September 4, 2012

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Schumm presiding and members Amyx, Carter, Cromwell and Dever present.

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed September 5 – 11, 2012 as International Literacy Week.

B. CONSENT AGENDA

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

1. Approved City Commission meeting minutes from 08/21/12 and 08/28/12.

2. Received minutes from the following boards:

   Board of Plumbers and Pipe Fitters meetings of 03/21/12 and 06/20/12
   Homeless Issues Advisory Committee meeting of 07/10/12
   Mental Health Board meeting of 07/31/12

3. Approved claims to 232 vendors in the amount of $12,432,669.57.

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

   Class A Club license for Dorsey-Liberty Post No. 14, 3408 West 6th St.

5. Approved appointments as recommended by the Mayor.

   Reappointed David Teixeira and Vern Norwood to the Community Development Advisory Committee to additional terms that will expire 09/30/15.

6. Bid and purchase items:

   a) Awarded bid for one (1) ½ ton pickup for the Finance Department to Roberts Chevrolet Buick for $21,100.
b) Awarded bid for the Comprehensive Rehabilitation project at 3012 Flint Drive to Schmidt Contracting, Inc. for $13,000 for the Base Bid, $6,000 for Alternate #1 and $4,900 for Alternate #2. Total contract price of $23,900.

c) Awarded bid for the Comprehensive Rehabilitation project at 3113 Creekwood Drive to T & J Holdings, Inc., for $13,550 for the Base Bid, $1,750 for Alternate #1 and $3,500 for Alternate #2. Total contract price of $18,800.

d) Authorized the City Manager to execute an engineering services agreement with Wilson and Company in the amount of $99,980.00 for Design and Bid Phase Engineering for project UT1206DS O’Connell Road Waterline.

7. Adopted the following ordinances on second and final reading:

a) Ordinance No. 8781, establishing residential solid waste service rates for 2013.

b) Ordinance No. 8782, establishing no parking along both sides of Massachusetts Street from 23rd Street south 150 feet (TSC item #4; approved 7-0 on 8/6/12).

8. Adopted on first reading, correction ordinances for rezonings Z-8-14-09, Z-8-15-09, and Z-8-16-09 for property located at the SE corner of Kasold and W 31st Street, 3309 W 31st Street. Ordinance No. 8767, Ordinance No. 8786, and Ordinance No. 8787 will replace previously adopted and published Ordinance No. 8472, Ordinance No. 8473, and Ordinance No. 8474 to correct a clerical error and to maintain consistency with established policy regarding overlay zoning designations.

9. Accepted dedication of right-of-way shown on Final Plat, PF-12-00118, for Pump Station No. 15, a one-lot subdivision of approximately .3 acres, located on N Michigan Street east of Pin Oak Drive.

10. Approved rezoning, Z-12-00020, approximately .25 acres from IG (General Industrial) to CS (Strip Commercial), located at 444 - 446 Locust Street. Submitted by Tiburcio J. Reyes Sr., property owner of record. Adopted on first reading, Ordinance No. 8783, to rezone (Z-12-00020) approximately .25 acres from IG (General Industrial) to CS (Strip Commercial), located at 444 - 446 Locust Street. (PC Item 2; approved 8-0 on 8/20/12)

11. Approved rezoning, Z-12-00029, approximately 11.93 acres from PRD (Planned Residential Development) and CO (Office Commercial) to RM24 (Multi-Dwelling Residential), located at the northwest corner of W. 6th Street and Congressional Drive and currently addressed as 525 Congressional Drive. Submitted by Paul Werner Architects, for M & I Regional Properties LLC, property owner of record. Adopted on first reading, Ordinance No. 8784, to rezone (Z-12-00029) approximately 11.93 acres from PRD (Planned Residential Development) and CO (Office Commercial) to RM24 (Multi-Dwelling Residential), located at the northwest corner of W. 6th Street and Congressional Drive and currently addressed as 525 Congressional Drive. (PC Item 3; approved 8-0 on 8/20/12).

12. Approved Text Amendment, TA-12-00023, to the City of Lawrence Land Development Code to amend uses in the Hospital (H) District, to change all P uses (Permitted Uses) to A uses (Accessory Uses) to identify the Hospital use as the only principal use in this district and all other uses allowed in this district to be accessory to the this principal use.
13. Approved Traffic Safety Commission recommendation to designate the right northbound lane on Kasold Drive at 6th Street as a right turn only lane.

14. Approved a temporary use of public right-of-way permit for use of various city streets, including the closure of the northbound lane of Massachusetts Street downtown from approximately 8:00 a.m. – 8:25 a.m., on Sunday, November 11, 2012, for the Veteran’s Day Run.

15. Approved a temporary use of public right-of-way permit for use of various city streets, including the closure of the northbound lane of Massachusetts Street downtown from approximately 8:00 a.m. – 8:25 a.m., on Sunday, October 21, 2012, for the Jayhawk Jog 5K.

16. Approved a request for a sign of community interest for the Pilot Club of Lawrence to place a temporary directional sign at the northwest corner of Harper and 23rd Streets advertising the Antique Show. The sign would be placed on September 21, 2012 and removed at the end of the day on September 22, 2012.

17. Authorized the Mayor to sign a Release of Mortgage for Glenda and Terry Shelby, 741 Locust.

18. Authorized the Mayor to sign a Subordination Agreement for Rita Moses, 1721 E. 17th Street.

C. CITY MANAGER’S REPORT:

David Corliss, City Manager, presented the report.

D. REGULAR AGENDA ITEMS:

Mayor Schumm said that we were not at the point of considering the entire package of land use items and agreements regarding the recreation center. First we would have tonight a review of the historical timeline, then staff would present the land use items, and the city manager would address the status of the agreements. Then we would open it up for comments and more than likely we would continue the items to a later day when we had more information before us.

Regular agenda items 1 through 4 were all presented and discussed together.
1. **Receive update on items related to the proposed Sports Village/Recreation Center development.**

2. **Consider Comprehensive Plan Amendment, CPA-4-2-12, to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. Initiated by City Commission on 4/10/12. Adopt on first reading, Ordinance No. 8740, for Comprehensive Plan Amendment (CPA-4-2-12) to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. (PC Item 5; approved 7-1-1 on 5/21/12) (BoCC approved 3-0 on 7/11/12)**

3. **Consider a Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code to create a CC600 zoning district. Initiated by City Commission on 4/10/12. Adopt on first reading, Ordinance No. 8741, for Text Amendment (TA-4-3-12) to the City of Lawrence Land Development Code to create a CC600 zoning district. (PC Item 6; approved 7-1-1 on 5/21/12).**

4. **Consider a request to rezone, Z-4-5-12, approximately 146 acres located in the NW quadrant of the intersection of West 6th Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District to accommodate a regional recreation facility. Initiated by City Commission on 4/10/12. Adopt on first reading, Ordinance No. 8742, for rezoning (Z-4-5-12) of approximately 146 acres located in the NW quadrant of the intersection of West 6th Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District to accommodate a regional recreation facility. (PC Item 7; approved 7-1-1 on 5/21/12) Because a valid protest petition has been received, a super-majority vote (at least 4 votes) is required for approval.**

Ernie Shaw, Director of Parks and Recreation, presented a staff report regarding the community’s needs for a recreation center.

Scott McCullough, Director of Planning and Development Services, presented the staff reports regarding the land use items.

Mayor Schumm asked when ex parte communications should be declared.

Toni Wheeler, City Attorney, said they should be declared before public comment is received.

John Wilkins, Gould Evans Architects, presented an overview of space programming.

Paul Werner, Paul Warner Architects, presented the site plan.
Schumm asked if we are at the point of knowing if this will be certified as a LEED structure.

Wilkins said we thought we could

Carter asked if we could have an area for a small visitor center component for showcasing Lawrence in the public space of the building.

Wilkins said he thought that was a good idea.

Amyx asked how it was determined that our building would be on the back end of the property.

Wilkins said we looked at having it on the east end of the site but that was the lower end of the site and people would be looking at the roof mechanicals as they drove in. The current location on the site plan is the high point on the site and presents a better visual as you approach.

Schumm said keeping the parking lot to the south of the site provided some buffer for the lights.

Wilkins said we can also bury the western half of the building into the grade which makes it fit a little better relative to the neighborhood.

Gary Anderson, Gilmore and Bell, provided an update regarding the status of the agreements.

The City Commission recessed for a short break at 7:30 p.m.

The City Commission resumed the regular session at 7:39 p.m.

Schumm said we would start with disclosures of ex parte communications regarding the rezoning. He said he did not have any specific discussions about the zoning issue with anyone. He had met with the neighbors on three or so occasions and we had really only talked about the project. He said he had been involved in many meetings with the parties involved with the project but we had really only focused on the project and not the zoning question.
Dever said that he had conversations and had received communications from various people interested in the project. The conversations were generally about the project as a whole and not specifically about the zoning. None of those conversations or communications contained information that wasn't out in the public realm or public record already.

Amyx said his comments mirrored those of Schumm and Dever as far as individual conversations about the rezoning for this particular item. He said they had just received communications from Lawrence Association of Neighborhoods and Dr. McClure that had questions about the policies and procedures for zoning. Also, he had conversations with Mr. Fritzel, meetings with the Schwadas early in this process, but as far as individual discussions that dealt with any of the rezoning questions, he did not really have any at all.

Cromwell said he had many meetings in person, on the telephone and various communications through email, mostly regarding the project as a whole. Zoning is part of the discussion, but there was nothing in particular about the project that was not part of the public record. He said he had nothing to add in any ex parte communications.

Carter said he attended the Lawrence Association for Neighborhoods meeting in July and spoke about their concerns regarding the rezoning. He said he met individually with Kirk McClure for some time, but nothing in that conversation was outside of what McClure put into the public record. He said he did not think he had any kind of material information come up in ex parte that was not already out there.

Mayor Shumm called for public comment.

Laura Routh said she supported a community rec center, but she didn’t support the sports village proposal as it currently exists. She said she was somewhat disturbed by the process regarding this sports village so far. The land has been annexed and money was budgeted already for public improvements. She said before you proceed with rezoning we owe it to the taxpayers to answer more questions. What is the assessed value of the land being donated compared to the infrastructure costs? How much has the city paid Gould Evans and
Werner architects and where has the money come from? Has the city considered the costs of police and fire services to the facilities? How would an economic downtown affect the financials of the project? Is the city prepared for cost overruns in the construction? She said she asked that you not proceed with rezoning until these questions are answered. She would ask that the city pay attention to the taxpayers’ concerns.

Dickie Heckler said he supported Laura’s concerns about the economy. This is risky business not knowing what might happen in the next few years. He said he didn’t see any light at the end of this tunnel for a long time. Maybe there will be another home loan scam we will experience. Do the pros outweigh the cons? He said he did not think so. He said there were a lot of money, risk and speculation. It has recently been suggested to ask the voters to weigh in on the project. It should also be considered whether to repeal the sales tax altogether. Think of it this way. 10% of this sales tax, we could use it to fund the library project and reduce sales taxes. Perhaps we could build a nice vo-tech center for the community. Our elementary schools are in dire need. Perhaps some of this could offset the school district tax levy by reducing the city sales taxes. He said he has never heard any opposition whatsoever to a neighborhood rec center in northwest Lawrence. Let’s build a neighborhood rec center. In addition use some of the money to add space to Holcom.

Joe Patterson said his main concern was not the rec center, but who was paying for it, which would be the taxpayers. 75% of the taxpayers would pay for it without using it. He said he hadn’t heard definite figures that it would be a money maker. We have a bus system that has fallen flat on its face and costs $3,000,000 a year. The voters approved a new library but it seems like it will be more computers and parking, not a bigger library. Eventually the poor taxpayers aren’t going to be able to afford all this. You’ve also talked about a new police station. The project so far isn’t practical. If it is, let the private sector or KU build it. He said we don’t need this major undertaking. It’s out of control. The size of the rec center and the cost to the taxpayers, the majority of whom would never use it, were the issues. We are putting a lot of
burden on a lot of people on fixed incomes. We need to take a long hard look at what this will
cost us before we progress any further. The city is not known to be business friendly. We need
to put more emphasis on bringing business into Lawrence.

Candice Davis said she recalled when she took her own kids out of town for sports
events. She said in all the years she took her kids to different events, we never shopped, ever.
We went to the events, watched them, and left. A lot of the people have spent a lot on the
events already and don't have means to spend any more. She was not so sure this would be
such a festive kind of thing. While we did stave off a downtown mall, most of the retail is on
South Iowa. She said the jewel we had was downtown. She said she supported a rec center but
not this one.

Kat Kehdy said she wanted to talk about the boondoggle that this was for the developer.
We would spend millions on infrastructure and who would benefit? The developer. You were
previously working on the site near Free State, until the gift horse came along. You need to look
the gift horse in the mouth.

A man said he thought the rec center was a good idea and the city needed it. He said he
had some good meetings with the architects. He still had some concerns remaining. One of the
things is the shift in the stadium, the walking path so close to the property lines. What has
changed since the last site plan is the location of the trails. Some other concerns are the hours
of operation and the lighting and the noise pollution. The KU dynamic adds another element that
we are not crazy about. He said he heard of a possible additional ten acres being donated and
he wondered where they were. He said the access road was a concern. We would prefer 1663
Rd to remain a no outlet at either end. He said he would like to see the green factor involved in
the rec center such as HVAC and geothermal.

Gwen Klingenberg said a few weeks ago she sent an email with questions but she
hasn't received answers yet. The retail was going to be sports related. Across the street we
have a lot of land zoned for retail. She was led to believe that if the retail doesn't go in on the
northwest corner then the taxpayers would be stuck with the TIF. If it is strictly sports related she can’t see that helping. If you do pick this site, why is it better than the other two sites? She said she was not seeing KU’s enthusiasm here. One of the reasons these are failing across the country is that they have to be marketed. Will we have to hire someone to do the marketing? How committed is KU on this? How tightly are we tied? She said she is not seeing it. It is important to get them tied into this a lot stronger than they are.

Hank Booth, Lawrence Chamber of Commerce, said he was surprised that he is the first to speak positively about the facility because he knew there were several people here who would. The first word that came into his mind when he heard of this project was “Wow.” What a great fit for our town to partner with KU to put together a top notch athletic venue to share for decades to come. The opportunity to build a top notch facility for our kids, generate tax dollars from visitors, and to combine all that together, was tremendous. He knew there were a lot of details to work out still. He said he never expected KU to market our facility. We have a tremendous KU Relays event on outdated facilities and we still have 100’s of athletes and 1000’s of people who come here for those. When those top notch facilities are constructed, there will be thousands more who attend. He said he didn’t expect Bill Self to go out and market this. He asked if we could for a moment stop questioning what the developers would gain. It is ironic that we named the hotel “The Oread” while at the same time questioning “those developers.” It starts to get him upset when we don’t give credit to people who build things in our community.

Alison Roppe said she was on a fixed income and the project is speeding ahead, the developers are happy, and she is concerned. She said she used to live by Burcham Park. The boathouse turned out great, but the facility doesn’t serve the general public. KU doesn’t pay anything for it. A person in the community would have to pay to use the park. She was leery of the public getting squeezed out. She didn’t understand why we the city would pay for huge facilities for KU. What if things fail and we are left holding the bag? Do any of you know why KU
isn’t asked to pay for some of the infrastructure? She was also interested in the green aspects of the project. She said she was completely for a rec center in that part of town. She doesn’t hear anything being done for kids that aren’t involved in sports. She didn’t understand why this had to be so huge and why KU doesn’t have to pay more.

Corliss said we had been in discussions with KU about this facility and other cooperative agreements. As part of the agreements with the developers a transportation development district was proposed. He said the city wasn’t paying for the KU facilities. He didn’t think it was appropriate for KU to pay for the infrastructure. We had a strong relationship with the university. There are examples where the university has leased property to the city for nominal costs, for example, Fire Station 5 where KU gave the City the property for very little public cost.

Zak Bolick said it was important for everyone to objectively examine the facts and get involved in the conversation. The overwhelming tone of the community is that there was a need for a facility. Take the time to do it right and he thought we would hear applause from the community.

Andy Pitts said he applauded the city for the process. Sometimes a developer led process is fluid. He said there are many things we could talk about, like the sales tax, the relationship the city has with the University of Kansas. He said he wanted to talk about the need for this facility. When the sales tax was passed it envisioned something like this. We were lacking in gym space. Every time we have a survey that comes up. Our neighborhood rec centers are packed and can’t serve the neighborhoods. This would free up those spaces. We shouldn’t be afraid of what other communities are doing. Why should we wait for them to build facilities and have our citizens travel? We can bring opportunities here to Lawrence. We need and deserve this facility.

Shannon Jones said she spoke as a mother and a concerned health professional. She said she had a fierce passion for bringing this to fruition. She sees the impact of the lack of facilities in her office every day. She had a 9 year old patient in her office recently. She was in
the 99th percentile for weight at her height and age. She already had health problems relating to that. We have heard a lot about cost, but what is the cost of not doing a project like this? She had recently been at a conference regarding obesity. We know through research that environment changes behavior. Do we make it easier to have a healthier lifestyle or not? The average child gets 2-3 hours of activity a week. Our generation got 21-23 hours. She was working with her patient on goal setting to help maintain weight and grow into it as she grows taller. Her patient wanted to work on at least one hour of physical activity per day. Her mom said she had tried to enroll her patient in a dance class but it was full. She looked at KU’s involvement as icing on the cake. She got frustrated when we talked about cost but not the cost of not doing it. She saw movement, positive behaviors, and families having fun together. We have a chance to do this right and combat our obesity epidemic at a local level.

John Ross said the willingness of the city to partner with KU and private industry was great. He said he had two grown kids. Gym space was an issue in the 1990’s. We practiced at 6:00 a.m. in the Hillcrest cafeteria. This project has a strong ability to showcase our community and KU. He encouraged commissioners to carry on.

Bill Reynolds said he didn’t support the current plan. He supported the commercial development. He had a few concerns. First was the population of Lawrence. We need to have a local population willing to support the operating costs. If the population doesn’t grow then any retail development will just move from other businesses in the community. Another issue is KDOT’s involvement in the infrastructure in the area. They have an excellent plan but unfortunately it is a 40 year plan because they don’t have any money for it right now. A final issue is Lawrence’s ability to financially handle the project. If we undertake the project, he asked if it undermined our ability to pay for needs. He said interesting suggestions had been raised for other sites. He asked for a simple statement showing how much of the costs would be borne by the taxpayers and where the revenue would come from.
Melinda Henderson said she heard that people universally supported a rec center. What she hadn’t heard consensus on was the sports village. Mr. Patterson and Reynolds brought up salient points she agreed with. Obesity was definitely a concern. She said she lived on the poor side of town. She said she saw kids skateboarding in the street every day because there wasn’t a skate park in their part of town. How will kids at the Boys and Girls Club get to the rec center? Think of the travel time. Will they really be able to get out there? She said the person she works with coaches a lot of teams. He thinks this rec center would be a Taj Majal and he would love it, but he wouldn’t want to drive out there. Personally, she has been here 16 here and in that time she hasn’t always agreed with the commission but she has never been afraid of them before but she may be now. At the local level we have a police facility and school bond on the block. Sales tax is very important to a lot of people on fixed income in this time.

Schumm said it was his feeling that we should continue this item until a later date. The date could be as early as next Tuesday or as late as the following Tuesday. It was more likely to be the second Tuesday. He said he appreciated everyone’s comments and concerns. It is helpful to get the concerns on the table.

Amyx said one of the questions he had now is whether it was appropriate, as staff had put together a spreadsheet of sites involved, to look at the Overland and Wakarusa site. It was 29 acres at that site and the extra costs involved were approximately $200,000 for a traffic signal.

Corliss said that was appropriate, but that site would not accommodate KU.

Amyx asked if that site could accommodate a rec center similar to what is proposed at K10.

Corliss said we could get the square footage with a different design.

Amyx asked if it was appropriate to look at a similar size building at the Overland site. He said we were a service provider, this was a basic service. He wanted to make sure we met our needs, and questioned how much further we should go to accommodate the partnership
with the additional costs. He would like a simple sketch of what we could do at the site we own, without slowing down the decision process.

Schumm said we had been interested in all three sites. Staff has come back with pros and cons at each site. He said he didn’t see anything wrong with looking at what we could do. He didn’t think we had done much engineering yet. You can never have too much information on this. One thing that the site won’t accommodate is the KU presence. You can argue that KU is a cost to the city in terms of this project, but what benefit do they bring to our city as a major employer and the attraction to the community. From a dollars and sense issue it would cost more to partner with them, but we have to weigh the benefits.

Amyx said if we are going to compare apples to apples, we need to compare the same size building at the Overland site and then ask how important the partnership is.

Carter said we do have the matrix. As far as sketching it, he didn’t think we needed to have staff spend time drawing it. It’s good enough for me to know we can do it, without seeing the sketch. The matrix is the important thing. The public needs to see it, needs to see the methodology.

Schumm said he had been to several KU events the last few days. Every time the upper echelons of the University ask where we are on the project, they are very hopeful it goes through. They see it as a great opportunity. They are very enthusiastic. How you put that into dollars and sense he didn’t know, but he did know we are very dependent on KU for the health of the community as a whole. There is a cost to the project but we are doing something for KU that will benefit the city for the long term.

Dever said the thing he got tonight was a sense of agreement that we need recreation space in our community. He is really positive that something will happen on the community. Since he came to the Commission he had seen changes in our relationship with KU. KU is not the same without Lawrence and vice versa. It is a symbiotic relationship and we are trying to deepen it. We have been fiscally conservative in our budgets. It is time to invest. Whether it is at
Walmart or 1.6 miles down the road, that isn’t much farther. He said he would love to invest in our largest employer in town. There is less disturbance to the community at the K10 site. We are not rushing to judgment, we are cautiously approaching it.

Cromwell said we have been talking about this need for years. He is on the Commission to try to do what’s right for the community. We have an image that we are a young vibrant community. That makes us an attractive place for business. This rec center gets at a core value of ours. We have talked about the value of physical fitness. He wants to encourage that, whether at this site with the deepened relationship at KU, which would be a great opportunity, or not. There would be a lot of complex agreements to work out. He said this is a bold move by our community to get at our core values. He hoped we could put it all together. We would get something done regardless.

Carter said he definitely wants to see this as a joint effort with KU, leveraging that relationship. Hopefully that would come soon. We don’t have all the documents pertaining to the Schwada site yet. One thing that came up was the university’s inability to market the site. As long as we have the same rules as any other community we have the advantage of KU’s reputation and proximity. Their limitations on marketing would have little impact on the advantage of having them involved.

Schumm said he thought it was the commission’s pleasure to continue this, at the latest to two weeks from tonight.

Corliss said he would be in contact with bond counsel and would get the items on the agenda as soon as possible.

E. **PUBLIC COMMENT:**

None.

F. **FUTURE AGENDA ITEMS:**

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

G. **COMMISSION ITEMS:**
None.

H: **CALENDAR:**

David Corliss, City Manager, reviewed calendar items.

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

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

**Moved by Amyx, seconded by Dever,** to adjourn at 9:16 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 9, 2012.

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Jonathan M. Douglass, City Clerk