search, and what the steps are going forward. There're roughly 8 steps involved in recruitment. We started off several weeks ago when I came and met with City Commissioners, and many, many stakeholder groups to get input into the desired qualities, and characteristics we'd like to see in our next City Manager. Following that we published a recruitment brochure, and aggressively went out and contacted potential candidates. Step 3 in the process was about a 6 or 7 week long period. During that process we're evaluating candidates against the qualifications and desired traits that you're looking for in your next City Manager. I'm here today at step 5 in the process, in the review of candidates, and following this I'll talk about the next steps going forward. A summary of the candidate pool we've had so far, also we've closed the recruitment. We've accepted applications up until October 2nd. We have 54 total candidates, and 32 of which met the qualifications that were set out from the beginning. Just in general terms in our top tier of the candidate pool. The average candidate had 19 years' experience as a chief executive. Had a Master's Degree usually in public administration, and most commonly was a credentialed manager through the International City County Management Association. Following this selection we are going to move into the interviews. The first round of interviews will be with the Lawrence City Commission in executive session. We will be inviting 8 candidates to the interview process. I just want to point out that this part of the process is very confidential. These 8 candidates have professions of their own at the time. It's very important to their livelihood that the confidentiality of the process is upheld. If confidentiality is an issue, it causes some candidates quite frankly to withdraw. We're very considerate of the confidentiality privacy. After the first round of interviews, a finalist group will be invited to a more public, and open meeting of the candidates. We screen down that finalist group, and make sure that they're up to the standards that we

would expect to be the City Manager of Lawrence, Kansas which is a very prestigious and sought after position in the nation. Because of KU's prominence of their MPA program, in a lot of ways, Lawrence is seen as the holy grail of City Manager posts in the United States. You would be surprised at the prominence of the position. The finalist group, a small number, it's not a preset number. It could be 2, it could be 3, or it could be 1. It really just depends on what the number is, most likely 2 or 3, will be invited back to have an orientation; have an opportunity to meet staff in the city. Have an opportunity to tour city facilities. That same evening we intend to have a public open house, where members of the community can come in, and meet the finalists group of candidates. The following day, or the following business day at the least, the finalist candidates will come back, and meet with the Lawrence City Commission in executive session for finalist interviews. In following that process ultimately leads to a job offer, and a final selection. Most commonly a candidate may have to give notice in their current position, perhaps up to 60 days, so we still have a ways to go. Probably halfway through the process, but those are the next steps. I just wanted to take an opportunity to brief the community on what we have going forward

Mayor Amyx:

Okay. Any questions for Greg? Greg just real brief, and I do want to thank you personally for the commitment in running the search. It's been a great experience. You've taken the time to meet with the stakeholder groups that you met with back in July or August. It seems like a long time ago now, I guess July. Everyone who stepped forward, and gave of their time to be able to share the feelings on the kind of individual that Lawrence, Kansas is looking for I want to thank everybody that did that. Again, thank you for your commitment for finding, helping us find the best City Manager for Lawrence, Kansas.

Greg Nelson:
Ralph Anderson & Associates

I appreciate that, but really the thanks go back to Lawrence, because without that level of input, and engagement. We couldn't do our job as well as we do. We really have been able to refine down what you want in your next City Manager, comes from that type of involvement. It was quite a pleasure to do this assignment.

Mayor Amyx:

Okay, thank you. Is there any public comment on this item? Okay, thank you Greg we'll be visiting with you soon then. Thanks for the update.

Vice Mayor Soden:

Thanks for coming.

Mayor Amyx:

Thanks for staying. You on Southwest?

Greg Nelson:
Ralph Anderson & Associates

I am.

Mayor Amyx: Very good. Get home. We have an action item to receive the update. We need a motion?

Diane Stoddard:
Interim City Manager I don't think we need a motion.

Mayor Amyx: That's fine.

2. **Reconsider authorization of a change order totaling \$78,650 to RD Johnson Excavation for installation of an additional concrete trail on the Burcham River Trail Project.**

Mark Hecker, Assistant Director, Parks and Recreation, presented the staff report.

Mayor Amyx: So upon completion, our goal is once all the connections are made, it's about 23 1/2 miles. 23 miles?

Mark Hecker:
Assistant Director
Parks & Recreation What's cool about that is this is just a loop. There's a whole bunch of spokes that come off of this. Clinton Parkways isn't even on there, or the Kasold Drive Trail. There are innumerable trails. We even go off down here. 31st Street has a trail way out to Connell Road. There's one out by Mary's Lake. There's just a lot of cool potential to spoke this thing once we get it in.

Mayor Amyx: Okay, Matthew.

Commissioner Herbert: Some of the criticism about this that I had read in the memos that were sent to the Commissioners talked about the word "clear cutting" appeared in a couple of them. I had an opportunity to walk that area, and then looking at your slide show. Can you address this clear cutting?

Mark Hecker:
Assistant Director
Parks & Recreation Yes, absolutely. Everything you see that's laid down there was either dead standing or dead lying. Now, what we want to do this Winter is try to go down and try to reduce some of those brush piles that are down there. What we basically did was took what was either standing, or laying and moved it back so we could start the trail. If you think, hey you guys just went and bulldozed through the forest, we don't do that.

Commissioner Herbert: To the best of your knowledge, there was not a living tree that was cut?

Mark Hecker:
Assistant Director
Parks & Recreation The only thing that was living was underbrush. So it would be smaller story stuff, but none of the big trees were touched. That kind of goes against what we do. We plant thousands, and thousands, and thousands of trees every year. That's not really what we try to do.

Commissioner Herbert: Thanks.

Commissioner Larsen: First of all, Mark thanks for meeting me out there, that was very informative. Matt was out there with us, as well as Ernie, and Roe, and I learned a lot that's for sure. In addition to what you've already talked about, one thing that I was impressed with was that you were able to be flexible enough that you could look for monies to complete this in a more appropriate manner, using all concrete. In doing so, it's going to save us about \$15,000 in the long run. About \$15-17,000 in the long run, by using monies from other sources. I appreciate that very much. As far as the riprap goes, I know there were concerns expressed by some of the public about the fact that we'd lose some of that into the water. Talking to Matt, it's something that's constantly maintained by the city to make sure that we don't lose, that it's maintained in a proper manner.

Mark Hecker:
Assistant Director
Parks & Recreation That's a continuous process. Honestly, right in front of the parking lot out at Burcham, it's the same way. We've got to maintain that edge. If we have a flood event, we have to go look at what's happened, and how do we react to that. It's not easy, but it's doable, and it's worth doing I think.

Commissioner Larsen: Just talking about the design, the way you field design. I think that's real technically sound, the way you do it, based on my experience.

Mark Hecker:
Assistant Director
Parks & Recreation Thanks. We've had a lot of good experience with that.

Vice Mayor Soden: We decided to reconsider this because of citizens concerns, and this is already one way that Lisa Larsen has shown her value on the Commission. I'd be happy to move forward with it.

Mark Hecker:
Assistant Director
Parks & Recreation We've got to take public comment.

Commissioner Boley: I just wanted to say thanks. I enjoyed walking on that area, on the trail and seeing the field design, I was really impressed. I appreciate that way of planning.

Mark Hecker:
Assistant Director
Parks & Recreation Thank you.

Commissioner Larsen: I also wanted to thank the citizens who came forth, and brought this to our attention, because without them coming forward we might not have gone into this much detail about it. I think it's really important, for one, we're seeing the map. I know it's been online for quite some time, but it's given me an opportunity to learn we're pretty doggone close to meeting that loop. I really

appreciate that.

Mayor Amyx: Mark, thank you for your update, and memo, and the work that's being done. Lisa thank you for your report, and memo. Okay, thanks. Public comment?

Heather Moore: Hi. I live at 440 Louisiana. First of all, I hate meetings. This is pulling teeth to get me here, however I was ...

Mayor Amyx: We're glad to have you though.

Heather Moore: Thank you. I was floored on Saturday to read in the paper that people were still upset about this trail. I have lived within a block and a half of the river for 12 years now. I'm also one of the few adult rowers in the city outside of the University. I do own my own boat, so I'm on the river everyday as well pretty much. I have 4 dogs, which is within city code. I know my limits. We walk daily. One of my favorite routes is obviously along the river because I row, I love the river. I love the wooded area. Where I happen to live, actually happens to be a gravel cul-de-sac within city limits that is fully tree'd. I love it. I believe strongly in trees. When I heard a couple of years ago that this path was going to go through, I was worried about clear cutting. I don't believe in cutting trees. I will say that they have done an excellent job. I'm impressed. I'm not upset at all about what they've done. They've moved the path further from the bank, which everybody is concerned about erosion. In 12 years I've seen the rate of erosion, it's going to be decades before any erosion hits where they've put that path. I just wanted to say, I'm really glad that you're considering the concrete. I think that you should do the concrete, because in the past after a rain fall, or a snow melt, it can take up to a week for that path to not be a soupy, sappy mess. With 4 beagles, oh God. Basically, I really urge you to authorize the funds to make this a concrete path. It's been in the works for over a year at least, that I've followed it. Frankly, my beagles would appreciate it as well. Thank you.

Mayor Amyx: Thank you. Other comment? K.T.

K.T. Walsh: Hi Mayor and Commissioners, my name is K.T. Walsh. I'm too am at the river every day, some part of the river with my dog, so I get you. I have some comments, and it seems really counter-intuitive because I love trails, I love the river, but hear me out. I have 2 family members who use wheelchairs, and I want everyone to be able to get close to the river, get exercise, and enjoy the multitude of benefits from being outside. I wanted the concrete path completed absolutely. I thought beavers have to eat too, about protecting the trees from the beavers. I've thought about it a lot, and I've read the information presented by the 3 women from the Pinkney neighborhood. I give a lot of

thought to the erosion problems that have really been concerning me for a long time along the south bank of the river. I wanted to just give you a little information that you may not be aware of. Sarah Nelson of the Bowersock Mills and Power Company, and Mike Logan who runs Abe and Jake's also the Granada, have met with the Corp of Engineers because of their concerns about the really terrible erosion below Abe and Jake's down into the river. They know they need to deal with that pretty soon. It's happening fast. Abe and Jake's as you might not know right now, have a beautiful balcony overlooking the river. Mike wants to be able to continue to use that for his business. Since the new river dams went in at the Bowersock, if you talk to anybody who canoes or kayaks or rows or fishes, the river above the damn has changed. The character is different. This is not my purview, but it's quieter, it's deeper. It's very, very different. We'd have to get someone who knows this science in, but we're dealing with a little bit of a different animal right now. Another issue when Depot Redux, and Diane Stoddard joined forces to restore, and subsequently purchase our beautiful Amtrak depot, they had to deal with the drainage. They built a drainage pipe that goes under the tracks, towards the river, and it does a good job, but the erosion that has resulted has taken out the only accessible trail down to the river for people who aren't sheep and mountain goats. It continues to erode, and erode, and that too is happening rapidly. Those of us who use the wild woods over there a lot to hike or run, want to be able to get to the water, and everyone's throwing rocks in, and branches, and trying to fill the ravine. There's so many of us that use that space, but it's still eroding out from underneath. I'm losing track. The erosion that's happening along this trail that we've all heard about. We have 3 serious erosion issues on the South bank, and it seems to me it might be a good time to start a conversation with the Corp of Engineers about all 3, and perhaps there's more. There're so many natural partners that could pull together on this to make sure the process benefits the river, the natural areas, the creatures, the river neighborhoods, downtown Lawrence. I think we need to get disability activists in Lawrence at the forefront of this, Dot Nary, Bob Mikesic. I'm sorry I'm coming out against the concrete. LiveWell Lawrence, the Health Department, the business owners, and property owners effected. Friends of the Kaw, River Keeper, the Audubon Society. We could go on, and on, but I envision a big room, and this being a consortium of people who all love the Kaw, and could help us, because one of the things in the city surveys that people have said is they want to get back to the river. I think we need to move in that direction. I'm hoping you will take a step back, talk to the Corp, and come back to the concrete later. Thank you.

Mayor Amyx:

Thank you. Other comment?

Mike Myers:

Good evening Mr. Mayor and Commissioners. Mike Myers, 1312 New Hampshire Street. I am a current member, and past Chair of the Live Well Lawrence Healthy Environment Working Group. For quite a while, we've been discussing this Lawrence loop concept. I guess I'm one of the original loopers, if you will. I'm just super excited about the prospect of, not only the loop, but about us paying a little bit more attention to our river front. To making everything accessible for all users. I also think that the progressive nature of creating alternative transportation routes puts our city in a great light, in terms of tourism, in terms of public health. I encourage you to see this project through, and make that surface along this trail good for all users, including wheelchairs, roller blades, strollers, bicycles. There's always the opportunity for side paths for runners, and people that don't want that hard surface down there. Like everyone, I love trees, and wild areas, but when you look at this loop concept, and you say where that trail falls in relation to this, I think there's a bigger overall picture that really makes a lot of sense. I encourage you to follow through with funding for that paved surface, and also for as future projects come up like the Hobbs to Constant, park path, and pedestrian way under the river bridges. Thank you.

Mayor Amyx:

Thank you Mike. Other comment?

Tim Herndon:

Good evening Commissioners, I'm Tim Herndon, landscape architect urban planner, and presently the Chair of the Healthy Built Environment Work Group with the LiveWell Lawrence Coalition, as well as serving of the Citizens Advisory Committee for the East 9th project. I am responding tonight to the feedback that made it to me after it was decided to revisit this project that was formally approved on the consent agenda. I just wanted to make a couple of points that I hope you'll agree with me are relevant to not just this project, but are going to be considerations as we move forward. As you've been shown there are going to be other segments of this trail that make it before you for some sort of consideration in the future. The first point that I wanted to share with you is that I noticed the perception out there that there was some sort of peril potentially with developing a trail network, where we are placing concrete surface within the floodplain, or waterway areas. I just want to point out that in most urban environments, and within the fabric of most cities, we will see that it is the floodplain, the floodways, the drainage ways that constitute the primary corridors that are used for park land and trail systems, because those things impose within our communities a continuous band of undevelopable ground that afford us the opportunity to build these facilities in such places. I think that speaks to the appropriateness of the proposal that's before you tonight. Sort of a microscopic example of this same point is that just by looking at the photographs that Parks and Rec used as

exhibits tonight, we see that the cow path, or the pig trail, or whatever naturalistic foot path has evolved there is along the water's edge. When we create public spaces that are not only fit for human occupancy, but that people like to go to using water as an element is play number one in the Park and Rec, and trail designers playbook. Human beings are naturally attracted to water, so that when we have an opportunity to marry all of these elements, such as this project it's certainly a worthwhile consideration. This is really important for us to acknowledge in the context of this discussion. We're going to have other applications forthcoming within the next year, or 2 years, 3 years and 5 years. Not only to implement the loop that Mark and Mike talked about, but we do have the spokes that we're also referenced. I am presently working with city staff, and others on the upcoming grant applications for transportation alternative grant funding, and Sunflower grants, and some of the other things. In every one of those grant applications, the reviewing body, I assure you, is looking to see if the City of Lawrence is implementing a systematic, consistently accessible facility. Concrete pavement is a key component in that consideration. It's placed heavily not only in this specific project, but will be a component that is considered moving forward as we approach, and tackle other projects. The last thing I want to mention is that first and foremost, is our facilities have to be accessible, so with that I want to introduce to you, Dot Nary, who is my colleague on the Healthy Built Environment Work Group, and is also KU Research and Training Center on Independent Living Scholar. Dot has some ideas to share with us.

Dot Nary: Can you see me now?

Vice Mayor Soden: There's a table that can be lifted out on the side right by Nancy.

Dot Nary: Oh, okay.

Vice Mayor Soden: You can move the microphone down there.

Dot Nary: I'll get cozy.

Vice Mayor Soden: Then we can see you.

Dot Nary: That's okay, I'll hold it.

Tim Herndon: I can't be responsible for this.

Dot Nary: Scott, you'll just have to hold it. I'll be brief. My name is Dot Nary, I live on Tumbleweed Drive. I am an Assistant Research Professor at KU. I'm also a Looper. I'm involved with LiveWell Lawrence, the Built Environment committee as the communications coordinator. My work involves looking at ways that people with disabilities can be healthy. It involves looking

at environments that promote that. In an aging society, and particularly in a community that is being touted as a retirement destination, we really need more ... you don't have to hold that, I can hold a microphone. We really need more environments where people can easily get physical activity. I think this loop is critical because it's very visible. It provides opportunity for people who use wheelchairs, or walkers to do things with family members, and friends without breaking a hip. People need secure surfaces. That serves a lot of needs in the community, so I just want to put in a plug for, not just for this part of the trail, but I've worked with the Parks and Rec since I moved here in 1996. I've held classes for people in wheelchairs. I remember when the sports pavilion was being planned, we sat down with Parks and Rec staff, and there's 2 pieces of aerobic equipment in that gym, which does not happen in any for profit fitness centers in the city that I know of. Lawrence has a great history of recognizing needs of people with disabilities, and people who are aging, which are all of us. I think this trail is important, but to continue that effort to make sure that people have opportunities to recreate, and be healthy is really important. Thanks.

Mayor Amyx:

Thanks, Dot. Other public comment?

Allison Roepe:

Mayor, Commissioners, it's a pleasure to speak tonight. I live at 1627 Learnard Avenue. Formally, I lived at 312 Indiana, and like many others here have walked the trail for years with my dogs. What I saw in my 10 years there was I saw the banks continue to erode year, after year. I am not against the trails, I am all for the trails. I'm just for making sure we have things stabilized so it will last for generations to come, because why keep paying the money for something like that. I was speaking with this engineer, Jeffrey Hangler, from the Corp of Engineers about what it takes to stabilize a river bank. I know you guys have all of these answers, and I'm not an engineer. I don't have any of them. He was talking about the reliability of the riprap treatment, and his comment said ... and these are the 5 things I would love to hear from Parks and Rec, or someone who knows these kinds of answers. Has it been researched how high the river goes? How fast does it flow to determine what angles going to happen with the water taking away the bank? What slope is there currently, and do we need to re-grade it? If there's re-grading necessary, we might have to have some kind of permit under the clean water act to actually add fill to change the slope of it. I would love to hear comment on those kinds of things, because where the new intake is, the city water plant uses all the riprap that goes up North towards the boathouse. I don't know what year that was originally put on, but I know that has been sliding down into the river for years. I don't know what the cost is to replace it periodically. I have no idea about that, but one of the things that he talked about is the angle of the

slope of the bank at the time. I know there are places along the Kaw now where it's concave, so any kind of filling from the top is completely ridiculous evidently, to do that and have any success. These are the questions that I'm still curious about, if these have been spoken about, and determined. What is that? That is my one thought about that. The other thing is that I spoke with Mike Shaw who lived next door to me on Indiana, and he has one of the most historic homes in that area. It's called the Castle on the Kaw. People know it. He has historical photographs from that area that show the railroad track that runs behind all of our houses there on Indiana with the river right up to the railroad tracks. There was no land there. Clearly it falls off, and rebuilds. That's a process with a river. My interest is knowing that we have seriously looked at all the implications of stabilizing the bank. When they put the path down, it indeed stays down there for a long time. I haven't walked the path this week to know if anything's been rerouted, but there were several places where the pathways to come within about 4 feet of the river bank where it is today, which will be changing. That's my concern is that seems, just after some of us that have lived there ... Shelly has been there for 30 years, she's seen the pathway move in a number of times. Our concern locally is that going to be stable to have 4 feet between the river and the bank. Those are the things that I would be interested in. Thank you.

Mayor Amyx: We'll get you some answers to those in a minute, Allison.

Allison Ropey: Thank you so much.

Mayor Amyx: You bet. Is there other public comment?

Jennifer Newlin Good evening. I don't have much to add, but again, I think the Commission for promoting a thoughtful discussion. The opportunity to ask questions about this, which probably only raises other questions is so valuable. As the consultant mentioned earlier, apparently it is not just we the people of Lawrence who are here because we think Lawrence is a gem, but there may be some perception from the outside that is the case. It sounds like from all the comments tonight that everybody is really enthusiastic about making Lawrence the best that it can be. Making this whole concept, and execution of the trail be the best that it can be. As Allison mentioned, she said she doesn't have a lot of the answers, but again, many questions. Same for me. I learned one little thing being a cattle manager out in the Flint Hills for 2 years in the late 80's, and that was stay on the path. You don't take your truck, and go look at something that interests you. Every time, or at least the ranchers believe that every time you take the truck out on a new jaunt, on either your land, or someone else's, you are starting a chain of events. That those tracks, the next rainfall,

those are going to be rivulets, and eventually as is quite evident from the tire tracks that do exist, say to your salt feeder, pretty soon that causes eventually ravines and all of that has got to be managed. In an earlier discussion with Parks and Recreation, the comment was made that managed is better than un-managed, and that sounds good. I think we're just asking that everyone be aware of every step of the execution of this. The possibility of erosion, and just simply those we don't do this in a manner that would potentially make a trail out of whatever material, concrete or otherwise. Make it not sustainable. If we pay for it, we certainly don't want to see it in disarray in a short amount of time, or over a long period. I know about 2 or 3 years ago, I should have been using a walker apparently, I was in front of Green Hall at KU, and the concrete, the different segments of it, there was just about a 1 inch difference on the right side that I was walking on. I was not respecting my advanced age, and did not pick up my foot. It was dark, and just about an inch caused me to catch the front of my foot and go vertical, and it hurt. In terms of maintenance of this trail, it is going to be a wooded, maybe even increasingly wooded area. There will be lots of things that fall down onto it. For accessibility, there will need to be continuing money, and resources to keep it somewhat free of obstructions. Just monitoring it, or receiving reports that there are problems. Likewise, in the Winter. The city does a great job of somehow getting out there, and clearing sidewalks. This is going to be a new, and I presume, time consuming and costly effort to keep these trails clean.

Mayor Amyx:

Jennifer, you have about 1 minute.

Jennifer Newlin

Thank you. I've also done a little research about any other possible alternatives to concrete, and would just note that I'm not an expert, but I looked at the website of the National Center on Accessibility at Bloomington, Indiana. They discussed organic, porous surfaces, different aggregates. It appears that there is much being done. Unfortunately, I would guess that these are all significantly more costly than concrete, and I'm sure that R.D. Johnson at this point has a pretty tight relationship, and a known track record, and have got a deal for us. I also note that the Sunflower Foundation, most of their trail initiatives seems to have been in concrete. I'm concerned that path maybe one that is more unstable, than other parts of your average city. We do have a lot of great resources as has been mentioned, in Lawrence. People with all kinds of degrees in environmentalism, engineering, people such as Dot Nary who have been the vanguard of tremendous acts in the United States, like the Americans With Disabilities Act. Let's just continue the discussion, and I appreciate it so much.

Mayor Amyx:

Thanks Jennifer. Other comment?

Bob Schumm: Good evening. I urge you to complete this portion of the trail and as I've said before, I'm very interested in seeing more opportunities for walking, bicycling, and outdoor activities. Just as a little preview, you aren't going to believe how great the South 10 trail is, I've driven it twice between Louisiana and Haskell. There's a barrier so that you can't see any of the vehicles, but you get full view of the beautiful wetlands. It's unbelievable. That South area has really come along very nicely. It's possible now to go from Rock Chalk Park all the way to O'Connell Road, except for about two, 100 foot sections of trail that are not quite installed yet on K-10. I'm not sure you're supposed to be out there, but I had to take a look to see what it's going to be like.

Mayor Amyx: You say that you've been driving out there?

Bob Schumm: I mean riding.

Mayor Amyx: Riding, ah.

Bob Schumm: I'm sorry, riding.

Commissioner Herbert: Two misdemeanors.

Mayor Amyx: That's right. You only have three minutes.

Bob Schumm: At any rate, this helps close the loop. We've worked on this concept for the last 5-6 years. We're getting so close, and you can see on the map that in a very short time, I think that you're going to see a total completion. Mike Myers was the person who came up with how to get from Delaware to 11th to Burcham, which I hope you're going to approve tonight. It's a great route. It goes underneath the bridges. We got very, very close last time on receiving a grant, but we'd just gotten a grant the year before. I'm hopeful that KDOT will look at us in a good light again, and we get that section, and then we've got more of the loop completed. Thank you.

Mayor Amyx: Bob, just real quick, thank you for all your work on the trail system around town. Bob was a champion of making sure it stayed the course the last several years, so thank you. Other public comment?

Bob Mikesic: I live at 2620 Kensington Road. I encourage your support for this trail. Parks and Rec has a lot of experience putting in very durable trails that stand the test of time. I live in the Prairie Park neighborhood, so I use frequently since it went in around the year 2000, the trail that goes around Mary's Lake. It is still very smooth, durable, and it's used by all the wide variety of people that many have mentioned in terms of age groups, kids riding bikes, people taking their dog for a walk, people running with a

3 wheel stroller. There was a lot of environmental sensitivity when that trail went in. I think they backed the vehicles out to minimize any, even if they were even conscious of turning radius, so there was minimal destruction. Of course the Prairie Park Nature Center's there, because there's so much wildlife that it's a teaching tool for kids. Every effort was made to preserve that, and not to disturb the environment. Not only trees, but everything else living there. I think the whole loop is great, and all the spokes. It's very fun to see people coming from all parts of the neighborhood to use the trails that we have here. This is a great addition, thank you.

Mayor Amyx:

Thanks Bob. Other public comment. Anyone else? Back to the Commission. We've had a lot of great comments. To Allison and Jennifer last week, I want to thank you for bringing the item forward to have us take the time to re-look at the item, and make sure we've considered everything. Mark, there was a question that was brought up by Allison, and it talked about the 5 questions that she had, and also the riprap, and the work that would be done where it gets within 4 feet of the water.

Mark Hecker:
Assistant Director
Parks & Recreation

Let's see if we can scan back here, and catch a picture. This is probably one of the closest spots where the erosion is coming back to where the trail is. We try to do the minimally evasive correction. Now is it the perfect fix? No. If we did the perfect fix, we would be doing a lot of clearing along that whole shoreline. That destroys the whole area. Is that the permanent fix? It works well until the river decides to go a different direction. I'm not afraid of that, and I think this is a good way to step it in, and this makes this section of the trail much more manageable. Before we couldn't touch it. We didn't have access by trucks. Our equipment couldn't get down there. We had no way to get into this section of the park. I feel better about us managing it with this trail in, as opposed to not having the trail in. We've had pretty good success. Burcham Park is a continuous maintenance item. We go down, and look at it every time we get a big flood event, and see what happened, and see what we need to do to either put it back, or adapt to what's happened.

Mayor Amyx:

The question she also brought up from the engineer from the Corp of Engineers. It was Jeffrey Hangler, I think it was. The 5 questions there talked about flow, and the other items. Have we looked at all those things?

Mark Hecker:
Assistant Director
Parks & Recreation

We very much rely on Matt Bond for that, because he deals with water flow continuously. All day, every day, everywhere in the city. When we take him out there, and say, "Matt, tell us what we need to know." He said this is where you need to worry. He can identify at this point, stand there and look down the river, and look where the flow of the river is coming, and

this is where it's hitting the bank. Did we do a full river flow analysis? No. Using his expertise, I feel pretty good about what we're doing, and how we're spending money on this.

Mayor Amyx:

I agree with that. I think Matt's expertise here, and I know in watching the work that he did with the certifying of the levee, and all the stuff that we have there. I think we have a true expert on our staff. A lot of great work. Other questions for Mark?

Vice Mayor Soden:

We will be doing snow removal on that?

Mark Hecker:
Assistant Director
Parks & Recreation

We will. The maintenance issue is another issue, but yes anytime we have 10 foot concrete, we remove snow. That's city wide. Coming down 6th Street, going down Clinton Parkway, anyplace within the 2nd day, we want to have snow off all those trails. Which is amazing people get upset about that, but they do. There're very avid joggers, and bikers. As soon as we get our primary areas done, those are our secondary snow removals.

Mayor Amyx:

Okay. Any questions? Back to the Commission then. Thank you, Mark.

Mark Hecker:
Assistant Director
Parks & Recreation

Sure.

Commissioner Herbert:

I'll lead off. I wrote down 4 comments. I'll stick within your 5 minute shot clock Mike, I promise. First of all, I think accessibility has to be in the DNA of everything we do. Period. I don't even feel compelled to say anything more on that. I was a little disturbed at first when we couldn't even get an accessible platform for a presenter at City Hall. I mean accessibility has to be in the DNA of everything we do. Secondly, to the concern of us not paying attention, or maintaining the trail. I would argue that putting the trail there actually is going to increase the attention that we pay to it. We now have a vested interest to make sure that erosion does not occur. We have a vested interest to make sure we're maintaining that bank. I think the existence of the trail actually dedicates a little more attention. I think the 3rd thing I would say is when we talk about worst case scenario, rivers are going to do what rivers are going to do. Period. It doesn't matter. If we've learned anything from South Carolina. Individuals that had built their home up 17 feet on stilts, watched their home wash off the foundation. It doesn't matter what we do, if the river want to do what it wants to do, it's going to do it. The question for me becomes, is our building a sidewalk there in any way, creating a bigger problem. I was concerned when I read the letters from the citizens that talked about clear cutting, because I understand the impact that

having vegetation there can have. Luckily, I took the time to walk it, and I simply would not agree with the terminology clear cutting. I couldn't really identify areas where trees had been cleared at all to be perfectly honest with you. If we have a worst case scenario situation with the river, I don't think it matters whether we have concrete, or asphalt or no trail at all. If we have a worst case scenario, people are going to have water in their houses. I don't think the trail plays a role in that. The last thing I want to say, and I think this is very important, not only for this issue, but for how we go forth as a Commission on all issues. I think timing is very critical. It's very hard to walk forward when we're looking backwards. We've debated this issue for over a year. We had it come before our body not too long ago. We passed it on the consent agenda, without a single member of the public raising a concern. It wasn't pulled off the consent agenda. I totally welcome comment from the public absolutely, but at some point when no comment is made from the public, and no emails are received, and we pass something, we have to move forward. We can't spend our entire time on this body going backwards. I would definitely push that we go forth, just as we voted to do previously.

Mayor Amyx:

Okay, other comment?

Commissioner Boley:

I appreciate all the effort that's gone into reconsidering this issue. I think we all know a lot more about this trail now. I think we share common concerns about being able to maintain the trail, and also to do what we can to preserve the river bank. I know a lot more about it now than I did when it was on the consent agenda, and I'm glad I do.

Vice Mayor Soden:

Yeah, I definitely agree with that. I'm looking forward to it, and I guess I'm a looper.

Commissioner Larsen:

I wrote down, what is a looper? I want to find out about that. Just one more quick item. Something I like for the Parks and Recs to consider, and they're probably already doing this. When we go back to replant that area, I really would like us to concentrate on using pollen air plants, to ensure that we are definitely encouraging growth of that sector of plants.

Commissioner Boley:

I also would like to thank the Parks and Rec staff for doing such a great job of getting grant money for these kinds of projects. That really helps so much, it is also an endorsement of the work that you're doing to be able to be so successful with the grants. Thank you for your work on that.

Mayor Amyx:

Mark and Ernie, thank you for all the work that you guys do on this, and keeping our parks, and our trails, and everything that we have under your thumbs as the things that make Lawrence a really great place to live, and want to come to. I think it's

spectacular whether it's in the downtown, and the Linear Park we have with the flowers, to any of the trail system, or any of the parks we have. Matt said it probably the best, when we look at our trail system, one thing that's always been important to this Commission, and I know it's been important to our staff and the entire public is accessibility. We want to make sure that whatever we do, anybody can use our systems. That's what it's about. Nobody is denied. I think that's it. Again, the individuals that asked us to reconsider this item, thank you and we appreciate always hearing from the public on any of the items that we have. There's not a whole lot more to say other than, we really need to build this trail, and it needs to be in concrete. Let's move ahead. We need to have an item that stays the course, or what?

Diane Stoddard:
Interim City Manager

Mayor, I think that really the Commission's already taken the action that it needed to take, so if there's not any desire to take other action, I would say that action carries.

Mayor Amyx:

Okay. No additional action at all?

Diane Stoddard:
Interim City Manager

None necessary.

The Commission recessed at approximately 7:15 p.m. for a five minute break.

The Commission reconvened at approximately 7:20 p.m.

3. **Consider the following items related to the Eldridge Hotel Expansion Project:**

a) **Consider adopting on first reading, Ordinance No. 9161, authorizing the issuance of \$12.5 million in Industrial Revenue Bonds for the project.**

Diane Stoddard presented the staff report.

Gary Anderson:
Gilmore & Bell

Good evening, Commissioners. Gary Anderson with the law firm of Gilmore & Bell here with my colleague Kevin Wempe. Again, we are bond counsel for the city and represent the city, not the beneficiary of the proposed bond issue. Commissioner Larson, congratulations on your appointment. Diane asked me to give you kind of an executive summary of industrial revenue bonds 101. I'm disappointed the students all left and didn't get to hear this exciting presentation. Industrial revenue bonds are usually issued for kind of three purposes. Sometimes it's all three, sometimes it's just one of them. It can be for purposes of granting property tax abatement for a maximum period of time of 10 years. It can be for granting a sales tax on construction materials and personal property or it can be so that the interest on the bonds can be tax exempt under federal and state law. A good example of that last one would be when the city issues

bonds for Lawrence Memorial Hospital, those kinds of things. Those are very few and far between because federal law really restricts those now. Most of the industrial revenue bonds that get done now, whether it's here or in other counties and cities in Kansas are usually a vehicle for providing incentive. The incentive is either property tax abatement and/or the sales tax exemption on construction materials and personal property. It's really not a true financing vehicle in most circumstances. The bonds are typically purchased by the company or the company's lender, so it's a vehicle to obtain the incentive, not really to provide financing. Now it can be used to provide financing, but quite honestly it's pretty rare now. When you're doing a project like the Eldridge where it is solely for purposes of the sales tax exemption on construction materials, the term of the industrial revenue bond will basically just run for the term of the construction period, which is typically 12 to 24 months depending on it and then the whole thing goes away at the end. It's a fairly short period of time. One of the key things from a state law standpoint is that the sales tax exemption applies to property that is purchased with the proceeds of the industrial revenue bond. As Diane mentioned, if for some reason you would decide not to proceed of course would not have the ability to have purchased or refinanced the property that they had purchased with the project exemption certificate then they would owe state and local sales tax. With respect to the industrial revenue bonds, the city has no liability with respect to the bonds, they have no obligation. A couple years ago we were successful in working with some of our clients in the legislature to change the state law. It used to be under state law that the property actually had to be deeded to the city or county and the city or county would hold title and then lease it back. We got that changed for a number of reasons including the ability to use Small Business Administration financing for a number of IRB's so now instead of transferring title, there is a base lease from the owner to the city and a lease back, so the city does not take fee title. However, under the terms of the documents, they are still required to have the city or county as an additional insured under the documents and provide full indemnification for the city under the terms of the lease. As Diane said, typically this is a two-step process. The first step is the adoption of the resolution of intent, and as Diane said, after that occurs, the city can request a project exemption certificate and provide that to the company to use for purposes of acquiring construction materials and personal property exempt. If for some reason the bonds aren't issued, as I said, they're required to reimburse the state for state and local sales tax. The reason the resolution of intent is typically important is one, it allows, as I said, for the application for the project exemption. It sort of indicates the city or county's interest in issuing the bonds. When you are doing an IRB that has property tax abatement, timing becomes very important. Typically when you're doing tax abatement IRB there

is a very long lag typically between the resolution of intent and issuance of the bond, so the reason that occurs is the 10-year property tax abatement under Kansas law begins the year after the bonds are issued. For example, if you were starting a project now and it would take let's say 16 months to complete, it would be done in let's say February of 2017 if my math's right, so typically the beneficiary of the tax abatement wants to realize the maximum 10-year benefit, so you want to wait until the project is complete so that the following year it would have gone on the tax rolls as maximum assessed value so you wouldn't in that case typically issue the bonds until early in 2017 so the tax abatement would begin in 2018 and run for 10 years. Property tax IRBs are a little bit different from a timing standpoint, but even with the sales tax exemption typically there's a lag between the resolution of intent and the actual issuance. Tonight, the ordinance before you would be to authorize the bonds and the various documents in connection with the issuance of the bonds and I'd be happy to answer any questions you may have now or at the conclusion of your discussion.

Mayor Amyx: Questions? Just one again, and that is that is the exemption certificate is already in the hands of the ...

Gary Anderson:
Gilmore & Bell Beneficiary.

Mayor Amyx: They have been able to use that for budgeting purposes or whatever purposes necessary to put their project together.

Gary Anderson: Correct.

Mayor Amyx: Okay. The only time that they have to pay back money is if they have bought something under that certificate, right and then if this body were not to finalize this deal?

Gary Anderson:
Gilmore & Bell That is correct.

Mayor Amyx: Okay. Just checking. Okay. Any questions of Gary or any questions of Diane?

Commissioner Larson: Are there any controls in place to ensure that the items that are being purchased are actually for the construction project versus maybe other things that shouldn't be purchased under this sales tax exemption? Are there any controls in place to monitor that? Does there need to be?

Gary Anderson:
Gilmore & Bell As part of the structure of the industrial revenue bond, the city enters into a trust indenture with the trustee, which will be a bank and their role is to review the request for reimbursement, i.e. expenditure of bond proceeds and part of that certification

process is a representation that all of these costs are for the "project" which is the Eldridge expansion. Typically, there's no additional due diligence on that other than relying upon those certifications made by the beneficiary of the bond.

Mayor Amyx:

Okay.

Commissioner Herbert:

I have a question for Diane actually and I apologize for catching you off guard if you don't know the answer to this. The property that's to be built, the expansion, when that is built they'll be paying essentially 15% property tax. Is that correct? It was 85% abatement?

Diane Stoddard:
Assistant City Manager

That is correct.

Commissioner Herbert:

What is the ...

Diane Stoddard:
Assistant City Manager

It's a rebate.

Commissioner Herbert:

Correct. What is the actual amount of money increase that that will bring into the city?

Diane Stoddard:
Assistant City Manager

I know that we have that and if you give me a minute, I can look that up for you, Commissioner. That was one of the items that we had talked about when this was on the agenda back in February, so I know we have it and I can look that up.

Commissioner Herbert:

Take your time.

Mayor Amyx:

Okay. Other questions. Okay. Thanks, Gary. Don't go away. Okay. The applicant is here this evening. Does the applicant have a comment?

Matt Gough:
Attorney, Barber Emerson
Law Firm

Mayor Amyx, Commissioners, good evening. I'm here tonight on behalf of the applicant, Eldridge Hotel, LLC. The city commission did adopt a resolution of intent on February 17 and in reliance of that resolution and in close cooperation with the city, we did obtain a sales tax exemption certificate. That certificate has been used in conversations and deals with sub-contractors and vendors to acquire, we've heard, \$3.5, \$3- to \$4-million, somewhere in there worth of building materials. The agenda item tonight was originally scheduled for the 29th of September and in the last two weeks there have been some modifications to the plans that we're going to talk about next and the proposals for the lease of the city's parking lot at 7th and Vermont, but the approval of the resolution of intent is intended to be a strong indication of support for the issuance of the IRBs. I know that four of you were not part of that decision in February, but regardless of what you believed, my

understanding is that it would be unprecedented for the city to adopt a resolution of intent, assist in the procurement of a sales tax exemption certificate, and then fail to follow through with the ordinance that would implement the resolution, which would void the certificate, so I do agree with staff's report that indicates that a negative decision today would also have a negative impact on the city or it would appear as a negative to the city. This project is an ideal candidate for the use of IRBs under the city's existing IRB policy. The project achieves multiple public benefits, and if you look at the policy, it'll be easy to see why. This project absolutely complies with Horizon 2020's goals and strategies, mostly in chapter 6, to support and enhance downtown Lawrence as the cultural and historical center of the community. Its in-fill development of a vacant lot on the heart of Mass Street. It augments perhaps one of the most historically significant structures in the city. There's some language in Horizon 2020 and the comprehensive downtown plan that are really on point. This would help create an environment around which the populous can develop an intense pride in the community as part of the heart of the city. The Eldridge is part of the historical core of downtown and this expansion helps in the words of those plans to establish a vital continuity between the past and the present community. This project helps make downtown or helps continue to make downtown a destination driver that all our long-range plans support. The long term benefits of the plan significantly outweigh the short term costs and inconvenience. The expansion of the Eldridge is important. In-fill development on Massachusetts Street is important and in consideration of the revised plans and proposals that we'll discuss next. As an acknowledgement of the reliance that the applicant has had on the decisions that were made in February and the sales tax exemption certificate that has been issued, and for the sake of continuity of city government, we ask that you approve the IRB ordinance before you tonight that being number 9161. I would greatly be obliged to have your vote on this before we move to the next agenda item, and I'm pleased to stand for any questions that you may have.

Mayor Amyx: Question for Mr. Gough. (None) Okay.

Matt Gough: Thank you.

Mayor Amyx: Thank you. Is there anybody else? (None) Okay. Any questions of staff or anybody at this time?

Diane Stoddard:
Interim City Manager I do have the answer to that. I'm looking at a staff report that we provided in February and at that point we indicate that the base taxes are approximately just under \$5,000 per year. Obviously, that's very low on that lot given that it's empty, currently it's vacant.

Commissioner Herbert: That's current base.

Diane Stoddard:
Interim City Manager That's the current base. With the neighborhood revitalization act, it's a property tax rebate of a percentage of the new increment above the base. Rather than trying to do math here, I'll give you what we had written, which would show you that it's even greater than what this was indicated. During the first full year of project operations, property tax collections were estimated at \$11,000 given an NRA at 95%, so at that step, and as you mentioned, it's actually 85%.

Commissioner Herbert: Well, it's just 85% of what is above \$5,000, right?

Diane Stoddard:
Interim City Manager Right.

Commissioner Herbert: It would essentially be \$5,000 times 1.15, right? Wouldn't it just be a 15% above 5?

Diane Stoddard:
Interim City Manager It would be an 85% rebate on the incremental ...

Mayor Amyx: On the new development.

Diane Stoddard:
Interim City Manager Right. Above the base, so we would always get the base, but that 15% that we would collect and not rebate to the project would be well in addition to doubling that current base tax value.

Commissioner Herbert: Okay.

Diane Stoddard:
Interim City Manager At 5% we were calculating 95% abatement. That incremental tax was \$6,000.

Commissioner Herbert: Okay.

Diane Stoddard:
Interim City Manager That kind of gives you an idea without me trying to do math on the other.

Commissioner Herbert: No, I got you. I got you. So the \$6,000 then would be, that was the 5% overage or was that \$6,000 total with the base? Back when we were calculating at 95%.

Diane Stoddard:
Interim City Manager Yeah. That \$6,000 was representative of just the amount that would...

Commissioner Herbert: Exceeds the base.

Diane Stoddard:
Interim City Manager Yeah, exceeds the base and would come from the city. Right.

Mayor Amyx: So the valuation that we keep is 15% of the value of the

improvement.

Diane Stoddard:
Interim City Manager

Yes.

Mayor Amyx:

Okay, and then plus the \$5,000 that we're already getting.

Commissioner Herbert:

Right. What I'm looking for here is the differential and the improvement. All right. I got you.

Diane Stoddard:
Interim City Manager

With this one, obviously the base is very low so the increment is really large when you're adding this kind of development onto a vacant parcel.

Mayor Amyx:

Okay. Were there any other comments from the applicant?

Matt Gough:

No.

Mayor Amyx:

Okay. Public comment.

Bill Fleming:
General Counsel
Treanor Architects

You see me down here quite a bit dealing with development issues and development of downtown. I just wanted to give a quick history of the IRB. We've been doing projects with IRBs for a long time. I went and did some quick research on the city website, Lawrence Presbyterian Manor 1975, Prairie Ridge in '78, Vermont Towers in 1979, Brandon Woods a couple times in '87 and '93, Drury Place in '94, Newbon House in 2013, the new hotel was 2013. I worked on that project, 100 East 9th Street project, which is a project I worked on that's been under construction now and the HERE project. We have a very long history of using IRB as a development tool from this community. We actually have a policy that's a city policy on IRBs that was adopted I think originally around May of 1989, so it's been in existence for 26 years now. I think that policy was updated in 2010, but it is city policy. Basically, the city policy talks in terms of the type of development that is encouraged with using IRBs and those policies encourage mixed use projects, in-fill projects, and projects that support downtown. We have a policy out there that is basically designed to encourage use of the tool in these situations and I think certainly in the situation that you have in front of you. There has been a lot of discussion about process lately, so I think it's important for us to look at the city processes for that. As an applicant you have to go through a PIRC (Public Incentives Review Committee) committee hearing. The discussion obviously has to be approved by the city commission, so there're a lot of processes an applicant would have to go through to get these IRBs approved. As Mr. Anderson has noted, there's really no financial risk at all in the project and maybe to answer your question, Commissioner Larson, the lender typically is the person who buys the bonds, and so because the lender's collateral is the project itself, they

have a very strong interest in seeing that the money is spent on the project because that's their collateral, so they do have controls in place where they typically will go out and not only obviously monitor your project to make sure that what you say you're spending on your project you're spending, but they typically will also attend your construction meetings and they'll hire people to come in and survey the project to make sure that what you say you're buying is being bought for the project, etc. There are controls in place to make sure that the money is actually spent the way it should be spent on the project. Anyway, obviously, going back to what Matt said, we have a lot of policies that encourage downtown development, that encourage in-fill development, and that encourage the development of downtown, make our downtown stronger and more viable. In fact, the original Eldridge, I don't know if anybody, there's a lot of us I guess that remember this, but the original Eldridge actually got converted to an apartment complex and then back when they decided to convert the Eldridge from an apartment complex back to a hotel, back to a historic hotel, they actually used IRBs to help do that, so this has been a tool that's been used a lot. I think it's an important tool and I'd certainly like to encourage the city to continue to follow the policy that's set forth. Thank you.

Mayor Amyx:

Thanks, Bill. Other public comment? Any other public comment on this item? (None) Back to the Commissioner. I am glad that Mr. Fleming brought up the last time that the Eldridge was converted from an apartment building to a hotel back a long time ago. I think I voted for those bonds. Questions, comments of the Commissioner.

Commissioner Boley:

I talked about a different incentive that was awarded to the Eldridge in February, but that's already done. I mean it's the NRA. That's set. That's fixed. I don't really have a problem with this one. I think we ought to go ahead. I don't want to send a negative signal for economic development. That's the last thing I want to do. Well, not the last thing, but close to it. I plan to vote for this.

Mayor Amyx:

Okay. Other comments?

Commissioner Herbert:

Mayor, we've had a lot of concern in the community about the way in which the construction work is going to be done. Is there any way for us to have the discussion of item B prior to item A? There are a lot of individuals that want to make sure that if we issue the bonds for this project, which will enable the construction to happen, that the construction is done in a manner that allows the neighboring businesses to continue to operate at full capacity? I mean, we're dealing with a part of downtown that's had quite a bit of strife lately. Commissioner Schumm is in the audience. He knows that better than anybody

here. He's suffered quite a loss to his business due to fire and a lot of the businesses that are a part of his building there that have been shut down or not at full capacity for a great deal of time and are just now kind of getting back on their feet, and a lot of them expressed concern about what this may or may not do to their business and foot traffic. I'm a little bit nervous about taking a vote on the issuance of these bonds to enable the project before we have a discussion about how the project would proceed.

- Mayor Amyx: Commissioner, let me just bring up the applicant asked us to consider in this order. I do share a little bit of your same concern, but I don't want any of us to forget, we actually have two readings of the ordinance on the issuance of the bonds. Of the next two items, I'm going to guess if we don't come to an agreement with all of this, I imagine we'll have some further discussion on the second reading of the issuance of the bonds. Make sense?
- Commissioner Herbert: No. I hear what you're saying. I just have a little bit of problem with that order.
- Mayor Amyx: Okay. Well, anybody?
- Commissioner Larson: You're saying that if we can't get consensus or whatever on the next items of action that we can go back?
- Mayor Amyx: Ordinance number 9161, Lisa, is going to require two votes.
- Commissioner Larson: Okay.
- Mayor Amyx: We will vote one way or another here in the next little while and then it's going to be placed back on the agenda for a second reading next week.
- Commissioner Larson: Okay.
- Mayor Amyx: Or next time it's scheduled, so it'd be next week. I'm going to guess if we can't come to some kind of agreement on the next items, that there would be further discussion at the time of that second reading. That's all I'm trying to explain to the commission here, and if I'm saying that wrong, please ...
- Diane Stoddard:
Interim City Manager: No. You're correct.
- Commissioner Herbert: No. I totally understand that. I just wondered why it's such a big deal to flip them tonight as opposed to having to wait till next week to possibly ... I mean, why can't we ...
- Mayor Amyx: I'm going to guess Matthew that the applicant wants to make

sure it has a general feeling whether or not we're on board with the first and maybe even, and I'm not going to speak for them but guess whether or not they wish to proceed with the next items. If there's not support to do it. I got to believe that they're going to look at something else.

Commissioner Herbert: No, and I totally understand that, but with all due respect, whether or not there's support to do it very well may have to do with the second. I understand the applicant wants to hear A before B, but if it's the will of the commission to hear B first so that they know how to vote on A, that seems to be kind of important.

Mayor Amyx: Well, what I did was, I placed them on the order that they're on the agenda, knowing that we have a second reading that we have to handle on ordinance number 9161.

Commissioner Boley: Ordinarily that would go on the consent agenda, right?

Mayor Amyx: Ordinarily, it would.

Commissioner Boley: But it doesn't have to.

Mayor Amyx: No. I'm going to guess if there's no agreement on the rest of this, there's no reason for me to even think of putting it on the consent agenda.

Commissioner Herbert: I want to make sure because we not 60 minutes ago had a conversation where all of us agreed that accessibility has to be ingrained in the DNA of everything we do and a lot of the concerns of the people in the community about the closure of the sidewalk had to deal with accessibility. How can I say it's got to be ingrained in the DNA of everything we do and then say, but I'm willing to vote on this without having any clue whether or not accessibility will be ingrained in the DNA of this project? I have a personal concern with that.

Mayor Amyx: I'm going to guess because of the second reading, and all due respect, I want you to know that because of the second reading requirement of this ordinance I bet we have the discussion, a very thorough discussion of the accessibility.

Commissioner Herbert: I sure hope so.

Mayor Amyx: Okay. Anyone else have feelings? (None) Well, let me jump in. Back in February, this item came before the previous Lawrence City Commission and I had the opportunity to review this. I want everybody to know, as I said at that time, I had concern that had to deal with the parking issues that would be looked at, and on whether or not I thought it was going to be necessary. One of the discussions that I had had with the applicant was for the

opportunity to go by and see their parking and the situation that was going on. It was fairly apparent to me that as I see large buses pull up next to the Eldridge, there's a lot of people that are not coming by car, but they're coming by motor coach and they're taking a lot of folks in that way and it's not requiring the parking that a lot of folks, especially myself, felt that was necessary to do the deal, so I did vote against that at the time. I want everybody to understand that since that time, and the commission did approve a resolution of intent to move forward to get us to this point. I will say one thing, that I do believe that we have an opportunity here as was discussed by the applicant's attorney as we look at having an expansion of what I consider and was brought up by the applicant's attorney again, probably the most historic site in the state of Kansas, especially in Lawrence. I think it's really that kind of deal. I think it finishes the 700 block. I think that there's been a case since 1970 when the buildings that were there and are not there anymore and that there's been a vacant site and been used by any number of good attempts, but let's face it. It needs to be this expansion able to happen, and I think there's been time for any number of businesses to come along to build on that site, but this has been the first time that we've had somebody who has taken the plunge and ready to do the development there. At this point, with all the work that's been done, I'm a supporter of the issuance of the \$12 million dollars in IRBs.

Vice Mayor Soden:

Well, as someone that was just recently elected, I know that a lot of people had strong feelings about the past commissioners that didn't make it through the election of basically supporting for-profit developments with public tax money. The rest of the world has to have business models if they want them to be for-profit at least that don't rely on public assistance, so even though I think it's a great project, I think it's totally great what you're doing, there's still that basic conceptual thing that even now sitting here I couldn't quite decide what I was going to do, but I think I'm going to go with what I obviously campaigned on, what I talked about, and that was that we need to start seeing business for-profit business models that do not rely on public assistance. I wasn't here when this was approved, the resolution of intent. It's unfortunate that there was such a long gap that you had such a turn-over in the commission from last time, but I'm here to do what I said I was going to do.

Mayor Amyx:

Other comments?

Commissioner Larson:

Obviously, I didn't run during this last go around, but I was one of those citizens who were very concerned, who has been very concerned about the amount of money that has been allocated as incentives for businesses whereas other projects maybe didn't get the attention they needed to that weren't for-profit maybe. Based on that, at this point in time, I would have to vote

for no on it because I am real concerned about that. I feel like the business took the risk to follow through with the purchasing of the supplies and the materials, but they also knew that there was a change in the commission and so that's how I would look at that.

Mayor Amyx:

Okay.

Commissioner Herbert:

Can I go back to the question phase? Diane, at that meeting in February where the IRBs were not granted but the claim was made that the city would eventually grant the IRBs? It's my understanding at that exact same meeting that Pioneer Ridge was also given some considerations. Was Pioneer Ridge given IRBs at that meeting as well?

Diane Stoddard:
Interim City Manager

I believe you're recalling that correctly. I can't remember whether it was that exact meeting, but they were also approved.

Commissioner Herbert:

So I guess my question would be why is the Eldridge before us today but not Pioneer Ridge?

Diane Stoddard:
Interim City Manager

That one, and sometimes it is bond council kind of following up with the project to see where they are on that, so I don't know if, "Gary, do you happen to have any info about that particular project and where that is?" I haven't talked with them recently.

Gary Anderson:
Gilmore & Bell

We have acquired of counsel for Pioneer Ridge several times over the last 6 months about whether they're ready to move forward on their bonds, and they have said they're not ready yet. The way the sales tax exemption works with IRBs, as long as you finance the cost with the IRBs, whether it's up front or at the very end, it still works either way. Some folks like to do it at the very end. Of course, you're taking some risk by doing that. Other ones do it sort of right away. A lot of times it depends on the financing that the particular beneficiary is using.

Commissioner Herbert:

As I understand it, having driven by Pioneer Ridge numerous times, that work is already long started.

Gary Anderson:
Gilmore & Bell

Correct.

Commissioner Herbert:

They can begin the work using IRBs without the IRBs being officially issued by ordinance?

Gary Anderson:
Gilmore & Bell

They are using the project exemption certificate to purchase their materials on the sales tax exempt basis just like Eldridge has and the expectation would be that when if the commission approves IRBs for that project then they would be fine. If for some reason the commission would decide not to issue IRBs for Pioneer Ridge, they would be required to reimburse the state all

of the sales tax savings.

Mayor Amyx: So they're operating under the same resolution of intent.

Commissioner Herbert: I just don't understand why you would take that risk as a business, why you would start spending the money before you were authorized to spend the money.

Gary Anderson:
Gilmore & Bell I would, as a conservative lawyer, not use the word ever, but I am not aware of a situation in Kansas by a city or county where they have adopted a resolution of intent, granted a project exemption certificate, and not followed through issuing the bonds. You have the legal right to do that. I'm just giving you my background of having done this for 30-plus years.

Commissioner Boley: I think that's what you were referring to, Diane.

Diane Stoddard:
Interim City Manager Yes, correct.

Mayor Amyx: They are operating on our word. It's kind of like what we were talking about earlier with the issue there at 12th and Haskell. Did we give in any way our word or a verbal contract, if you will? Well, you know, in this case, I think we passed something saying that it was the intent of the city of Lawrence that we would issue these bonds.

Commissioner Larson: My understanding is that the written language is such that they are aware that it could potentially not go through. Is that correct?

Mayor Amyx: There's always that chance, I believe. I won't deny it. I've never known, as Gary said, I've never known a time that it hasn't happened. Usually the decision would have been made at the time of the resolution of intent. If the city was not going to participate, that's the time you do it.

Commissioner Boley: This could present some significant problems to us as we try to go forward with economic development. That's what Diane is saying. We have a strong staff recommendation on this one. As I say, I spoke against the NRA to the extent that it was given in February, but that's already done. I can't remember that I said that much about the IRB. Maybe I did, but Mike voted against it in February, but it's important to follow through.

Commissioner Herbert: See, I'm stuck in a bad place here. I'm stuck in a bad place because I believe that you honor your word, and I sat roughly where Nancy is right there the night it was passed. I got up and spoke against the property tax abatement and I told you, at that time, that we don't use property tax abatements when we're dealing with minimum wage jobs, when we're dealing with jobs that are not going to increase benefits to people in our

community, and one of five commissioners listened to me. That was you, Mike. Everyone that voted for that project isn't sitting up here anymore and that's where I get to that rock in a hard place is that our job up here is to represent the public and the public has made it pretty loud message. I'm about honoring my word, and here's where I get to that really difficult spot, and here's where I come back to this conversation we had 10 minutes ago. Ten minutes ago I said I want to deal with B before A because it's going to impact my vote, and here I am all of a sudden, it's become very clear that I'm the three, one side or the other and I'm going to come back to what I said 10 minutes ago. We have to deal with B before we deal with A. Let me say this, I'm all about honoring my word and so, well, it wasn't my word, but I'm all about honoring the word of people that sat up here and have since been sent their separate ways, but I want to make one thing very clear, if we don't get the sort of...what's the word I want to see here?

Mayor Amyx:

Commitment?

Commissioner Herbert:

Commitment and answers on part B that I expect, I will pull this thing next week and I will be the third vote the other way. I want to be very clear about that.

Mayor Amyx:

You won't have to pull it. I'm telling you that.

Commissioner Herbert:

I want to take this a step further and say that the message we're sending, I'm worried about the message we send to economic development, and I want to send a very loud message about economic development. If you bring this project before this body in the future, it will not pass. The only reason it may pass today is because a previous commission gave their word, and I'm sorry that they did, but I am here to honor their word and so for tonight I will vote in favor of it for part A, but if part B goes south, we will pull this thing next week and we will kill it.

Mayor Amyx:

Well, because of the three to two votes Diane make sure that the second reading is on the regular agenda, okay?

Diane Stoddard:
Interim City Manager

I will do that Mayor.

Mayor Amyx:

That way we don't have to worry about that, Matthew. Okay? Being the third vote in any of this, and I respect, I respect the majority, the commission's word on this, but being in the three, it's as hard for me. I want you to know that because the truth of the matter is you sit here and you vote against something, but it is about keeping our word and you're absolutely right on that. We're just carrying through on our word. I agree 100% with you. The work that Commissioner Boley and other commissioners have done on the second part of this deal, along with the

applicant is what are going to make all this go together and the public discussion we have about the use of the right-away and stuff, so yeah, we're taking into consideration a whole lot of things in this.

Commissioner Boley: I'd like to say something else, too. This commission is going to be a lame duck commission. At some point, there's going to be a November election and we're going to be in these chairs until January, okay? I would like to think that the decisions that we make in that period of time are going to be maintained by the folks that come in after us. If we make commitments to people on projects, if we make commitments to people, and this is a new thing because the legislature has changed our election laws, so it's very intentionally that I'm looking at this and saying we're going to be in the position of the previous commission, only it's going to be a lame duck after the election for three months. That's something to keep in mind as we make these decisions.

Mayor Amyx: Okay. Anyway, Matthew, I want you know your comments have been heard loud and clear, okay?

Commissioner Herbert: I hear that a lot.

Mayor Amyx: Okay and you dress well.

Commissioner Herbert: Thanks.

Mayor Amyx: Okay. Any other questions or comments? Okay, then the item that is before us on this particular item, and again, it's consideration of adopting on first reading Ordinance No. 9161, authorizing the issuance of \$12.5 million dollars in industrial revenue bonds for the project the Eldridge Hotel expansion project. I would entertain a motion for adopting on first reading ordinance number 9161.

Moved by Boley, seconded by Amyx, to approve on first reading, Ordinance No. 9161, authorizing the issuance by the City of Lawrence, Kansas of not to exceed \$12,500,000 aggregate principal amount of taxable industrial revenue bonds (Eldridge Hotel LLC Project), Series 2015, to provide funds to acquire, construct and equip a project for Eldridge Hotel, LLC, and authorizing and approving certain documents and actions in connection with the issuance of said bonds. Aye: Amyx, Boley and Herbert. Nay: Larson and Soden. Motion carried.

b) **Consider authorizing staff to approve a temporary use of right of way permit for the Eldridge Hotel Expansion Project from October 1, 2015 to December 31, 2016 that will allow the closure of city parking lot #12, one on street parking stall on the south side of the 100 block of west 7th Street, and the on street parking on the west side of Massachusetts Street in front of 701 and 705 Massachusetts Street. Consider authorizing the Interim City Manager to enter into a lease agreement with the Eldridge Hotel, LLC for the lease of parking lot #12 (SE corner of Vermont and 7th Streets) for a term of October 2015 to December 2016 at a monthly rate of**

\$8,000, to a maximum amount of \$120,000, with a payment of \$15,000 back to the Eldridge Hotel, LLC at the conclusion of the project once they have restored parking lot #12 to its condition prior to the lease beginning. Consider directing staff to work with the Eldridge Hotel, LLC to provide for a pedestrian crossing through the work zone at a time in the future when both the city and the Eldridge Hotel, LLC believe pedestrian safety can be maintained.

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

Commissioner Herbert: My biggest concern is the timeframe in which we can get people back to those businesses. I talked about it earlier, this is block on Mass Street that's been hurt for a long time.

Mayor Amyx: Okay, are there other questions of Mark right now?

Nancy Longhurst:
General Manager
Eldridge Hotel

Good evening, thank you very much for your vote. I appreciate it. I am very excited to be back here again to complete the next step in the long history of our hotel. We are going to take a few brief moments to look at the hotel historically because I think that it's so important. I have a lot of passion for this hotel. This is the second time I have been at The Eldridge. Right, now this time, I have been here 10 years. It will be 10 years this month. I can't think of a better place to be. I also was with The Eldridge in the '80s and managed it with Rob Phillips when we opened it, so you can see that it is very important and dear to me. The very first hotel, as many of you know, was finished in 1856, and it was called The Free State Hotel Primarily, it was built for immigrants to come to Lawrence. I don't know how many of you really realize that, but that is why. That was its purpose. It is kind of interesting. It opened on May 21, 1856, and it was burned the same day. The other piece of this is it cost \$20,000 to build it, and it had three stories with 50 rooms. It had two more rooms than we currently have at The Eldridge. That was in 1856. Hotel two was also The Free State Hotel, and it was rebuilt in 1858. Five years later, it was destroyed by Quantrill and his Raiders as you all know, the massive story, and they burned the hotel to the ground. It cost \$76,000 to build it, and this time it had four stories with 80 rooms, again, larger than what we currently have. The hotel, at that time, meant so much to the citizens of Lawrence that a bond election happened for \$15,000, and it passed 162 to 47. Col. Eldridge was asked to erect a monument to freedom. That is how much The Eldridge Hotel meant to the citizens of this community. In fact, it is even said, in a journal that I read this last week that the citizens actually got down on their hands and knees, and they cleaned the bricks that were destroyed so they could put it back. Hotel three was built by the Eldridge brothers, naming it The Eldridge House. It was completed September 27, 1866. It had three stories and 50 rooms. Then we go to hotel four. In 1904, The Eldridge House was sold to Anna Hudson. In 1925, because of deterioration to the building, the Eldridge was demolished and rebuilt. The cost

to build this one was \$250,000, and it had five stories and 150 rooms. This is the current structure now. We are going to fast forward in a minute, but I found this really wonderful quote that I had to share with you. Martha Caldwell wrote in the *The Journal of the Central Plains*, "Lawrence would not be Lawrence without it. It originated with the town, has grown with it, and is embedded deeply in our traditions." Fast forward to 1970. It was closed and converted to apartments. In fact, David's grandmother lived there. I remember visiting her in, I don't know, the '80s. I went there; I saw her there. Then, in 1986, Rob Phillips and a group of investors bought the hotel, demolished all the walls back. I was there. I saw the whole thing happen to the outer walls, and then we rebuilt 48 luxury suites in there. We went from 150 to 48, which are now considered a boutique hotel. People don't really do that anymore because it isn't feasible. It is not enough rooms. In 2004, the current owners of The Eldridge right now bought The Eldridge at a bankruptcy sale. At that time, an extensive renovation of the suites was completed, and the common areas were returned to the grandeur of the 1920s. You have all been in there, and you have seen the beauty of it. It is absolutely magnificent. Every day that I am in there, it is gorgeous, so to have a structure like that, it is actually the most historic corner in Kansas. There is no doubt in my mind at all about it. Of course, this expansion means a lot to me. I have had the pleasure of visiting with local businesses up and down Massachusetts Street, on 6th Street and 7th Street, and then 7th Street going the other direction, and also then down to the library. We've talked to FedEx, to the post office, to UPS. We've had a great conversation, and I have learned a ton of information from a lot of really wonderful people. A lot of people really support the project. A lot of people didn't know we were even putting it up, to be honest with you, so there was a whole complex, a whole variety, of different kinds of comments. I learned that some people have concerns about parking, and I learned that they have concerns about sidewalk access. I agree. We want to look for the best way that we can accommodate everybody. I am thankful that there is a great new parking structure available next to the library. Fabulous. It is running about 50%, plenty of room. We have to think of a new way to get the word out to people where to park, and that is a good thing. At least we have that. Right? That's a real positive. Once the expansion is complete, businesses are going to see the benefits of the additional visitors to Lawrence immediately. That is what we all want for downtown. I know that it will be a year where we all have to buckle down and think creatively, think outside the box, new ways to get people in the door. We're here, at The Eldridge, we're here to help do that. We're here to help all of our neighbors, think of new ways, to get the word out. The lot has been unproductive since 1973. We have discussed expansion for five years and feel it is the right time to move forward with our investment. The Eldridge is the history and

personality of Lawrence. Thank you for being part of the next chapter in the history of The Eldridge. I can't thank you enough for your participation and your support. It means a great deal to me. Paul is going to come up and talk about the other piece that he has worked so hard at. Thank you. Thank you very much.

Paul Werner:
Paul Werner Architects

I really do want to thank Mark. We have spent a lot of time, as we mentioned, out on the site, walking it and trying to figure out the best game plan of how to get this building built on an obviously very difficult site. As we mentioned, safety really is, it's the number one deal when we stand out there. We've drawn this plan several times. We've tried to figure out how to get a pedestrian path right in front of the building just east of the property line, how to get it west of the lanes. We were standing out there, and we're measuring, and we have 37 feet, and the cranes and outriggers take 28, there is not space when that crane is on Mass Street, lifting loads. It is not safe. The space north, parking lot 12, we discussed do we really need that one space, and maybe we move the fence back, and then right away we get pedestrians walking on the south side of 7th Street. You stare at that plan and go, "That is a horrible location for pedestrians as well," so making them go to the north and around, I get that it's a pain, but I don't know how else we do it. We started talking with Westar months ago about bearing the power lines, so we have been thinking about this. The goal is, as this plan shows, is to bring the trucks into the south of the alley and to dig the hole off the alley. That's why we want to leave the power lines up where they are. We don't want that to be a conflict, to move the excavation out onto Mass Street. If we can dig the hole off the alley, then Westar can go to work burying the power lines. We'll work the cranes off Mass Street, and as soon as we can, and as often as we can, we will be running concrete and the crane out of the alley. The building just south of parking lot 12 does encroach so we don't have a great free shot back and forth, but we do think that parking the crane in the alley should work some of the time. It certainly won't work all of the time. All the concrete is going to be pumped anyway, so if we can figure out a good game plan to get that off the alley, we can try to keep as much traffic off Mass Street as we can. To your question about the language, that was about the best language Mark and I could come up with. I think that we will know when it's safe. There is a shoring plan, a new plan I want to talk about, how we worked with 715 on that plan. Shoring actually goes out into the right of way until the foundation is poured and we get up to the first level, and then maybe it's the second and the third, and at some point, we will be able to build what we hope is a plywood enclosure, a safe pedestrian path that can be used during construction and then certainly, when we are not there, that would be free path pedestrian paths along the west side of Massachusetts Street. Same construction company. They built their own office building one block north, no

issues, no injuries, had a pedestrian path and a plywood enclosure as soon as it was safe. They had more room over there than we have, so they had a little advantage, but it really is, when you stand out there. There is not an easy answer to deal with the pedestrians. The good part, I would like to point out that everybody stares at 9th and New Hampshire, and it is really slow obviously coming out of the ground. That is a much larger building. Our whole footprint of our whole site is only 7,000 square feet, so we are obviously hoping to go a lot quicker than anybody who has been staring at that construction, which is, I don't know, five or six times per floor larger than ours. We only have six floors, so their footprint of their main floor is the size of our whole building. Concrete is a little slow, and it takes time, and it does involve a lot of crane work, which is again, just why we need the space on Mass Street? We know that it's an inconvenience. Our goal would be to get that pedestrian path back as soon as possible. The comments, 715 wrote a pretty nice letter based on the first plan we have submitted. After we got that letter, we have had several meetings with them, and their engineer worked out a different shoring plan. I like to think that many of those issues that were brought up in that letter have been addressed, so we feel better about that. We understand their concern at their building. Obviously, we have a much bigger building on our own that we are just as concerned about. Nobody wants anything to happen to anybody's building, including ours. As far as impacting The Eldridge, it is going to be impacted on this as well. You have got 48 rooms. You have got people coming down there. You have got guests that can be a little high-maintenance as well, to find out that they are staying in a room right next to a construction hole. There is a lot of emphasis on The Eldridge to try to take care of their tenants and their clients. I think that we are going to do whatever we can. We are happy to listen to ideas. We know that as soon as we can get the pedestrian path open, certainly when construction is not there, the earlier, the better. I am happy to answer any questions. I'm sure I missed something.

Commissioner Larsen: I had a question about the crane. Because you had indicated early on, I think, that the crane had a footprint of about 28 feet or something?

Paul Werner:
Paul Werner Architects Yeah, outriggers.

Commissioner Larsen: The outriggers, but if they are going to be working off the alley, how would that impact Mass Street?

Paul Werner:
Paul Werner Architects It won't, but the alley is only 16 feet wide, and the problem that this shows is that our building goes much farther south. Sorry. Our building goes much farther south to where 715 is, and with the building to the west, their crane won't be able to operate

there, all of the time.

Commissioner Larsen: It will have to operate more towards the Mass Street at some point?

Paul Werner:
Paul Werner Architects It is going to have to operate on Mass Street most of the time and certainly not until the power lines are buried, until the power lines, the excavation goes first, then we've got to bury the power lines, or it can't get near the alley.

Commissioner Larsen: Okay.

Paul Werner:
Paul Werner Architects Then Mass Street actually fits better, and then it will several times we think that it will set up in the alley or on parking lot 12 and swing over the building that is also owned by the same development group.

Commissioner Larsen: If it operates off of parking lot 12, that's another reason why you need to have that sidewalk closed on the south side of 7th?

Paul Werner:
Paul Werner Architects Correct. There's too many conflict there, certainly deliveries and truck loads and everything there seems like too many conflicts to have the public walking by that alley with the gate. It seems unsafe, certainly for the first several months.

Mayor Amyx: Really, there is no way that we can consider any type of covered walkway in the parking area on the west side of Mass, in front of The Eldridge, in the project site?

Paul Werner:
Paul Werner Architects I don't think you can for, my thoughts, three or four months. If we start in the middle of November and leave the pedestrian access open as long as we can on Mass Street, excavate off the alley, at a point when the shoring gets in there, which is a big drill rig, I think, that will have to be closed. Mark and I have stared at it. I think that you are going to have too many conflicts, to have people every day walking on the sidewalk.

Mayor Amyx: In the sawtooth parking area, you're not going to touch any of that. You're going to have the crane working in and around that?

Paul Werner:
Paul Werner Architects We're going to work in and around it. The lampposts will all get removed. The meters all get removed. Three of the four trees, I am going to get the wrong terminology, the grates around the trees have not been done yet, so we will go ahead and cut all those out. We have got to tap that water line which runs right in front of there, a new water tap for the water meter and the new sprinkler system. The sprinkler lines off the existing Eldridge aren't big enough to handle the new sprinkler system.

Mayor Amyx: If you remove the sawtooth parking and put it back in at a later date, does that give you the room to add a covered walkway

down the west side there?

Paul Werner:
Paul Werner Architects

We're in kind of an agreement. Our thought is the covered walkway really needs to go as far east to just west of that driveway, as far away from the construction as we can.

Mayor Amyx:

If you take out the sawtooth of those first 10 parking spaces, or whatever it is, does it give you the room with the out-rigging of the crane, to be able to do that?

Paul Werner:
Paul Werner Architects

It probably does. It is still ...

Mayor Amyx:

Is it safe?

Paul Werner:
Paul Werner Architects

I think you're backing concrete trucks down, you've got a concrete pump truck, not all the time, but I think that there is too many conflicts for the first few months of construction to safely have that pedestrian path. I know it's a pain. I wish there was an easier answer. It's just a really tough site. I understand 715 is the closest neighbor on that width. We're there not all the time. We go there a lot, but I am guessing their occupancy is 150 people or so. You are really only parking three or four cars in front of their restaurant, their very popular destination restaurant. All of their clients, they're already walking to 715. I know it impacts them, and I'm trying to minimize that, but there are only four parking spots, or eight if you want to count them, across the street that are really even available for the people that are going there. People figure it out, and if we can get that pedestrian path open in three or four months, I would like to think that's a way better plan than mixing pedestrians in front of the construction site too early.

Commissioner Herbert:

Paul, two of the pieces of correspondence we have received, I don't know if you have those in front of you, but I'm sure you've seen them. One is from Matt Richards who owns and operates Maids at 737 Massachusetts. The second was from Carolyn Hicks who owns Sweet at 717 Mass. Both of them, their concerns were obviously foot traffic to and from their site. You've addressed that with safety, I understand, but both of them, in their comments, mentioned that moving the project, to begin in January as opposed to October, would significantly lessen the impact they have on their single busiest time of year. How would you respond to that?

Paul Werner:
Paul Werner Architects

Maybe the answer is, which Christmas we were going to hit. If we do this one, and we get out of the gate ...

Commissioner Herbert:

If you can get that sidewalk open in three months, we are not going to hit that Christmas.

Paul Werner:
Paul Werner Architects

That's right. My thought was the reason for starting the excavation in November, we'll leave it open as long as we can. Our NRA, as you know, our deadline, is also December of 2016. In hindsight, maybe we should have argued that we didn't meet that deadline. Fourteen months to build this, a solid 12? We all know what happens, weather, things like that. I think that Maid, on the other end of the block, I don't think it's an issue. I understand Sweet's comments.

Commissioner Herbert:

I guess where I am at is, I have followed this process since February, only as an elected official now, but, in February, the comment was made that without 95% abatement, we can't go forth. Well, then it was lowered to 85%, and apparently, we can still go forward. All right? There have been a lot of situations where the city has caved in, under the threat that this won't happen if you don't do this, and yet it still seems to happen. My question is, are you seriously telling me today that if you start in January instead of October, this project can't happen?

Paul Werner:
Paul Werner Architects

What I'm saying is that the language in the NRA says, if we don't get done, if we don't have an occupancy permit, I think, that puts the whole NRA in limbo, or we can lose it, which is ... Back to our earlier conversation about risk, that is a huge risk. I guess You tell me that if we need pedestrian access through to January 1, I would rather start in November and figure out a way to do it when weather is permissible, or flag men or whatever, that we do that, but give us that time to make sure we can get it done and that we don't impact anybody the next year.

Commissioner Herbert:

Yeah, we need to be very aware that the decisions we make are going to affect more than just The Eldridge.

Paul Werner:
Paul Werner Architects

Absolutely.

Mayor Amyx:

Okay. Other questions of Paul? (None) Do you have anything else, Paul?

Paul Werner:
Paul Werner Architects

Not right now. I can come back.

Commissioner Boley:

I have a question for Diane. On the rent for the staging area, the parking lot, what do we generally do with things like that?

Diane Stoddard:
Interim City Manager

Yes Commissioner, generally, those would come to the general fund and be deposited in that fund.

Commissioner Boley:

I am pretty interested in getting some money into the Affordable Housing Trust Fund. Would it be possible to move it from the general fund to the Affordable Housing Trust Fund?

Diane Stoddard:
Interim City Manager

Yes, if the commission would direct that transfer to occur, then staff can make that happen.

Mayor Amyx
Vice Mayor Soden:

Okay, Any questions of the staff?
A question for Diane. December of 2016, is that the deadline for the NRA?

Diane Stoddard:
Interim City Manager

I would need to relook at it, but I think that Paul is right, that there was a specific time.

Paul Werner:
Paul Werner Architects

Substantial completion is the construction term that we have to be substantially complete by the end of 2016.

Diane Stoddard:
Interim City Manager

Right. Usually, we do include that in the NRA documents because we want to ensure that the project does proceed, that it isn't forever in the works, so there is that date, and I would have to double check the exact date.

Mayor Amyx:

If we were to make any changes on this agreement at this point, would we have any flexibility in changing that date if we had to extend it out? If we were extremely close, if they were accommodating the pedestrian access through the area, all the things that we are probably going to require or will it have to go through the entire process?

Diane Stoddard:
Interim City Manager

I think that if you were that close to the end, and you were just extending it briefly, I don't know that that would be a major problem with the documents that are set up, so I would think that that could be something that would be considered at that time. I think that other major changes to the NRA plan would require it to go back through the entities, and if there was a major delay in that, then I think that that would be a major change. Realize, with these NRA plans, they're approved not only by this body, but also the school district and the county.

Mayor Amyx:

Yeah. All I was thinking and I know that this probably had to happen somewhere along the line, somebody gets approval of one of these things, heaven forbid you even talk about a natural disaster or something happening to a project, that there is a way to extend that time out. There has got to be ways that they put that together. Anyway, okay.

Vice Mayor Soden:

It sounds like substantially complete has a small amount of flexibility to it at least, that it doesn't have to do with the occupancy permit.

Mayor Amyx:

Okay. Any other questions at this time?

Commissioner Larsen:

I have one question for Paul, and I am sorry I didn't ask this before. You said that the walkway would remain open while you're digging your hole at this point. How long is it going to take

you to get to the point where you have to have that sidewalk closed?

Paul Werner:
Paul Werner Architects

I don't know exact timing here.

Commissioner Larsen:

Approximately?

Paul Werner:
Paul Werner Architects

Three weeks? A month? Something like that. There is a window there, but it depends when the shoring shows up and when they want to start, and we are working on some things we're doing with 715, to ensure the structural stability of their buildings as well, and I don't have all that coordinated in my head.

Commissioner Larsen:

Yeah. I was wondering if there is any way you could stretch it out over Christmas.

Commissioner Herbert:

Right. If we have got a month of buy time here, no one cares, come December 26, right? I shouldn't say no one cares, but the level of care goes down, come December 26, so if you are a month out of closing a sidewalk, that puts you at a start date of November 26, or whatever the case might be or if you are a month or two weeks, six weeks, what's the difference?

Paul Werner:
Paul Werner Architects

November to December 26, and after December 26, we can get rid of it and get us three or four months.

Commissioner Herbert:

I hate to see these businesses impacted, given the levels at which they have already been impacted by the fire and everything else.

Paul Werner:
Paul Werner Architects

We understand that.

Vice Mayor Soden:

These people are also not just walking to The Eldridge, perhaps from the south, but all the way to the Gap and all that. I think that waiting until after the holidays, is a really good idea.

Commissioner Larsen:

If you wanted to start digging and at least try to stretch it out to the point where you have got that sidewalk open.

Commissioner Herbert:

Yeah, I can't believe we're in a rush. This thing got improved in February, and we haven't touched ground yet. We can't be in a rush. We can wait another month.

Mayor Amyx:

We're moving fast. Public comment? Any public comment on this item?

Cindy Hopper:
Owner of Sweet!

I guess there was a mistake.

Commissioner Herbert: I realized that as soon as I read that email. Sorry.

Cindy Hopper:
Owner of Sweet! I guess I want to bring it down to real terms, though. For us, half of our sales are done in the fourth quarter, mainly November and December, so it is huge, and we might be one business on Mass and might be small, but we do think that we're valuable, that people do come down there to see us. I think that you have to put it in real terms. We are not saying, "Oh, we are just going to lose a little business. This is half of our business for this year, and will be next year, so by pushing it off until January, at least it will only impact one, and we are willing to work with that because we do see the expansion as good. It benefits us all, and that's fine. We are concerned about the parking. Eleven spaces for us, is huge because more than just 715, all of us access that. If we can think of something, but we have a lot of pedestrians that walk the whole way, like a shopper that wants to see what's out there, impulse buyers, but a good deal of our clients are taking buckets of frosting, big boxes, awkward, so if we could get at least a 15-minute spot right in front of our store, it would help.

Commissioner Herbert: Is that doable?

Cindy Hopper:
Owner of Sweet! We do appreciate all the signing. Thank you. We think that is a great solution.

Commissioner Herbert: Is the 15-minute spot doable this?

Mayor Amyx: That one would be our deal.

Mark Thiel:
Assistant Public
Works Director Yes, we can do that as temporary traffic regulation. Typically, downtown parking has been under the direction of the commission.

Cindy Hopper:
Owner of Sweet! Maybe it makes it a little more difficult, but our concern was that, when you are standing at that crosswalk, the midway crosswalk, and you see all that construction, you immediately think in your head, I should cross now, let me get around the other side, and I think that our exposure for 715 and Sweet! Is going to be so limited. Can that crosswalk be moved down a little bit so they have to at least come down to us before they can cross over?

Mark Thiel:
Assistant Public
Works Director I would need to get with David, who is our traffic engineer. We would have to look at that to make sure that we are not violating any traffic flow issues through there. One thing that I can see about moving it to the north, you're putting it right at the end of the taper where people are trying to make a decision to get back in the appropriate lanes. Now, not only are they driving, but there are a number of conflicts at the end of that taper that they are going to have to make decisions about, but we can certainly take a look and see if we can do that.

Mayor Amyx: We can look at that. That might be one that I would be a little bit concerned about because of what Mark was just talking about.

Cindy Hopper:
Owner of Sweet! I do think that people are going to see that and think, oh, if I need to get across, I have to cross here.

Mayor Amyx: We'll see if we can open it up and get you as much as exposure as we possibly can. Okay? Let's try to work on moving for this Christmas season, getting this taken care of so that they are only down one. I think that is probably more important.

Cindy Hopper:
Owner of Sweet! Yeah, it's huge for us. To think about this starting in the next few weeks is going to be horrible for our business. We can't even think about it.

Mayor Amyx: Okay. Other comment?

Frank Jensen: Commissioner Larsen, I forgot to honor you for coming in and joining the group, making it a complete full house. Thank you very much. What is NRA? It's not Charlton Heston. What is NRA?

Commissioner Herbert: Neighborhood Revitalization Act.

Frank Jensen: I haven't heard anything tonight, unless I missed Mr. Thiel. In the paper, it mentions the process is going to ... Northbound traffic on Massachusetts will not be able to turn left on 7th. Is that correct?

Mayor Amyx: Right.

Frank Jensen: Okay. I didn't hear that. The walkway, we've seen all these things in New York City, really heavily reinforced. Now, is this walkway going to be, when we do have it, on the street side away from the crane or on the sidewalk?

Mayor Amyx: Frank, we don't have that. We are not ready for that yet.

Frank Jensen: It's interesting that Commissioner Soden said that she was going to honor her word and vote no, whereas Commission Herbert was going to honor the previous commission vote yes. The last question I have is for Nancy. Is there or is there not a ghost in one of the rooms at the Eldridge?

Nancy Longhurst: 506.

Mayor Amyx: Thanks, Frank. Other public comment?

Matt Zimmerman:
Pastor, St Margaret's I'm here to speak to you all in behalf of Justice Matters on what we think is a potential opportunity that we would like to seize

Episcopal Church

upon. A year ago, around this time, 1,200 people got together and named homelessness and affordable housing as one of the three major issues that this city faced. We all know that housing is a basic human right, and I don't think anybody in the room would disagree. We hoped that would be the idea that we lived into. There is a huge need right here in Lawrence for affordable housing, and there is a need for housing the homeless. I have talked to several of the major businesses that worry about their employees being able to afford to live in this town while they work at their jobs. As you are considering the possibility of passing this enterprise, this project, we would like you to consider that we would remember the working and the homeless, and the people in need of affordable housing because we think that there is an opportunity that can be made with the fact that you get a monthly lease, coming in for a simple amount of time. We think that it would be wonderful if it could be designated to the Housing Trust Fund to help build it up that the Housing Advisory Committee that has just been formed would have a more substantial sum of money to do a demonstrated project to the city, that they could see the value of having this trust fund. It is our hope that with collaboration and inspiration, we could move forward with that as the City of Lawrence. I think what better way to honor what we have just heard about this spirit and the tradition of The Eldridge House that its first intent was to house immigrants. They built the house for immigrants. Wouldn't it be wonderful if they expanded the act that helped to house people in need? That is our request. We would just ask for your consideration.

Mayor Amyx:

Okay. Thank you. Other public comment? Anyone else?

Chris Berger:
Lawyer, Stevens & Brand

I'm here on behalf of 715. We sent a letter in, and there has been some discussion about trying to address some issues. 715, as you know, is a historic property that the owners of it have spent a large amount of money restoring it, making it a property which is a beautiful property, a historic property, and one which has its history not just in its appearance but also in its structure, a structure that goes below ground, all the way down to, believe it or not, the mortar that was used, to connect all the bricks and stone. When we first saw the plans for what was going on, there was no engineering and no construction means or methods addressed in what was going to happen to that building. As you look at obligations you hold, as you review site plans, as you review permits, its compatibility, as one of the functions and purposes behind your review. It is safety. It is also the preservation of property. What 715 needs, quite frankly, is protection of its property. There has been discussion about some engineering solutions, but there are alternates that are being proposed, and there are notes on these documents themselves that have, speaking as the lawyer looking at it, as a construction lawyer looking at it, loopholes in them that these

cranes that they are talking about could drive right through and making them nearly meaningless as a document that can protect 715. Also, as the lawyer, I have to advise my clients based on the activities and the histories of parties that are involved, and as I look back at the history of the Fritzens and the developers of this land, I have to advise my clients, and I do, that they need to be very careful, that unless items are in writing and they can be held accountable to them, that they are taking large risks because things have been known to change in the past, and things have been known to progress to the point of forgiveness and not permission. Things have been known to delay, to the point where perhaps city commissions are found having to make decisions that might not be in the best interest of the citizens but have to honor their words. With that in mind, we need written protections that might be in the form of conditions on a building permit, the site plan itself, that would give 715 the ability to stop work in the event that an engineering solution that is not acceptable to them is presented, or the construction means and methods are not disclosed appropriately or fully, or that those means and methods are not being followed. Those are some of the limited conditions. Perhaps there is an interference with this particular property because this is a unique property. It's the only one which is directly adjacent to a vacant lot as an in-fill in downtown Lawrence. We are not going to see this again, and certainly not one that is adjacent to a building with a structure which is over 150 years old. These are unique situations within your authority as the city, and necessary to protect this building and to protect my client from, again, in my opinion, a history that shows a lack of trustworthiness. Thank you.

Mayor Amyx:

Thank you. Other comment? Any other comment? (None) Okay. Back to the commission.

Vice Mayor Soden:

I am concerned about 715 building. When I spoke with Nancy a few weeks ago, you're going to be that close to them, so I don't know anything about project construction insurance or anything like that. The only experience that I have had is with the hotel at 9th and New Hampshire. They had an arrangement with some of the neighbors on Rhode Island that if there was any kind of cracks that might appear because of the demolition that they were doing at 9th and New Hampshire ... They had some kind of arrangement with that, but I am afraid I don't have any experience with what you can do with that for here. I am interested in it. I just don't know what I am interested in, if that makes sense.

Mayor Amyx:

Scott, I know, in the past, I was with the county, and we have looked at things like when there has been a major dig, where there was going to be explosive devices used, there was a procedure that was put in place. You'd go in and look at cracks

first, and then do evaluation throughout time, make sure things like that happened. Under the conditions that are placed in the site plan, what kind of language would be necessary? What kind of conditions would be necessary to take care of the concerns that Mr. Berger has, about his client, and do we have those in place now?

Scott McCullough:
Planning & Development
Services Director

Part of our experience, with recent experience, is the HERE Project as an example. It had a pretty good slope to it on the south side of their project, and there were concerns from neighbors immediately adjacent. They didn't have their wall immediately adjacent, but they had their property adjacent. They were concerned with the shearing off and the slope stabilization and things. For our part, we apply the building code. We get technical reports from soils, testing, and we do review the shoring plan. We have been in communication with both of the owners of 715, with Mr. Warner's office, in terms of trying to make sure that parties are satisfied. Mr. Berger's comments, I found to be a little bit vague in terms of what specifically they were looking for, in terms of what the city's authority is, in it. There is a fine line between what we are reviewing for code compliance and what may be ultimately a civil issue between two neighbors. We tread both cautiously and very specifically through our codes, and try to facilitate an outcome that all parties can live with. Some of it is not known. Some things in the field happen, and it was no one's fault. It wasn't the engineering plan or design if something might happen, so we are very willing to keep working with all parties on this until they are satisfied. In terms of going towards a level of trying to negotiate agreements between the parties and things, that is a different discussion in my opinion. I don't know if I have answered your question. I am just trying to give you a sense of how we try to review the building plans and the technical engineering reports in such an instance.

Mayor Amyx:

If we were to condition this with the item in directing staff to continue to work and try to come up with suitable agreement, there comes that point, though, when we have to say we can't do it?

Scott McCullough:
Planning & Development
Services Director

We don't have, for example, the comment about the site plan should give 715 authorities to stop work. That's usually not something we do. We would stop work for a cause that the city has, to stop work, for some reason. It may be an impact to a neighboring property, but that sort of agreement normally is worked out between the parties involved in a civil agreement, not something that the city is involved with.

Commissioner Herbert:

While 715 may not have the authority to pull a stop-work permit, do we, as the city have the authority? As I am reading through Steven Carroll's note, he was with Bob D. Campbell & Co.,

Structural Engineers. As I am reading through his note, he says, "The earth form shoring wall is, in our opinion, a risky shoring method, and if the deep trench excavation collapses, the 715 wall may also collapse. Unless the shoring wall can be moved to the north, we recommend alternative shoring methods be used that can be installed with less excavation risks and without the vibration." What I'm getting at with that is, is it within our authority as the city to mandate these alternative shoring methods that would prove to satisfy 715's needs?

Paul Werner:
Paul Werner Architects

That's the exact plan I mentioned earlier. We sent them a new shoring plan, and our engineer made any or every revision their engineer asked us to, so that is not even on the table anymore.

Commissioner Herbert:

Would you agree with that?

Chris Berger:
Lawyer, Stevens & Brand

No, actually. There are three different alternates that have been provided, one of them having concrete peers, one with steel, and then there is a footnote on them that says, "Oh, by the way, neither may be applicable if you go ahead and put some wire mesh ... "

Paul Werner:
Paul Werner Architect

I don't think this is what you five people want to listen to, but we can talk about it for hours.

Commissioner Herbert:

I think that this is exactly what I want to listen to.

Paul Werner:
Paul Werner Architect

We are meeting with their engineers. We're sending documents back and forth. We have not started construction. We have not sent them to building inspection yet because they are not finalized. I thought we were making progress I think that I see the email chains that are all going back and forth. We are listening to their engineers. If I need to chime in, I am not doing the shoring plan. I will admit it, but that is our plan, and we are talking to their engineer, and we will work it out. I have not submitted it yet because it is not finalized.

Scott McCullough:
Planning & Development
Services Director

The status, as I understood it, was that discussions were occurring. We don't have the plans yet to even apply the codes to, but we have been in touch and in tune with the concerns. We know about them. We're reviewing them from our perspective.

Paul Werner:
Paul Werner Architect

Just to add to that, I think that we all would agree they are photographing the building. We've paid for a survey. I don't think it has been done yet, to survey their building. We are going to put vibration monitors on it to analyze that, and I don't think that we have decided what the threshold is, when too much is too much, and we have talked about we don't excavate next to their building between 11:30 and 2:00 when people are eating lunch and may feel a little uneasy if things vibrate. There is an old foundation. I still think that it was a good exercise to dig a couple

of holes and find an old concrete slab that we know is touching part of their foundation, or our foundation. We can talk about that later. We know that there are things to figure out, and it is not done yet, but we're here to solve it.

Mayor Amyx:

Chris, do you have another comment?

Chris Berger:
Lawyer, Stevens & Brand

Yeah. The engineering issues, I think, can get resolved at some point in time. We've received their response to our inquiries on Monday morning, and our engineer turned it over, Monday afternoon, so we're being pretty fast on all of this. Again, we need to have something that is in writing. There is the other issue, though, which is the actual constructability, so there is an engineering solution that could say, "This is how it is to end up," but then how does that actually get performed? Right now the drawings say that, "The general contractor is to remove the existing exterior grade in such a way to prevent damage to existing basement wall." That is easy to say, but we don't see any means or methods as to how that is actually to be performed, which is just as critical as what the engineering will be, behind it, that will make it last in the future.

Mayor Amyx:

Okay. Sir, did you have a comment?

Matt Cullen:
Managing Partner
715

I'm the manager of River City Holdings, which is the building owner. The spirit between Thomas Fritzel and the group that owns it and our self has actually been pretty solid, to date. The only thing that concerns us at the moment, directly, is that the process is not completed. We haven't reached agreement on what we think would be safe and tried to minimize the issues not just for us, but everybody down our side of the street. We want to make sure that we get a chance to go through that process appropriately before you make your final decision that it is okay for everything to move forward. As long as we can do those things, the spirit of cooperation has been good. We do think that there is a benefit to the project going forward, but we really want to make sure that we have safety and minimization of impact on our business fully considered in the process. That's really the brunt of all of our thoughts. Anyway, I appreciate your being open to hear our comments.

Mayor Amyx:

We appreciate your comments.

Matt Cullen:
Managing Partner
715

I think that if there is any small thing versus the timeline that I am hearing, I think, it has the chance to be really challenging to get through all of this by next Tuesday when we are going to vote on all of the issues associated with that. We are not anxious to slow it down in any way, especially given the fact that you have talked tonight about the possibility of delaying the beginning or at least the closing of the sidewalk until January 1, after Christmas, but we need to make sure the processes is

thorough. We've got a lot invested in it, and we think that we do a lot of things with our staff as well as to make a lot of people in Lawrence happy and service a whole bunch of the merchants up and down the street. We want to be safe about it. Anyway, thank you.

Mayor Amyx: Thank you.

Vice Mayor Soden: I have a question.

Scott McCullough:
Planning & Development
Services Director

I was going to say, our commitment, in speaking with Mr. Cullen about this issue, is to make sure he knows when plans come into the city so that whatever agreements and decisions are made between the two parties can be verified that they are carried out and the plan submitted to us.

Mayor Amyx: Okay, and that the site plan in process ...

Scott McCullough:
Planning & Development
Services Director

Right.

Mayor Amyx: Can you update there?

Scott McCullough:
Planning & Development
Services Director

The site plan process is finishing up. We've got a little bit more work to do with the building elevations and the ARC, and a few minor edits to the site plan itself in terms of utilities and some things, this week, in fact.

Mayor Amyx: This is all administrative approval?

Scott McCullough:
Planning & Development
Services Director

The site plan is administrative with the elevations going through the HRC, and then the building permit process is administrative as well.

Mayor Amyx: Okay. If I hear direction as to make sure agreement has been reached between the parties on this common wall or common foundation, whatever you want to call it, if that can't be reached, would that come back to us?

Scott McCullough:
Planning & Development
Services Director

If you direct us to bring that issue back to you, we will certainly do that.

Mayor Amyx: Okay. I want to make sure we have everything on the table.

Vice Mayor Soden: You've asked all of my questions. Thank you. Because, when I was looking at our agenda item, it was the pedestrian right of way business, and I wasn't sure if this was coming back to us or not.

Scott McCullough:
Planning & Development
Services Director

No, after these issues are satisfied, the rest is administrative through the building permit process and formalizing the same is on approval.

Vice Mayor Soden:

We can require it to be formalized, or completed, I guess, approval by us? Is that what I was hearing?

Mayor Amyx:

No. Essentially, the only other piece of the entire deal would be that one document that they would come to agreement on, for that common wall or common foundation. I am sorry. I don't exactly what you call it.

Vice Mayor Soden:

Then, if they don't, then it does come back to us?

Mayor Amyx:

Oh, yeah, if that is what we requested.

Scott McCullough:
Planning & Development
Services Director

I would receive the direction to facilitate that issue through our permitting process, and then, if not satisfied, bring you a status update, and then the commission can go from there. Essentially, under your direction, we are not going to issue the permit until that issue is resolved

Mayor Amyx:

Okay.

Commissioner Herbert:

The two things that I wanted to clear up, the reason why I wanted to address B before we got to A, my two conditions here, for approval, first of all, I want to make sure that we have open sidewalk access, be it an alternative sidewalk or the sidewalk as it stands today, from now until December 25. I do not want holiday traffic impacted by our decision today. Our job as city commissioners is not to pick winners and losers, and we are treading very dangerously close on this, by benefiting The Eldridge and at the same time closing down other people's businesses, and that is not something I want to be a part of. We need open sidewalk access from now until December 25, unimpeded, whether that be an alternative sidewalk or the sidewalk we have now. My second conditionality would be that we need to have an agreement that 715 agrees to, regarding the structural concerns for their building. If we can meet those two things, I am satisfied, and I am all for it.

Mayor Amyx:

Okay. Let's finish public comment. I don't disagree right now. Okay? Is there any other public comment on this item? Anyone else?

Matt Gough:
Attorney, Barber Emerson
Law Firm

Mayor, we would like a chance to talk about proposals being made. If you want that part of public comment, we can do that, or if you would prefer to close public comment.
Yeah, I am going to close public comment, and we are going to come back to you, if that's okay.

Matt Gough:

All right, sure.

Attorney, Barber Emerson
Law Firm

Cindy Hopper:
Owner of Sweet!

I have one more question. Since the pedestrian area will be left open, will that mean those 11 spaces will still be available?

Mayor Amyx:

We're going to have to discuss that. Okay?

Cindy Hopper:
Owner of Sweet!

Yeah. We would like that they remain open.

Mayor Amyx:

Okay. Any last public comment? (None) Okay. Back to the commission. Matt, you have heard the items that have been presented by Commissioner Herbert.

Matt Gough:
Attorney, Barber Emerson
Law Firm

I think that the main issue at this point, if you are talking about delaying the closure of the sidewalk access, it will put the project behind schedule. It will likely cause the project not to be substantially complete by December 1, so we would need an extension to the NRA performance agreement. You can do that, or the county may need to do that, and the school district as well, but if your request to keep the sidewalk open were coupled with an agreement on your part to amend the performance agreement, to extend it as such to where it has the same benefit as if we had started now, or next month or whenever, then I think that we can work around that. The question about coming to an agreement on 715, two quick comments. One, there is an 1863 party wall agreement in place between those two properties that runs with the land, forever. It is a party wall. They don't own it. We have the right to connect to it. There have been ongoing discussions, and there will continue to be discussions about making sure that this is done in a way that doesn't cause damage, but giving a private party the authority to hold up the issuance of a permit, because an agreement isn't reached to that party's satisfaction, is very similar to a court granting a permanent injunction against something occurring. If that is what they want, that is what they can get, but to get that under a court of law, they would have to prove that they have a likelihood of success on the merits, and there is a fuller evidentiary process. I don't know that it is your role to enforce this private debate. If it is a code enforcement issue, it is clearly within your purview, and I don't think that the private issue on their wall, if there is damage, they may have a claim, but the whole point of all these discussions is to try to avoid that.

Commissioner Herbert:

With all due respect, if you don't want the government in your business, don't come to us asking for taxpayer subsidy. If you want to build this without taxpayer subsidy, I will stay out of your way, but at the point at which you ask this body for taxpayer money, we have the right to interfere with your project.

Matt Gough:
Attorney, Barber Emerson
Law Firm

Thank for your comment.

Mayor Amyx:

Anyone else? Thanks, Matt. Then back to the commission. The items that we have before us, deal with the parking, the price of the parking lot rent, and the pedestrian access. What's our feeling about the extension...starting the project December 25 to 26?

Vice Mayor Soden:

I think that we should do January 1. I don't really think it's going to be an issue.

Commissioner Herbert:

I mean, as long as we get a passed, it doesn't matter.

Vice Mayor Soden:

The question about us deciding to extend the NRA now. That is not anything that we can do. That is a year from now, 14 months from now. I can't foresee into the future if they are going to be substantially complete or not. It definitely sounds like it is a definition that is a little flexible as well, so I am not really too concerned about that, but I will be, in December or November.

Mayor Amyx:

We'll probably want to do it before then. Anyway, Diane, you had a comment?

Diane Stoddard:
Interim City Manager

Yes. Tony was looking up the language, and is that in the Performance Agreement or in the NRA Agreement? The language on the calendar of events, it sets out a calendar whereby, when the NRA begins and that kind of thing, assuming a substantial completion date of December 1, 2016, it says that, "If the project is not substantially complete by that date, the schedule in the table below would remain applicable to the project, that is that really there would be a year less on the NRA, unless the parties and the city, county and school district all agreed to an amendment or modification of the plan schedule or calendar of events. We have been involved in taking this plan to the county and the school district, so that could be something that could be done as a modification if there was a desire to lose a year, which I understand, that would not be desirable.

Mayor Amyx:

Would that have to be done now or sometime in the future?

Diane Stoddard:
Interim City Manager

I think that in part may be up to The Eldridge in terms of what their desire is, in modifying this agreement to meet any proposed schedule. I suppose, though, that decision could be made closer to the substantial completion date, and that would be somewhat up to them based on how they think that the schedule could be accommodated.

Paul Werner:
Paul Werner Architect

But the risk would be losing a year, not the whole NRA.

Diane Stoddard:
Interim City Manager

Right, exactly. The language is very clear about that.

Paul Werner:
Paul Werner Architect

We're going to know in 6 months. It's not going to be at the end of the day, and then we will figure it out.

Mayor Amyx:

Okay. One, we're in agreement that January 2nd is date that the sidewalk will remain open throughout this entire project, to the end of the year?

Commissioner Larsen:

The parking spaces?

Mayor Amyx:

The parking space is next. The utilization of the parking in front will not be necessary between now and the end of the year? That would remain open through Christmas, or through January 2nd?

Paul Werner:
Paul Werner Architect

We'd really like the parking. I can give you the pedestrian path.

Mayor Amyx:

If you are going to have the parking, and we are going to have the sidewalk open ...

Paul Werner:
Paul Werner Architect

I mean it would be a pedestrian path.

Mayor Amyx:

I think we just said that the sidewalk would remain open, Paul.

Paul Werner:
Paul Werner Architect

Okay. I guess you get 11 parking spots for a couple of more months.

Mayor Amyx:

Okay. The remainder of the parking stalls on 7th Street and the other ones listed, and the closure of parking lot number 12, can proceed as outlined? We're okay with the rental agreement?

Commissioner Boley:

I would like to put in language about the Housing Trust Fund.

Mayor Amyx:

Okay.

Commissioner Herbert:

Mayor, if I may?

Mayor Amyx:

Sure.

Paul Werner:
Paul Werner Architect

Our shoring plan, since our building, as required by the HRC, goes all the way to the property line. We are going to lose about five feet out of that sidewalk, to get the shoring in so we can build that foundation wall. Now, there is no hospitality areas, I know, your favorite, so the sidewalk is still, I don't know, seven feet wide or something to the east of that, but we need a portion of that sidewalk outside of our property line, to get the shoring

in. If we don't have that, that goes right along with the whole excavation of that hole. That would be a real setback in the schedule, not being able to shore our east property line, if I have explained that halfway understandably.

Vice Mayor Soden:

Are you talking about before January 2?

Paul Werner:
Paul Werner Architect

Before January 2. You would still have plenty of space, and that is what I meant by no hospitality area, so we are not narrowing it down past six feet or anything like that, but we do need, I think, six or seven feet in that westernmost sidewalk of Mass Street.

Mayor Amyx:

You would end up with another four or five feet?

Paul Werner:
Paul Werner Architect

At least seven feet of sidewalk or something like that.

Mayor Amyx:

That keeps the majority of it open at that location.

Paul Werner:
Paul Werner Architect

It keeps the majority of it open.

Mayor Amyx:

It remains safe, right?

Paul Werner:
Paul Werner Architect

It remains safe.

Mark Thiel:
Assistant Public Works
Director

I wanted to add to that, about the pedestrian access along the sidewalk, their excavation will literally be right up against the edge. In the event that there was a collapse of the soil underneath the sidewalk, you would have pedestrians walking on top of that. Our recommendation, our public works recommendation, if you want to maintain access on the west side, would be to move that access point far enough away from the excavation so they would have at least a 10- or 15-foot buffer, to keep pedestrians there. We would have to go out and measure that, but that potentially could put that access out into the parking a little bit.

Commissioner Herbert:

It is kind of an either/or. You either have a sidewalk or we would have parking, potentially?

Mayor Amyx:

It is not going to be all of that parking, right?

Scott McCullough:
Planning & Development
Services Director

No, it would only be for the distance from The Eldridge Hotel, where is existing today, to the north edge of 715, where the excavation hole would be, there. I don't know. What's your depth on your excavation?

Paul Werner:
Paul Werner Architect

Sixteen feet.

Mark Thiel:
Assistant Public Works
Director

Sixteen feet. Especially that time of year, if you have a snow event, if you have any type of moisture that penetrates down through there, with all the construction equipment there, it is the same requirement that we put on the north project at 9th and New Hampshire. That is why we took some of the parking from that surface lot there so that we could ensure that the public at the farmers market was far enough away from that excavation, in the event there was a wall collapse or a soil collapse away from the substructure there.

Mayor Amyx:

Okay. So we've got the parking. We've got the remainder of the pedestrian there and the parking spots on 7th, the parking in front of this area is to remain open except in the event of having to remove a portion of it because of the shoring that is there. We've agreed that the \$8,000 is a fair price for the lease of the parking lot number 12, with a maximum of \$120,000, with a payment going back \$15,000, so a net of \$105,000. Right? Do we understand all that? Is that fair with everyone? Stuart, you want to have that balance touching the general fund and available in the housing trust fund?

Commissioner Boley:

Yeah.

Mayor Amyx:

Okay.

Commissioner Herbert:

That is to a maximum of \$120,000, is that correct?

Commissioner Amyx:

Right.

Commissioner Herbert:

That assumes the project will be completed in 15 months or less?

Commissioner Amyx:

Right.

Commissioner Herbert:

Okay. Do we have a provision for if the project runs long?

Paul Werner:
Paul Werner Architect

It's not going to happen.

Mayor Amyx:

Our maximum is \$120,000, Matt, is what has been agreed to, in this project. That is the maximum. Okay? We have got that, and then we are down to the item between the property owners and our staff, and I am open to suggestions on how to write that. What legally can we do with that language?

Scott McCullough:
Planning & Development
Services Director

I think that the decision needs to be made at what level of protection do you want to afford the property owner versus what level of confidence should they be afforded that their engineer's participation gives them a confidence level that the protection is there. There are two different things, in my opinion, that we are

talking about because there are some unknowns and risks with any construction activity.

Mayor Amyx: Okay. Did you have a question?

Chris Berger:
Lawyer, Stevens & Brand

I was going to say that it is routine in situations like this, in large cities, to have agreements between adjoining landowners as to what takes place with regard to the construction. Now, if we do, there is not a valid party wall agreement that exists any longer. That was vacated and abandoned when the lot was vacated. However, we can put together a draft of an adjoining landowner agreement and try to come to some sort of agreement in that regard. That would address engineering and whatever else. If we can work it out, then perfect. Now the question is, if we can't work it out, what do we do, and you are not an arbiter, and no one is asking you to be, but at that point maybe it comes back in front of you, and you guys do what you will.

Mayor Amyx:

I am hearing Chris, just to let you know, I am hearing from the attorneys representing The Eldridge that there is a party wall agreement that does exist, and you are telling us that it doesn't. Sooner or later, we have got to make a decision about what we think is an acceptable level, as to if this is going to happen or not.

Chris Berger:
Lawyer, Stevens & Brand

Yeah, and that is really not here nor there, whether there is a party wall agreement. The issue would just be if the parties can work out an arrangement between themselves. If they do, then it's done. If they don't, then you do whatever you normally do with regard to this particular project, in this particular way. Maybe it is that you can it, maybe it is that you bless it, but that is up to you and the powers that you always, and traditionally, hold.

Vice Mayor Soden:

It sounds like maybe a deadline for them to come up with an agreement might be a good idea, and it can't stretch out to January 2.

Mayor Amyx:

Here is the deal. We either put the trust in staff to put together the deal based on all of the code that we have and the site planning and everything that goes along with that, or, if we want to do it a different way, and if we are going to require an agreement to happen, if it does not happen, that one single item can come back before the commission. I think that those are your choices. I think that we have worked out every other detail of this thing, and I think that's all that's left.

Commissioner Herbert:

That's right. Ultimately, you are correct that at some point it becomes a civil matter between the two of you in court. Right? We can't babysit the process to the point where I am not going to stand there and watch as they excavate and make sure ... but

what I feel that we can do is make sure that the method of shoring, before work begins, is an agreed upon method. Now, if it is done incorrectly and it destroys your property, that is not our problem so much as it is your problem in a civil suit, but we can, on the front end, make sure that there is an agreement that the method that is used is agreeable to both parties. That is what I think that we need to do before we give final blessing to this project.

Mayor Amyx:

Okay. Then, if a majority of the commission agrees that that is the way this ought to go, then, if that agreement cannot come to pass somehow, we're going to direct staff to send that one single item back to this body for consideration?

Commissioner Herbert:

If there is not an agreement between the neighbors on how this is to be done, then I don't feel strongly that I can support the project. That's why I see we've got to deal with B before we deal with A, Mike.

Mayor Amyx:

I appreciate your friendly reminder. Okay. We've got to get it off left of center, I think. We have got to come to a decision. Here, again, we have come to an agreement on the \$120,000 rent. We have agreed to the parking. We have agreed to a start date of January 2, and the final deal is that an agreement has to be reached between the two parties to move forward. The other part of the deal is that the \$105,000 net will become part of the housing trust fund.

Commissioner Boley:

I guess I would rephrase that. If the parties don't come to an agreement, it comes back to us.

Mayor Amyx:

Okay, whatever, yeah.

Scott McCullough:
Planning & Development
Services Director

We hear you loud and clear on that. Again, the spirit of this cooperation is moving in the right direction. I am talking like it's not, but I think it is, so far.

Mayor Amyx:

Everybody comfortable? I am going to tell you what. I am not going to read this whole thing again. We will be here until tomorrow, but, in a nutshell, I will entertain a motion to approve the temporary use of right-of-way permit, subject to the conditions that are laid out, the January 2 start date, the parking is to remain unless determination is made by Public Works that a safety issue exists and it has to be moved out farther, and the parking has to be removed only in front of those places where the digging of the shoring has happened. What other things? \$8,000 is the appropriate rent, with a maximum of \$120,000, and that the payment of \$15,000 be returned to The Eldridge for the improvements of parking lot number 12 and the other items that are list here, and the one item that will come back to this commission, unless we are not able to reach an agreement, is

what are we going to call that so that we know specifics?

Scott McCullough:
Planning & Development
Services Director

It's the agreed to shoring plan.

Mayor Amyx:

I want us to see a wonderful Eldridge Hotel expansion. I want us to see a great downtown. It is super, and I want to be able to see our small shops be able to make it every year. It is truly the backbone of everything we do. In the spirit of the fourth quarter of this year, let's get this thing done so that we don't have to be back here. Let's all come to agreement, okay? We are willing to help make it happen, but let's do it the way Lawrence people do it. Okay?

Moved by Boley seconded by Herbert, to approve the temporary use of right-of-way permit, subject to the conditions that are laid out, the January 2 start date, the parking is to remain unless determination is made by Public Works that a safety issue exists and it has to be moved out farther, and the parking has to be removed only in front of those places where the digging of the shoring has happened. What other things? \$8,000 is the appropriate rent, with a maximum of \$120,000, and that the payment of \$15,000 is returned to The Eldridge for the improvements of parking lot number 12 and the other items that are list here, and the one item that will come back to this commission, unless we are not able to reach an agreed to shoring plan. Motion carried unanimously.

F. FUTURE AGENDA ITEMS:

Diane Stoddard, Interim City Manager, outlined potential future agenda items.

G: COMMISSION ITEMS:

Vice Mayor Soden:

That reminded me. I had a question. Is Mark still here? I think that you are the one that might know when the lights go up, on the trees downtown, the holiday lights.

Diane Stoddard:
Interim City Manager

Actually, we were just talking with Parks and Rec.

Vice Mayor Soden:

Oh, it's Parks and Rec.

Diane Stoddard:
Interim City Manager

About that, that work, and they are already getting ready. They have already made a trip here to City Hall, so this is the time of year when they will be doing that, and you will see activities starting to begin, in all the different areas that they light up for the holidays.

Vice Mayor Soden:

What about the ice rink? When does it go in?

Diane Stoddard:
Interim City Manager

I haven't heard a specific schedule on, but I know that that is proceeding, and I would imagine, here, within the next couple of weeks, they will start getting that installed.

Mayor Amyx:

Aren't they talking about everything would be ready, obviously,

the lights and everything, Thanksgiving?

Diane Stoddard:
Interim City Manager

Right, right. That is generally the ...

Vice Mayor Soden:

I am looking forward to it.

Diane Stoddard:
Interim City Manager

The timeline we are aiming for.

Commissioner Larsen

They shared that they have 7,000 additional feet of lights.

Mayor Amyx:

Any other commission items?

Commissioner Boley:

I want to give a shout-out to the utilities crews that worked on the water line break on Ousdahl Street. It was between 20th and 20th Terrace, I think, on Thursday afternoon. I went by there about 5:00 or 5:30, and they were out there. They just found it, and the water was welling out of the ground, and they were there on it. I went back by about 9:30 or 9:45, and those guys were still there working. They were about ready to turn it over to the next crew because they had about timed out. I think that they had their 16 hours in, and then I didn't stay around and say hi to the next crew. I went home and went to bed, but I really appreciate those guys working on that. We count on city staff, for such basic things like drinking water, we forget about it sometimes, and they did great work. The next morning, I went by, and the ground was messed up, but it was level, and it was a piece of pipe with a big gash in it and a crack in there.

Diane Stoddard:
Interim City Manager

I really appreciate you mentioning that, Commissioner, and I will pass that on. That group, and there is some other groups, that are our unsung heroes. They don't oftentimes get a lot of attention, so I really do appreciate you recognizing that.

Commissioner Boley:

The other thing is that I had a great tour of Haskell Indian Nations University with Leslie.

Vice Mayor Soden:

Yeah, it was great.

Commissioner Boley:

The young men who gave us the tour were informed and very poised. It was great to spend some time with them, and the president was very welcoming when we talked to her. I appreciate the invitation, and I appreciate the tour.

Vice Mayor Soden:

Yeah, I think, we would have gotten a little bit different tour from adults or staff. It was interesting to have two students point out what they found important. You know?

Mayor Amyx:

Right. Did you have something?

Commissioner Herbert: Yeah. I had the chance to meet today with Mark Graves and Tyler Fike of our Forestry Division, and one thing that we should talk about and I know that we have got 600 things on the schedule for the next month, but at some point we should talk about, they addressed with me that they have got ... This was Mark Graves estimate. I can't confirm this, but he said that somewhere in the neighborhood of about \$40,000 worth of lumber from trees that have been cut, that we have the ability, if we could make it happen through ordinance, to sell, and as we have the emerald ash borer issue approaching, very quickly, it is coming to Lawrence. It will be here, and we have countless ash trees in this community that we devastated. There is an opportunity there to use that money. Right now, the sale of that lumber goes to the general fund, and so the people who make that lumber a possibility don't necessarily see it. As budgets are tight, they may not see it at all, so perhaps looking at some discussion to use the sale of that lumber to fund some seasonal help in that division, to help us with the emerald ash borer and the ash tree removal that is going to have to happen that is not going to be cheap, that would be an issue that I would like to have before the commission, on the agenda, at some point in the near future.

Diane Stoddard:
Interim City Manager We could certainly make a recommendation on that.

Mayor Amyx: Okay. I think, that would be a great idea. The other commission items?

Commissioner Larsen The emerald ash borer is here already.

Commissioner Herbert: Oh, yeah. Tyler was telling me that they can't prove it has been in Lawrence because you have to find the larvae or the actual bug itself, but they have found the galleries, as they call it, within the wood. They know it's here. We just can't officially come out and say it's here.

Mayor Amyx: I'll tell you what. We ought to turn them over to the oak mites. Those things got me this weekend something terrible. One other thing. I wanted to thank our Commissioner Boley for the work that he did on the lease of parking lot number 12. I don't know if we happened to look at that, but if you really stop and look at that rental agreement, I think, it was for \$105,000 net. Let's see, the sales tax abatement, the abated sales tax was about \$107,000, so he got us all our money back, plus we were able to help our housing trust fund. Not a bad deal. I want to thank you for that. Thanks to the staff for all the work that they have done on all these projects.

Commissioner Boley: I appreciate staff's work on that.

Mayor This is a huge, huge project for downtown, one we know that

has been coming, but it is still one that we have to get through the deal. Anyway, thank you.

H: CALENDAR:

Diane Stoddard, Interim 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 Vice Mayor Soden, seconded by Commissioner Herbert, to adjourn at 10:08 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON DECEMBER 29, 2015.



Brandon McGuire, Acting City Clerk