



# City of Lawrence

## CITY MANAGER'S OFFICE

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CITY COMMISSION

MAYOR  
MIKE AMYX

COMMISSIONERS  
LESLIE SODEN  
STUART BOLEY  
MATTHEW J. HERBERT  
LISA LARSEN

April 5, 2016

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and Commissioner Boley, Commissioner Herbert, Commissioner Larsen and Vice Mayor Soden present.

### A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. Recognition of Mayor's Day of Service.
2. Proclaim the week of April 4 – 10, 2016 as Public Health Week.
3. Proclaim the week of April 10 – 16, 2016 as National Public Safety Telecommunicator's Week.
4. Proclaim the month of April, 2016 as Parkinson's Disease Awareness Month.
5. Proclaim the month of April, 2016 as Fair Housing Month.

### B. CONSENT AGENDA

**It was moved by Vice Mayor Soden, seconded by Commissioner Larsen, to approve the consent agenda as below. Motion carried unanimously.**

1. Approve the City Commission meeting minutes from 03/22/16.
2. Receive minutes from various boards and commissions:  
Affordable Housing Advisory Board meeting of 02/22/16
3. Approve all claims to 277 vendors in the amount of \$1,335,624.24.
4. Approve licenses as recommended by the City Clerk's Office.

Drinking Establishment  
Jeffersons  
Jeffersons Downtown LLC  
743 Massachusetts St.

Expiration  
April 7, 2016

5. Approve appointments as recommended by the Mayor.



Homeless Issues Advisory Committee: Appoint Dana Ortiz to a position that expires 12/31/17.

6. Bid and purchase items:
  - a) Approve the purchase of one (1) hybrid sedan for the Public Works Department, from Laird Noller Ford, in the amount of \$23,570, pursuant to the City's one percent local purchasing preference policy.
  - b) Approve Change Order No. 2, in the amount of \$50,955.53, to R.D. Johnson Excavating Inc., for Project No. PW1330 in order to complete the contract for construction of the regional detention basin at Lawrence VenturePark.
  - c) Award Bid No. B1606 to Nowak Construction Co., Inc. and authorized the City Manager to execute the construction contract in the amount of \$325,140.00 for Harvard Road, Crestline Drive to Wellington Road Waterline Replacement, Project No. UT1515.
  - d) Approve extended Bid No. B09034 pricing from Duke's Root Control, Inc. for a total estimated cost of \$98,314 for the 2016 Chemical Root Control Program.
  - e) Approve purchase of purchase two (2) John Deere Z950M Commercial Ztrak Mowers and one (1) Wiedenmann Terra Spike XF6 Aerator for the Parks & Recreation Department to Deere & Company for \$43,945.28, utilizing the State of Kansas cooperative purchasing agreement.
  - f) Approve sole source purchase of 12 Watchguard 4RE in-car video systems for the Lawrence Police Department, from Watchguard Video for \$80,000.
7. **DEFER INDEFINITELY** Adopt on second and final reading, Ordinance No. 9210, authorizing the issuance of \$7.8 million in Industrial Revenue Bonds for the 800 New Hampshire project.
8. Approve a Special Event Permit, SE-16-00090, for KU Pole Vault Competition, April 21, 2016, located at 4931 W 6<sup>th</sup> Street. Submitted by Salty Iguana, for Safe Harbour Eat II LLC, property owner of record.
9. Approve rezoning request (Z-16-00022) for approximately 2.235 acres from RM12 (Multi-Dwelling Residential) District to RS7 (Single-Dwelling Residential) District, located at 805, 811, 817, 823, 829 and 835 Renaissance Drive (Langston Heights). Submitted by Tim Herndon for Langston Heights Development, LLC, property owner of record. Adopt on first reading, Ordinance No. 9219, rezoning (Z-16-00022) approximately 2.235 acres from RM12 (Multi-Dwelling Residential) District to RS7 (Single-Dwelling Residential) District, located at 805, 811, 817, 823, 829 and 835 Renaissance Drive. (PC Item 4; approved 8-0 on 3/21/16)
10. Authorize staff to solicit Qualifications/Proposals for the engineering design and construction plans for Queens Road improvement project, Project Number PW1528.
11. Approve proposal from Stericycle Environmental Solutions for collection, disposal and technical assistance services for the City of Lawrence/Douglas County Household

Hazardous Waste and Business Hazardous Waste Programs. Approve proposal based on best stated price schedule. The estimated cost in 2016 is \$75,224 including containers.

12. Authorize staff to request qualifications for the engineer of record for the Lawrence Municipal Airport.
13. Authorize staff to request proposals from playground surfacing vendors and submit a KDHE grant application to install poured-in-place rubber playground surfacing at Holcom Park and Centennial Park.
14. Authorize the City Manager to execute leases for city properties for participation in the Common Ground program with the following:
  - a. Just Food for 817 Oak Street
  - b. Nick Brown, Groundworks Farm, for 1146 Oregon Street
  - c. Danielle Brunin and Bridget Meier, for North Peterson Park (2250 Peterson Rd.)
  - d. Lawrence Community Food Alliance (on behalf of the Lawrence Community Orchard), for expansion to two parcels at 800 and 837 E. 13<sup>th</sup> St.
  - e. Aimee Polson, for John Taylor Park (7<sup>th</sup> and Walnut St.)
15. **REMOVED FROM THE CONSENT AGENDA FOR A SEPARTE VOTE.** Approve as “signs of community interest”, a request from the Douglas County Master Gardeners to place signs throughout the City to promote their Spring Garden Fair on April 9, 2016. Signs would be placed on Wednesday, April 6 and removed on Sunday, April 10, 2016.

Commissioner Larsen recused herself at 6:12 p.m., due to a potential conflict of interest.

No public comment.

**Moved by Commissioner Boley, seconded by Commissioner Herbert,** to approve as “signs of community interest”, a request from the Douglas County Master Gardeners to place signs throughout the City to promote their Spring Garden Fair on April 9, 2016. Signs would be placed on Wednesday, April 6 and removed on Sunday, April 10, 2016. Aye: Mayor Amyx, Commissioner Boley, Commissioner Herbert and Vice Mayor Soden. Nay: None Abstain: Commissioner Larsen. Motion carried.

Commissioner Larsen returned at 6:13 p.m.

#### **C. PUBLIC COMMENT:**

Ted Boyle:  
President  
North Lawrence  
Improvement Association

Good Evening Mr. Mayor, Vice Mayor and Commissioners. This is of general interest in the “Old Home Town” in the Journal World this morning. I’m going to read you this article from the Lawrence Daily Journal World from April 5, 1916: "The first community meeting ever held in North Lawrence was held last evening, and it may mark an epoch in the development of that part of town. The 350 persons who gathered cheered enthusiastically when speakers declared that the time had come for the north side to get on an even footing with the civic development that prevails on the south side of the river. The

speakers were the pastors of the various churches on the north side and others....” I just like to tell you this is our 100 year anniversary of what North Lawrence Improvement Association does and that these 350 people thought, was for concern of the residents of North Lawrence. We take it as a very serious matter and we will continue to do that. I have to say that probably in the last 20 years, there’s been more done in North Lawrence than there was in the past 80 years. I grew up in North Lawrence. I’ve lived there for a pretty long time. I saw what happened after the flood and North Lawrence got hand me down infrastructure from the south side of town. We’ve been kind of a “red headed stepchild” of Lawrence ever since Jefferson agreed to be part of the Lawrence, Kansas. I’d like to let you know that we’re going to keep after you. Thank you very much.

Mayor Amyx:

You know Ted, I appreciate you bringing that up and I won’t bring up RS-5. I’m sure that’s what people were asking for, but any way... Here’s the deal so neither one of us get in trouble.

Ted Boyle:  
President  
North Lawrence  
Improvement Association

Been there, done that.

Mayor Amyx:

I know. North Lawrence is such a special place where all of us are in each and every spot in this community. I think for myself and I know other members of the commission. I grew up a little bit of my life there, until dad decided that he needed to get us out of the country or we were going to be in trouble so he moved us out south. It’s truly been a special place for so many people in our community to be able to call home. We’re extremely proud of North Lawrence as part of our community and the hard work people provide coming from North Lawrence. It’s got the greatest gardens in the world.

Ted Boyle:  
President  
North Lawrence  
Improvement Association

Greatest soil in the world and the deal there, the three big things that I can note that we’ve got in North Lawrence. Number one is the Depot. We’ll be celebrating our twenty year anniversary, June the 4<sup>th</sup>, the same day as the Sand Rat Reunion and also the intersection of 2<sup>nd</sup> and Locust. The City and the North Lawrence Improvement Association wrote a letter and got stimulus money to redo that. It didn’t really cost the taxpayers of Lawrence directly, money, even though it was government money. The third thing and the most valuable thing is that 7 million dollar pump that is being installed right now that affects two-thirds of North Lawrence, on the north side of the tracks which will stop storm water flooding on that side of the tracks and hopefully it’s going to be done by the end of June, the first of July. We’ll keep moving forward. Thank you.

Mayor Amyx:

Thank you. Any other general public comment of a general

nature.

**D. REGULAR AGENDA ITEMS:**

1. **Consider the following items regarding the HERE project (disclosure of ex parte communications required):**
  - a) **Consider approving the Final Development Plan, FDP-15-00642, with the conditions set forth in Staff's memo.**

Mayor Amyx: The first item on the regular agenda is to consider the following items regarding the HERE Project and we have to disclose any ex parte communications that we've had.

Commissioner Larsen: I had meeting with Steve and Duane Schwada and I spoke with Jane Eldredge for a bit on this project. I think that's it. Some emails, I think everybody got the emails.

Vice Mayor Soden: I spoke with Candice Davis, Larry McElwain and I got an email from Jerry Harper.

Mayor Amyx: I got a packet of information. I can't remember the exact date. It came from Jane Eldredge and may have even come before the last meeting. I haven't got anything else then other than what we've all gotten.

Commissioner Boley: I've had emails and phone conversations with folks. Ellen Johnson, Marci Francisco, Janet Gerstner, Candice Davis, Virgil Dean. I got the same email from Jerry Harper that's pretty much all information that's in the record. I had a brief conversation with Jim Letchinger, the developer before our meeting here and the question I had was, "Of the leases that've gotten, how many of them have parking associated with it?" My understanding of his answer was 90 percent of the leases have expressed interest in valet parking. I'd let him give more information on that.

Commissioner Herbert: Same emails all of you received. I had a conversation with Melinda Henderson and spoke to Jim prior to the meeting along with Stuart and I had a cup of coffee with Commissioner Carter this afternoon.

Mayor Amyx: I suppose this counts, but I talked to our staff yesterday in the agenda meeting, questions that were—

Vice Mayor Soden: ...do we disclose that when we talk to staff? It's just the public right?

Mayor Amyx: Right. Okay.

Scott McCullough, Planning & Development Services Director, presented the staff report.

Commissioner Herbert: In lieu of the events that happened in the last year, I have to ask this question. On the quarterly report, what is our, "or else"?

Scott McCullough:  
Planning and Development  
Services Director As a condition of the development plan, if it's not provided to us, it becomes a zoning enforcement matter.

Commissioner Herbert: Okay.

Scott McCullough:  
Planning and Development  
Services Director We would take our lawful means to enforce.

Commissioner Boley: Which would look like, what?

Scott McCullough:  
Planning and Development  
Services Director Which would start with a contact with the applicant, to say, "You are devoid of meeting this condition; can you please resubmit it?" Then if that's not effective, then we would work with the City Attorney's office to bring an action in District Court.

Mayor Amyx: Other questions? Lisa, do you have something?

Commissioner Larsen: Item number five. I think it's on this here.

Mayor Amyx: Of the answers?

Commissioner Larsen: No, that's not the answers. I'm sorry. Essentially, we were talking about the NRA, having to be in 100 percent compliance in order to get the NRA.

Scott McCullough:  
Planning and Development  
Services Director Yes.

Commissioner Larsen: Is that correct? If they are out of compliance for part of the year, is there any reduction in the NRA, or is it that they need to be in compliance at a certain time of year?

Scott McCullough:  
Planning and Development  
Services Director The framework, the approach we've taken is, to commence the NRA, they have to have a completed project, meaning that all of the parking is available and it's occupy-able, if that's the question. If any of the parking goes away, then I think that would become a question for a number of things. One is another zoning item, right? It would be out of compliance with the zoning, so we would be talking about reducing their occupancy at that time. I think it may bring into question, of the NRA compliance.

Commissioner Larsen: Okay. They can be out of compliance for part of the year, but...

Scott McCullough:  
Planning and Development  
Services Director They should never be out of compliance with the number of spaces afforded the project, and it's not linked to occupancy per se. It's linked to having a completed project physically complete and having all the parking to make the building occupy-able.

Commissioner Larsen: Okay.

Scott McCullough:  
Planning and Development  
Services Director I think what we're trying to provide here is that the NRA doesn't start until all of the parking, to open up the remaining bedrooms, is provided, physically approved and provided on the ground. They don't get their rebates until that happens, and then that should be provided in perpetuity.

Commissioner Larsen: Then I am looking at the agreement, number eight where they have the affordable housing. Why does it start on July 1? Is there a reason, versus yearly, fiscal yearly?

Scott McCullough:  
Planning and Development  
Services Director Yes, it's yearly, starting on July 1, I think, to allow that first year to get started and get some revenues generated. It could start anytime. In fact, we talked about January 1, but we thought July 1 was a reasonable date.

Commissioner Larsen: I think that's it.

Mayor Amyx: Okay. Thank you. Anything else of Scott?

Vice Mayor Soden: The \$100,000, I want to verify that that can go into the parking fund because my intent in getting money from the meters was for parking. Because we're going to be enforcing it, I want to make sure that that will be able to go into the parking fund. That was really my intent for it.

Scott McCullough:  
Planning and Development  
Services Director That's a policy question that the commission needs to consider. Once donated, it's yours to direct as you choose.

Tom Markus:  
City Manager I think the contract stated that it was to the discretion as to what fund it would go into, it was left to the discretion of the commission. It initially designates the Housing Trust Fund, but then it goes on to designate or whatever and this is trying to recall what it says, whatever fund the commission determines appropriate.

Vice Mayor Soden: Yes, I want to clarify my intent because that is what bothered me, is we were enforcing but not getting the fees, which shouldn't be.

Scott McCullough:  
Planning and Development The language is here, "or to some other similar fund of the City's choosing."

Services Director

Mayor Amyx: Thanks, Scott. Jim, you're here? Come on down.

Jim Letchinger:  
HERE @ KU Do you want me to say it? Do you want me to say?

Mayor Amyx: Please, yes.

Jim Letchinger:  
HERE @ KU I thought you knew who I was. I'd better say it. Good evening, everybody. We're back again.

Mayor Amyx: If we could have your name so that everybody knows you.

Jim Letchinger:  
HERE @ KU I am one of the partners in the development. I think everybody is aware of the project. First, I want to apologize that this has become such a big issue. I think the matter before us has probably become somewhat over-complicated, and we're certainly part of that situation, but simply put, what we're really doing is changing the way that we are parking cars in a fully-approved development plan. When we presented to this commission in January, along with making a change in vehicular system X, the delivery system for cars that we would use, we were also looking to change or approve a permitted plan, to allow a second point of vehicular access on 11th Street, a street which is currently in disrepair, and it should be noted that HERE @ KU is contributing in excess of \$400,000 to the City, to help repair that street. This was a cautionary agreement that actually came up after we had all of our full approvals, but we worked with the City to do what we felt was right. As I stand here tonight, the site plan relief is no longer part of this discussion. Commissioner Herbert raised a concern surrounding the risk associated with the use of 11th Street, and we were clearly reminded that, during our original approval process, we had raised the same issue. Like many items that have been brought to us by this body, we did respond with a solution as shown on the plan you saw earlier this evening. Not only did we create an internal ramp that will eliminate the use of 11th Street, but we also reworked the circulation pattern of the interior of the garage, which removed the need to drive cars back onto Mississippi in order to park them properly. This resolved yet another potential traffic and safety concern raised by this Commission. Where are we now? Ms. Eldredge, an attorney hired by somebody, has gone to great lengths to present your code publicly at every meeting that I've seen. I am confused as to her agenda, but that's not relevant, but I do believe that the commissioners and I am quite certain that the staff as well as ourselves, are very well aware of the code. The flaw in the presentation is that she fails to explain that when this project previously received its unanimous approval from this commission, it never provided for cars to be parked per code.

This might have been an oversight, it might have been a mistake, but that's what the approval was. If there was an opportunity or time to contest that parking solution that was the time to do so. Yes, we are now suggesting a different car delivery system. We understand that. We now have a traditional valet parking system. It is not robotic. The result, however, is the same. Nobody will park their own car, which is why our parking solution works without adhering to the letter of the code. Nobody will be driving through this facility other than professionally-trained drivers. All of the risks we raise with a self-park garage of this size are still eliminated with our valet system. The only difference is that it will cost us much more to operate. I think everybody already understands that, which is why everybody wants to make sure that we continue to operate it, and we will. This is also a reason why you haven't seen, and I doubt you will see, many other proposals seeking a valet solution. It's very expensive. A benefit of the valet program, however, is that it will create between 16 and 24 additional full-time jobs for Lawrence. The big question raised by this commission early on, will this new proposal for a parking solution work? We have now clearly demonstrated that it will. We have brought in a number of experts, people that run garages all over the country, garages bigger, garages smaller, garages tighter, and they have shown without any hesitation that they work. Ironically, when this building was approved and permitted with a robotic system that was arguably a leap of faith. I wish you would have pointed out to us our flaws. Conventional valet parking is a sound and proven solution. We have engaged the most experienced and largest valet parking company in the country to manage our garage, but this is hardly a proprietary service. We run absolutely no operational risk with a conventional valet parking system. There were countless number of companies, locally and nationally, that can flawlessly handle this operation. Does our garage meet the code for self-parking? No. Did our original approval meet the code for self-parking? No, it did not. At the mayor's request, we have now provided a drawing that demonstrates that this garage could provide some parking while getting very close to meeting the underlying self-parking code, but it does not work with our development, and it never did. I have heard many say that this commission should not solve HERE @ KU's problem. I could not agree more, and we don't expect you to do so. We are not asking for additional incentives in order to compensate for the cost associated with a conventional valet garage. We are not asking you to reduce the parking requirement so that we can occupy 100 percent of our building, Day 1. We are not asking this body to find the additional spaces that we need to meet the 100 percent requirement, which we will do. Yes, we did originally ask to modify our site plan which was a change from the original approval. We are no longer doing that. This building looks and acts exactly the same as that which was originally approved.

The question has been asked, are we charging for parking? Yes, we are. Our original plan clearly states, and it was approved, that we would be charging for parking. Our current leasing activity has shown clearly that there is no resistance to those renting in this building paying for parking. They want the safety and security that comes with a fully staffed and secured building, and they are willing to pay for it. The parking meter agreement was previously vetted in the last go-around, and it was part of our approvals, but during this current process, it has become a polarizing issue. Vice Mayor Soden was particularly upset with this agreement. In response, we agreed to donate \$100,000 annually of the parking meter revenue that we collect. We have previously suggested the affordable housing or the low-income housing trust. This money is to be used at your discretion. We are hopeful that the fines associated with people that don't pay the parking meters will offset the cost of monitoring them, but we would expect you to do as you see fit with those dollars. What's interesting is that in stark contrast to the suggestion that we are asking for assistance from you, we are willing to give back. Once again, these dollars are to be used at your discretion, and this is in perpetuity, so it's \$100,000 annually. We don't know if we are going to collect \$50,000 on these parking meters or \$150,000. If they are not heavily enforced, people aren't going to pay. People take their chances anyway, so you don't always get paid, but we've committed to doing this. We've committed to building these parking spaces. We've committed to striping them. We've committed to painting them and maintaining them, and we will do so. We have taken complete responsibility to meet this parking requirement. While we cannot provide as much parking in this current scheme as originally approved under the robotic scheme, we are finalizing an agreement to provide the balance of these spaces, and I wish I could announce it tonight, but we are days away from finishing it, and it is going to happen. Not only is it critical to us because of the incentives, it is critical to us to have this in place so that we can finalize our project. It is clearly understood that we will not be allowed to occupy all of our units until this additional parking is completed. Our current proposal does include the activation of the commercial space, the commercial space at initial occupancy. We are building what has been previously approved, what was permitted, and what is now almost complete. The structure was built on previous approvals, not based on the City's current parking code. I have heard commissioners state that this is a real mess. I would respectfully disagree. But for our effort to find a solution, it could have been a real mess. In the absence of a reliable automated parking system, we did switch to a conventional system. The project will not look or operate any differently than it did with robotic parking. The neighbors, the City and the County are getting absolutely everything that they expected when this project and the associated R&A were approved. We are near completion of

a Class A building that will be a tremendous source of tax revenue for the foreseeable future. I stand before you tonight asking that we move this process forward so that we can deliver what we have promised. Thank you very much.

Mayor Amyx:

Question?

Commissioner Herbert:

The additional parking, I know that you can't speak to it. Okay?

Jim Letchinger:  
HERE @ KU

Yes.

Commissioner Herbert:

The additional parking...I know you can't speak to it, but if its days away, will the additional parking be done by August 1?

Jim Letchinger:  
HERE @ KU

We would be prepared to do it by August 1. It is something, I do believe, that would need to come back in front of this commission. It can be done very quickly once we have all the approvals. It is within a distance that meets the code.

Commissioner Herbert:

From a construction standpoint, if we can expedite the approval process on this additional parking solution, from a construction standpoint, can you have parkable cars August 1 for your entire facility?

Jim Letchinger:  
HERE @ KU

Yes, we can.

Mayor Amyx:

Other questions?

Commissioner Boley:

I would like to restate my question about the leases that are being signed now ...

Jim Letchinger:  
HERE @ KU

Yes.

Commissioner Boley:

With regard to whether or not parking is associated with those leases.

Jim Letchinger:  
HERE @ KU

The parking lease is a separate lease at this point in time. Of the leases that are signed, which are about 350 current leases, over 90 percent have expressed an interest in leasing a parking space when the time comes.

Mayor Amyx:

350 is your current number of leases that you have ready for August 1?

Jim Letchinger:  
HERE @ KU

That is correct.

Mayor Amyx:

Okay.

Commissioner Larsen: The leases that you have, the 350, you said, 90 percent expressed interest. Does that mean they haven't signed yet?

Jim Letchinger:  
HERE @ KU We have actually not signed a parking lease as of yet. Everyone, we have them sign a ... I can ask our operations people to speak to exactly what we're doing, but we ask them if they plan on renting a parking space when they lease. We do this in all of our properties. Typically, if they have expressed an interest to bring it, 90 percent of those actually do bring it. What we do find over time is that some of them will not continue to bring it back because of the location of so many of our properties. Once they are in the building, they realize they don't really need their car here, but as you know, there is strong parking demand in Lawrence, Kansas.

Mayor Amyx: Anything else?

Vice Mayor Soden: Thank you for the \$100,000, which I am hoping will go into the parking fund to recoup our fees, enforced and all of that, so I appreciate that.

Jim Letchinger:  
HERE @ KU Thank you.

Mayor Amyx: I do have one more. Under the plan that you presented that I had asked for, the total number of parking spaces that you could get under our code was 243. Is that correct?

Jim Letchinger:  
HERE @ KU I actually don't know the exact number. Scott, can you ... ?

Scott McCullough:  
Planning and Development  
Services Director 243.

Jim Letchinger:  
HERE @ KU 243.

Mayor Amyx: You have looked at that, Scott, and you think that that is pretty close?

Scott McCullough:  
Planning and Development  
Services Director Yes, we think that 243, is reasonable for a self-park system. It would still need variances for some of the aisle away from one-way stuff, and it's not the most efficient design given the columns that are in the way, but ...

Mayor Amyx: Jim, as somebody that voted for your robotic parking system before--

Jim Letchinger: Yes, sir?

HERE @ KU

Mayor Amyx:

I didn't vote for the public incentives, but I voted for the parking. Did you guys have a surety bond on that or anything? I've got to ask that question. That's a hell of a lot of money for...

Jim Letchinger:  
HERE @ KU

More than you can imagine. We signed up with Boomerang. Their technology was outstanding. They said all the right things; they did all the right things. We looked at their financials. I am not sure they were accurate, now that I am looking back. We didn't dig into their financials as we might, but we take people at their word. They gave us financials, and we felt that they were real. We went ahead and gave them a 50 percent deposit on our Champaign property, which was over \$1.5 million. They delivered the actual equipment. They installed the equipment. They never finished the software, and while we thought we were actually going to be ready to go, the day before they opened, we got the letter from them. Not a phone call, no communication, no letter saying, "Sorry, not going to be able to open your garage. We felt that that was probably a ploy to get more money out of us. We would have been happy to pay more money at that time. Unfortunately, their situation was much direr. In the meantime, because they had performed on Champaign and they had delivered the equipment, the timing was such that we moved forward with this project. They delivered a lot of very substantial equipment, and now we thought, more than ever, that they were for real. We wrote a very similar percentage deposit. It was actually a bigger number because it was a bigger garage. That letter that they sent that evening didn't address KU at the time, which is why we thought maybe they were making a play for more money, for that existing garage. Over the next couple of months, it became apparent that they were not going to deliver, and then they ultimately filed bankruptcy, and had recently, I believe, filed, have gone to 7. We have spoken, as I think you know, we have talked about, not ex parte but we have discussed, to every garage operator, robotic garage operator, that exists. If I hadn't spoken to them before, I have certainly spoken to them since the last article came up. Not one of them can point to a garage that they have built in this country. They have built them overseas; they have built them in Asia. Not one in this country that has moved more than 30 cars. While this was a very expensive lesson for us, it has certainly taken a tremendous amount of your time and the staff's time. We're probably fortunate that we didn't end up as we did in Champaign, where we have a garage full of equipment that's in-operational. The only good news in Champaign is as opposed to this university, in this town, the kids don't bring their cars there, so we caught a break, but we are fully aware of the automobile demand here, and we are actually rather thankful that we learned this lesson in Champaign and not here so that we know we can park cars, Day 1.

Mayor Amyx: What was the actually cost of the robotic system here?

Jim Letchinger:  
HERE @ KU I believe it was \$4.3 million for the actual equipment.

Mayor Amyx: Any other questions? Thank you.

Jim Letchinger:  
HERE @ KU Thank you.

Mayor Amyx: Public comment on this item? Any public comment?

Marci Francisco:  
Senator I appreciate the comments and the additional information that has been presented, and I do ask that you work as much as you can within our processes so everyone feels that this is done fairly. The other thing that I want to comment specifically about is how this might affect the neighborhood and to ask you not to make a decision this evening, but to actually consider the option of permit parking in the Oread neighborhood for those areas outside of this high-density mixed-use development that are lower density. For a number of years, we talked about that. We were pretty close in the mid-'90s. We feel like there are some proposals to make the system workable, perhaps having a permit parking system that only requires you to have a permit between 10:00 and 2:00, Monday through Friday, so not a lot of extra time for monitoring that system, but that it would create the understanding that, if you brought a car here, there were specific areas. We ask this because this is not like many other neighborhoods where properties were built with enough parking. Many of the properties in the Oread neighborhood were developed before we had parking requirements. The block that I live on does not have an alley. I did come and ask the City commission not to vacate that property. I think that was back in the '70s, and they went ahead and did it, so we could not build an alley, if we wanted to, behind that property. Those structures only have street parking, so there is this situation that happens if it is either not as convenient, or if you are not a resident, you are a guest. You may be looking for space on the streets, and I think that idea of bringing up permit parking should be part of this overall discussion of how are we going to make all the projects that we approve work for the City, the university and the neighborhood. I would be happy to stand for any questions.

Mayor Amyx: Any questions? Thank you. Oh.

Commissioner Boley: Do some of your neighbors have permit parking?

Marci Francisco:  
Senator One neighbor has permit parking.

Commissioner Boley: Okay.

Marci Francisco:  
Senator Actually, there is a small stretch of permit parking on Edgehill Drive, and then the other on the...

Commissioner Boley: On Ohio Street.

Marci Francisco:  
Senator Yes, 1100 block of Ohio. I do live next door to a very good cellist, and it's one thing to bring your groceries up all those stairs from wherever you found a parking space and quite another to bring a cello or a harp. Yes, and we particularly appreciate the commission working with those neighbors on that proposal. This would be a little different because it probably wouldn't establish specific places for each structure but an area for residents. I know its off-topic in some ways, but it's also very important, especially as we change. I don't know what the timing between valet parking and robotic parking is, if there is a longer wait. If there is, again, a little more incentive to find another quicker space. Thank you.

Mayor Amyx: The good senator established us a pretty good timeline in that she spoke for five minutes, so that will be what I am going to watch for. Okay? Mrs. Eldredge?

Jane Eldredge:  
Attorney I think I can help this by handing out a letter that I was reading.

Mayor Amyx: Okay. Thank you.

Jane Eldredge:  
Attorney I am here this evening representing Steve Schwada. I've been here before to talk about this very issue. The first time I appeared, I came having talked to a couple of the commissioners about the development code, and they asked if I would please come to the meeting and bring sections of the code, and I did that. Since then, I have followed up with a letter on behalf of the Schwada's, and I apologize for neglecting to indicate that to anyone who was worried. The motive for all of my interest and of Steve's interest have been one of fair development code, fair development practices, and that all of our local and out-of-town developers get treated the same way. We believe that's part of good government. Our development code really does two things that are important. It tells us what kinds of issues, what kinds of uses we want in which portions of town. It tells us what the processes are for obtaining those. I appreciate the senator's comments about following process. That's really all we're asking you to do tonight. I did review all of the robotic improvements that were requested initially. I didn't find any disclosure about fees, but it was all approved, and in Lawrence, we are very used to, when we say somebody says has to provide parking, we understand that to mean on-site without a fee as part of the use of the building. This is a new

concept in Lawrence. A that time we were told, however, that robotic parking was a mainstay in New York and Los Angeles and that we would be the first in the state to have such a thing. We are asking tonight again to please approve development processes that we have in the code. I understand that they are in an awful bind, and I am very sympathetic to that as are my clients. However, the knowledge that the robotic parking wasn't going to happen came to them in October. They came to you in January. You raised some questions, asked for information, some of which you got. They were very kind and, I think, candid, saying to you on March 22, "We weren't ready in January. Now we are ready." Yet we still have change in plans. We still don't have any kind of valet parking in our code. We ought to have that in our code. Our parking section applies to all of our zoning categories. Our parking section is very clear and precise about what is permitted. If it needs amending, you can initiate that amendment at any time. You could initiate that tonight. We would urge you to consider doing that. In the meantime, we think that it's important that we have full compliance with the code that we don't have apartments that don't have code-compliant parking that parking not be at any additional fee. We want to encourage the students who are living there to use that parking. We don't want it to be an extra cost. We don't want it to be so cumbersome or time-consuming. I know the staff report said, "This is basically like the Oread Hotel." It's entirely different because the uses are entirely different. These kids are not transient guests. They aren't coming for a dinner. There is valet parking there, and those spaces are mostly 9 foot or wider. Their code, their development plan, was also approved for 8 feet, and I don't know how that happened. It doesn't meet the code, but I am not here to argue about that because their parking does not seem to have been a problem except when they have conferences. Their big things seem too often have buses and be associated with KU, so there are other kinds of parking things available. I am disappointed that my motives or agenda were questioned. I think good government is something all of us should be aware of and should question if it seems to be appropriate. We believe that they have been the recipients of a great deal of cooperation and effort on the part of all of our jurisdictions. The NRA is estimated to have saved them approximately \$9 million. The IRBs are estimated to have saved them approximately \$2.5 million. The additional spaces that had been in public right-of-way going from 38 to 108 meters that they get the revenue from, less their contribution, which I think is great, is all stuff that we have contributed to, that we have been part of, and that we as a city, I think, are looking forward to, this development. I want to encourage it according to our code so that we will know what to abide by in the future. Thank you very much. The rest of it is in the letter. Thanks.

Mayor Amyx:

All right. Any questions for Jane? Thank you.

Jane Eldredge:  
Attorney

Thank you.

Mayor Amyx:

Other public comment?

Brad Finkeldei:

Good evening, commissioners. I want to talk about a couple of things. First, I wanted to mention something Senator Francisco mentioned. I was on the Planning Commission when we did the Oread neighborhood plan, and we spent a lot of time at that time talking about whether or not we should have a parking permit process, so we have lots of good research. The staff went and researched different communities and how they used it. I, for one, at the time was in favor of that. It did not end up in the final part of that plan, but I would encourage you to look at that. We know we have that information from, I don't know how many years ago that was now, maybe five years ago, but we have a lot of information on that, and I, for one, support that for the Oread area. Second, I would like to come here tonight to say I disagree with what Mrs. Eldredge told you. I would agree with her if she would have been here in July of 2014, asking you to approve a project that was fully compliant with the parking code. That is not the question you are in front of, that you have to consider tonight. Back in July of 2014, as you know, the city commission approved a development plan, a preliminary development plan. There is the parking that was approved on the second floor, and there is the parking approved on the first floor. No aisles, no width that met code, but the parking approval in the preliminary development plan that was approved to have that robotic parking. That was the approved plan that went forward. At that time, you were also told that there was going to be additional fees for that parking within the leases. All of that is in the approved preliminary development plan. Thus, although there was a lot of discussion about parking, both at the planning commission and the City commission, this is what was approved. That is what the preliminary development plan was, and it did not comply with the code. As pointed out by the applicant, it doesn't have aisles, it doesn't have the proper width, but it was a plan that was approved by both the planning commission and the City commission. Then, thereafter, you approved a final development plan, and the final development plan looked like this. The final development plan had both of these in there. That was approved on May 26, 2015. It came through on the consent agenda, and then it was approved by staff. Staff approved that development plan. That final development plan was then filed with the register of deeds, a building permit was pulled, and the building was built based upon these plans. Obviously, you all know that the automated system fell through, but the final development plan, the only thing being asked to be changed here was an operational function, not a building function. They did at one point ask you to change the design of the plan, and they withdrew that at

commissioner Herbert's suggestion. The only change in front of you now is operational. I am really here to support Scott. I believe the City attorney's analysis that was in the March 2016 memo, but you have an approved final development plan. This is not a major change as defined in the code. Again, if you want to talk about code compliance, follow the code as it relates to major change and your staff's interpretation of this. It is simply a change made to an operational portion. As pointed out in that memo, the planning director's position has been that he probably could have approved this himself under the code, and that if, he has told you in his memo, it was up to him, he would have approved this, but he's brought it to you. It's a big decision, and I respect that, but if you are following the code, the code in the approved final development plan should be approved. This is all based upon, and I agree with the staff again that there was, quote, "no change in concept regarding the warehousing of automobiles because valets will be accessing the warehouse, and the driving of automobiles in and out of the storage area, much as they would have done in the automated system." What's the change from here, the approved preliminary plan, to the one that has a valet system? Instead of four deep across, you have an aisle. Now you have an aisle that they can move cars back and forth with, and the valets can move the cars back and forth with, trained valets that know what they're doing. Yes, it has fewer parking spaces because you went, and we added an aisle that wasn't in that plan. We have added an aisle, but now you have a plan that works. I agree with staff. I agree with, I believe, the City attorney and their analysis of this, that you have a final development plan that has been approved. The code talks about how you can change that, the rights of the developer and the applicant and that is what we have here tonight. Mrs. Eldredge talks about being consistent and predictable. I agree with that, 100 percent. Here, that is what the applicant is asking for. They have built a building a \$50, \$60 million building, based upon the approved final development plan and the building permit issued by the City, and they are asking for a change in the operational plan. They want a consistent and predictable result so they can open this facility. I urge you to approve the plans before you tonight.

Mayor Amyx:

Questions of Brad?

Vice Mayor Soden:

Jane said who she was representing. Are you representing anybody?

Brad Finkeldei:

I will disclose that I have represented here in the past. I did some real estate work. I did the Miss Bell. Anyone remember that?

Vice Mayor Soden:

Mm-hmm (affirmative).

Brad Finkeldei: The Miss Bell real estate contracts and I have done some real estate work for that. I am not hired and paid for to be here tonight on this matter.

Vice Mayor Soden: Thank you.

Mayor Amyx: Other public comment?

Candice Davis:  
Representing  
The Oread Residents  
Association and The  
Lawrence Association of  
Neighborhoods

Good evening. I live in the Oread neighborhood. I am representing the Oread Residents Association on behalf of Kyle Thompson who is the chair. He has had a death in the family. I am also representing the Lawrence Association of Neighborhoods who has been aware of this project and followed it. I wanted to let you know, I've talked about this before. I have lived in the Oread neighborhood for 18 years, and for many of those years, we have fought as a neighborhood to have reasonable parking standards in order to prove the stability and livability of this neighborhood. In some respects, I think, a lot of our frustration comes from somehow a thought that this is a disposable neighborhood because there are a lot of rental properties. We would like to think otherwise. We would like to see it improved. I want to also say that in the last two years I have noticed there are no parking spaces by my house during the week. I am 10th and Louisiana. I have a small business. I cannot have one person be able to park within a block, two blocks of my house, many times. In fact, someone came to my house today from Channel 6 News, and she had to park two blocks away to get to the house. There is no parking, really, and only 25 spaces on each street, very limited. There is only one side of the street parking. Oread was very disappointed in the HERE project, especially in terms of the parking accommodations, and in particular when they were requesting 100 spaces to be reduced, early on, in that process. The Lawrence Association of Neighborhoods was very disappointed in the revitalization benefits that were given to this project, and felt like those benefits could have been put to better use. I would also like to point out that this comes up quite often, but perhaps this whole project could have been assisted and helped, both the City and the developers, if they had consulted with neighbors and in the neighborhood, which really had a good understanding of the difficulties and problems that existed. In moving forward, the suggestions I would like to leave with you is, yes, I believe we need to respect our code as it exists. I would love to hear the word no to a lot of projects that come forward that don't meet our code. There is nothing wrong with waiting for an appropriate project. No, if it doesn't fit the code, then it shouldn't be allowed. Number two, I think every attempt should be made to meet the parking requirement at some off-site facility, perhaps working with KU and the Oread neighborhood. Number three, while I think valet parking is not ideal or practical, I believe, it is something that we need to

consider in this particular case because there is always that consideration, is this in perpetuity, how so, what happens if they sell the project, it goes to someone else. Then, number four, most importantly, this is a good time to create permit parking in the neighborhood. I believe that money that Commissioner Soden has mentioned, and that the project has volunteered to contribute, should be toward some parking resolution. Yes, to permit parking. Thank you very much.

Mayor Amyx:

Thank you. Other public comment? Anyone else?

Melinda Henderson:

Good evening, commissioners. I live in Brook Creek neighborhood, and I think that this is probably my first time down here, commenting on the HERE project. I have jotted down some notes, listening to the comments tonight, and plowing through all the documents. First, I want to thank Scott McCullough for his help today, in helping me find a couple of documents that were referenced that I couldn't find. He was responsive immediately, so I want to make note of that and thank you very much for that. You all accept City Manager Markus, and you will probably get to know me, know that I am a big believer in following our code and following our comprehensive plan, so I don't want to reiterate, please, to please, follow our code. One thing I do want to mention. When Mr. Finkeldei speaking, he was talking about this all started in July of 2014, and I don't believe any of you were sitting here, in July of ...

Commissioner Herbert:

He's been here since that meeting that Ted Boyle referenced earlier.

Melinda Henderson:

Then you got reelected?

Mayor Amyx:

Yes. It's amazing.

Melinda Henderson:

I don't know. I cannot keep track of your terms and ...

Mayor Amyx:

It's unbelievable.

Melinda Henderson:

I don't remember what the vote was then, but the majority of you were not here, and after probably a month, three more of you were sitting here to approve a final development plan, so when Mr. Finkeldei referenced you, I don't consider that you all have the knowledge that he was talking about. I certainly have no idea how everything happened, and we got robotic parking approved, if that wasn't following our code, but we have discovered it now, so now we have to figure how to make the parking work. I know last week Mayor Amyx was very clear that he wanted to get the numbers of what self-park would give us, and that wasn't a lot, around 250-ish. The staff memo recommends approval of the final development plan with the

conditions set forth in the memo. What I see missing from that recommendation is the sentence, "To initiate a text amendment to the land development code for valet parking." I have looked at the planning calendar, to get that submitted by April 18, to be heard by the planning commission at their June 20 meeting, and returned to the city commission by July 5. There is still time to do a text amendment and get it approved if that is the direction you all choose to go, and I would highly recommend that you consider that tonight. However, if you choose to move forward with approval tonight, and don't want to go ahead and initiate a text amendment, I want to ask you all to be very clear with your reasons why you're comfortable not doing that. I've sat through and watched a number of City commission committee meetings where I haven't heard a lot of discussion about why somebody is voting the way they do, and I really do want to understand. If you don't want to initiate a text amendment, and you're okay with that, please go on the record and explain why. I've heard a lot of rumors going around about this, and one of the phrases that I heard is one that I always take very personally. It's that we don't want to be business unfriendly. I do not believe that if we follow our code or discover that we have to amend our code, that that is being business unfriendly.

Mayor Amyx:

Melinda, you have one minute. Okay?

Melinda Henderson:

One minute left? Okay. I think I can do that. I hope you all read the correspondence from Debbie and Charlie NovoGradac because they made some very good points, that 20 years is a long time to put up with this stuff. My last concern, and I hate to bring this up, but it has been bugging me since all this started coming back. We have a lawsuit filed against us right now, YK10, because of following comprehensive plan. They think they did, and you think they didn't. I know that the code is different than the comprehensive plan, but I don't know that, if we don't follow our code at this point in time, would that start a series of dominoes falling. I have a big concern about that, and I don't know if staff could answer that tonight. I have faith in you all to do the right thing, much more faith than I had in the City commission that left this to you. Thank you for your time. I appreciate it.

Mayor Amyx:

Thank you. You bet. Any other public comment on this item?

Commissioner Boley:

I would mention that there is an email from Janet Gerstner that we can get into the record. She wasn't able to be here tonight.

*From: Janet Gerstner*

*Date: April 5, 2016*

*To: Mike Amyx, Leslie Soden, Stuart Boley, Matthew Herbert, Lisa Larsen*

*Cc: [cityhall@lawrenceks.org](mailto:cityhall@lawrenceks.org)*

*Subject: Permit Parking; HERE project.*

*Dear Mayor Amyx and City Commissioners,*

*I am writing, after continued reflection this past week, to share that I strongly feel that the creation of on-street permit parking system for parts of the Oread Neighborhood needs to be an important component of the solution created to try to address the HERE project and its parking concerns. I feel that such a Permit Parking system, along with creation of an offsite well-designed parking garage, combined with onsite valet parking -- are essential components of a workable solution.*

*On-street permit parking has long been needed in certain sections of the Oread Neighborhood, and was almost adopted by the City in 1993-1994 before miscommunication between the City and Oread residents slowed momentum on the issue. Neighborhood residents carried out extensive hands-on research monitoring cars and determining peak parking levels and locations. Additionally the City, and residents, researched existing models of Permit Parking in other cities. This occurred before I moved into the Oread neighborhood, but my understanding was that an effective, cost-neutral plan, and doable model was proposed.*

*Creating a Permit Parking program provides an opportunity for the City and the University of Kansas to deepen their existing relationship working together to achieve positive outcomes. Parking is essential to Oread neighborhood residents; additionally Kansas University students and visitors rely upon and compete for the parking that is available. An acceptable plan will incorporate input from neighborhood residents, the City, Kansas University, and the HERE development group.*

*While I still feel that utilizing the undersized, tandem parking spaces, and valet parking are not ideal solutions, after much reflection I feel that parking as many cars as can safely be done inside the HERE complex will be essential to the health, stability, and future of the Oread Neighborhood.*

*I would like to note that I am pleased to see that HERE has incorporated an interior parking ramp as their way to facilitate elimination of the 11th Street access point and to facilitate eliminating the need to use Mississippi Street for parking circulation.*

*I regret that I will be unable to attend tonight's meeting. I will continue to closely follow this issue. As someone who lived and owned a home in Oread for 10-years two blocks from where the HERE project is now located, I care a great deal about this issue.*

*In summary, I feel these three components provide the best hope of a workable solution to the HERE parking problem:*

- 1) Creation of on-street permit parking system for parts of the Oread Neighborhood*
- 2) Incorporation of an offsite parking garage, utilizing underground parking and designed to be compatible in scale and design to the historic Oread Neighborhood*

- 3) *Use of valet parking to park as many cars inside the HERE complex as can safely be accomplished.*

*I deeply appreciate your consideration of my comments, and I thank all of you for the time and effort you are putting forth on this issue.*

*Sincerely,  
Janet Gerstner*

Mayor Amyx: Okay. Any other public comment on this item? Okay. Thank you all. Back to the commission. Does the commission have any other questions of anyone who spoke tonight or of staff or anyone?

Commissioner Herbert: Scott, what are your thoughts on the timeline that Ms. Henderson mentioned, regarding a text amendment and being able to approve by July 5, I believe it was? Does that seem reasonable?

Scott McCullough:  
Planning and Development  
Services Director I would stretch it out a little bit based on my experience with parking in the Oread neighborhood and parking in general. We have actually had a text amendment in process for a couple of years now related to parking that has been before the planning commission several times, and so, in a very best case, for a pretty clean project, we have a submittal calendar that we use, and if it's in by a certain date, it gets scheduled to the planning commission. For something like this, we would have to research number of codes. We would have to build some language, draft language. Typically that would go to the planning commission. Something like this, it would be bound back to staff for more direction and then back to the planning commission. In a perfect world, it could work that quickly, but it would be a challenge, I believe.

Mayor Amyx: Scott, would it be safe to say that we don't have to rewrite the entire parking code.

Scott McCullough:  
Planning and Development  
Services Director Sure, that's fair.

Mayor Amyx: That we can just talk about that amendment to that that dealt with valet parking, the citywide valet parking deal?

Scott McCullough:  
Planning and Development  
Services Director That's one option.

Mayor Amyx: I think that is something that we can do as something that would start. We can initiate that. My whole goal in all this and, Jim, so that you know, and everybody involved, when I asked the question about how many parking spaces that you have, all I want to do is be able to follow the code. Now, we are going to have questions

whether or not valet system versus the robotic system, are they one and the same, and the way that they're wear out, and that's fine, but I want to make sure that your project remains code-compliant throughout this process. My idea was, when you asked you and you presented me with 243 spaces, I was going to say, we need to come to some kind of agreement on this. You're renting apartments. We realize that this is going to start in August and realize that you need help to make this happen. My recommendation was going to be that we give you 50% as the occupancy rate that you can be at. You've told me that you are a little bit higher than that, and I can understand that, but we can look at those things, and I know that you are going to continue to rent, so we are going to look at it. Melinda, so that you know, one of my recommendations to the commission was going to be to initiate valet systems so that he could have it in place along with anybody else that wanted to use that system, but I think, Jim, as you pointed out, there will probably be very few that will come up and ask to have this done in the future, so I think there are ways to get it down and keep you code-compliant through this entire process. The idea of the permit parking, obviously, we do have a couple of places in Oread right now that we can point to where it seems like it works. Maybe it's something that we can look at now as something that is reasonable. I don't know without having everything there. I know it's got to be tough. It would have to be terrible to try to find parking places as I go to events up and around the university, as we all do, and realize that it's a problem. So everybody knows, my whole motive, if you will, in all of this, is to make sure that your project was made code-compliant as I saw it, and as I read it, and make sure that you have ample parking to take care of what you have done to date, to allow you to proceed with the other parts of your plans for parking, and also to have us initiate a plan that deals specific with valet parking for the city of Lawrence, to be able to take care of the problems that may exist in your building, and then that way it is compliant throughout. Anyway, that is my ideal.

Commissioner Larsen: Is there more public comment?

Mayor Amyx: Oh, anybody can comment. Go ahead, please.

Vice Mayor Soden: I am concerned that if we were to add valet parking to our code, then we do create a precedent where future developers would use it, and that is not something that I am really interested in doing.

Mayor Amyx: Vice Mayor, we probably have a little bit of difference of opinion there because I think, if we write something, it ought to be so that it is not just for the HERE project itself. I hate to write code that deals with site-specific. It doesn't seem right, but that is something that I would have to work through, but I think that if you are going to write a change to our code, it had better work throughout the community. Okay? We need to be careful with that, in my opinion.

Vice Mayor Soden: Yes. Is it possible to accomplish that in an ordinance instead of adding it to a more generic code, make an ordinance for the HERE project?

Commissioner Herbert: No, I think, we have to be consistent for all projects.

Mayor Amyx: There's going to be probably some people that say that if we were to direct Scott to initiate a valet code change, I'm just guessing, it's probably going to look like it's designed for the HERE project. Correct?

Scott McCullough:  
Planning and Development  
Services Director

It will be flexible.

Mayor Amyx: Okay. I'm just going to guess that it's probably not that flexible, right?

Scott McCullough:  
Planning and Development  
Services Director

Well, again, we haven't done the full research to know what's out there.

Mayor Amyx: I'll give you the benefit of the doubt, but it's got to be a code that I think is written for the entire community.

Commissioner Herbert: I'd kind of disagree, I guess, a little bit with disliking valet. I don't know if anyone will ever use this beyond your group but I think that long term, valet will present us some options in terms of accommodating density in a community as we talk about all these ideas of new urban-ism and stuff like that. How do we accommodate building density in downtown, where there exists no parking and I think as we look at opportunities for valet parking, we have the opportunity to put a whole lot of vehicles in a small space. The alternative to doing that, if we reject valet parking completely, is we end up tearing down homes in the Oread neighborhood to throw up garages. So I want to be really careful that we don't come across as chasing off the notion of valet. Like I said, I don't know that anyone will ever use it again after this, particularly after your experience but I think we ought to leave it open as an option. That being said, if we're leaving it as an option, we need to be consistent. We need to be predictable. We need a code for that option. Therefore, I think that there does need to be a text amendment initiation occur tonight to where we are going to develop a valet code. The timeline of that, do we offer some flexibility for this project knowing that there's an August 1st deadline? Perhaps, but we do need a code so that we can follow it for future projects that choose to make use of valet, that choose to give us that opportunity for density, that works instead of throwing up buildings in the middle of downtown that offer eight parking spots. That's not really where we need to head.

Scott McCullough:  
Planning and Development  
Services Director

Mayor? I might just offer on that discussion that Commissioner Herbert just brought up about, in the decision tree regarding do you allow HERE to move forward and we have some more timing flexibility on a valet parking proposal anyway, then you could direct us to integrate that into the existing text amendment, probably would be a little more extended time, but we could bring that back to you in the context of the entire code of parking. If it needs to be more immediate, then we would need a new initiated text amendment and move that forward rather quickly.

Mayor Amyx:

My direction would be is that it needs to be more immediate. We need to deal with this so that this applicant has a project that at least meets code throughout the way that we see it. I mean, we need to push for that. We can talk about parking all night long, but you know, as we do. I'm trying to bring in my little parking meter now.

Commissioner Larsen:

I agree that we need a text submitted for valet parking. I think that just what Commissioner Herbert said was about wanting more density downtown, wherever we decide to build, that we need to make that an option, a very viable option. The second thing is, with the Oread neighborhood permit parking, I'm a strong supporter of that. I would like to see that run concurrently with the valet parking, something along to get it moved through the system quickly so that they can have that assurance. Then the other thing that I've struggled with since the beginning of this, since we've heard it, is the applicant brought it up tonight. That is that we approved this back in 2014 and it was never in code to start with. So they built their entire project based on that approval and I really struggle with going back and saying, "No. You have to redo the whole project to where you have to be code." I don't know if that's going to get us into a legal situation or not. Maybe Toni or Randy could speak to that, but I really believe that for us to go back and demand something totally different. I'm having a hard time with that.

Mayor Amyx:

Commissioner, I've had the same struggle but mine is with making sure that we get this as code compliant as I think it should be.

Commissioner Larsen:

No, I don't disagree with that.

Mayor Amyx:

My whole deal in this is to make sure that they're able to proceed with their project, we're able to talk about the valet parking system over the next several months, have that in place so that when they come and they apply or whatever has to happen to be able to meet this valet section, that they were made as close to code compliant as we can possibly make it. That's all it is. If we can do that, I think it works for everyone.

Commissioner Larsen:

I can live with that.

Commissioner Boley:

I guess I'm coming at it from a little bit different place. I'm thinking about the resource utilization of that building. If there are 510 parking places in that building and we only allow under our code 250, it seems like our resource utilization is not recognized by the code very well at all. So we probably do need to be able to amend our codes so that resources can be utilized effectively. We've heard from a couple of different attorneys tonight. We have a staff recommendation. I guess what I'd like to do is ask the City Manager if you have any guidance for us on this.

Tom Markus:  
City Manager

I'm sitting here listening to conversation about trying to make it code compliant with valet when it wasn't code compliant with the mechanical system either using the same kind of logic, it seems to me. You didn't have an ordinance in place that permitted mechanical parking either. I think there're valet parking systems in place in this community currently and we don't have an ordinance that addresses that. It seems to me that they've moved ahead with authorizations from this city. They've made investments. A third party who they had contracted with to build this mechanical parking system went bankrupt. I checked with Champaign. I found out the sequence of events. I think they responded as timely as I think was appropriate. But to argue that we should have a valet ordinance before we would move forward with allowing them what I think to be a fairly logical, reasonable approach to move forward. Unless we have a valet ordinance, I think that sets up another hurdle. Do I think that we should have a valet ordinance? Yes. But in the discussion we had about valet ordinance, are you going to address the issue of allowing smaller parking spaces in a deck? Are you going to address the issue of smaller aisle spaces in a deck that valet would use versus a self-park. My familiarity with valet parking is usually you're dealing with those issues on the street and valets are parking those vehicles in spaces that already meet the code. Someone here, as I've been told, not the majority of the people sitting up there today, approved this. So the developer had reliance or a right to rely on that approval, moved forward with that decision. What I see is a fairly reasonable approach. I think that the neighborhood has concerns. I'm used to permit parking in previous places where I've been employed. I know it works. It's probably something that should've been deployed up in that neighborhood years ago. It sounds like they've been complaining about it for years. But to tie bar this situation at this moment to permit parking, I don't think that's a burden that should be placed on this particular project. The developer didn't deliberately create this situation and the city partnered in the decision making process that led to the dimensions that are used in this parking deck. To argue that we should require valet parking, whether that's just the ordinance that's addresses the street movement or if that also addresses the size of the structure that would be associated with valet, personally I think the approach here is reasonable that the developer is proposing. I

know I'm early in my career here and this is not sitting well with a certain part of the population in this community. I get that. But I look at this and I say you have 2 choices. You can go down the path of trying to reach a reasonable settlement with this particular developer at this time. We all know what's driving the timing right now. Don't we? Because everybody turns over in August just like they did up in Iowa City so this developer's pushing. So the reality is, if that doesn't happen, there's some damage created. The reality is the other course of action is to give them way less parking and therefore way less occupancy. Is there an argument that damage could be made in that situation? I believe there is. I'm not legal counsel and I would suspect legal counsel going to be reluctant to comment on this because she doesn't wish to argue the other side of this issue. But I think when you ask about advice from me, I look at this is a relatively reasonable approach. I also think the neighbors have a very reasonable request, especially the permit parking. The valet parking issue is not just as simplistic as I think people are trying to make it out to be. In fact, what I think will happen is, you'll end up with a valet ordinance that addresses the street movement and it'll move cars into an environment that probably meets code in terms of the dimension of the space and the dimension of the alleys if it goes into a deck or if it's on the street, you'll have provisions that can move the places into a street parking space. I don't think you're going to be able to get to the point where you can address the size of the structure in a valet ordinance and therefore this building was built with concurrence and approval of this city commission. So my take is, it's a question of reasonableness and if you go down the path where it is reasonable, then I think you grant approval. If you say it's not reasonable, I think you do risk. It's an option for somebody to pursue litigation and they're not just going to pursue litigation for the fun of it. They're going to pursue litigation because they feel that there is a damage associated with that issue. I tend to be pretty direct and in my opinion, I think they've offered a reasonable solution.

Commissioner Boley:

Thank you Tom.

Mayor Amyx:

I have 1 thing and I think that you were getting ready to bring it up was, I can't forget and I recommend to this commission that we don't forget, that we partnered with HERE and with the expectation that that robotic system would be there. That was one of the investments that the previous commission made based on the application and going through the public incentive review and everything about it, was because it was expensive to put that parking system in. So I think that we've been talking parking here for a long time.

Tom Markus:  
City Manager

I had a thought come into my head while you were saying that. It seems that in this particular situation, that you didn't have a code in place for robotic parking when we approved this. Okay? So we

approved something without the code. The question I asked Scott earlier in the week: did we grant a variance from our standards, which Scott indicates that we used both on surface lots and in decks, of the dimension of the parking space and then aisles. So to suggest that we need code compliance now, I argue you didn't have code compliance when you approved this to begin with. Maybe that was a flaw at the time. My kind of past practice or past experience would suggest that maybe this required a variance from the very beginning and it wasn't granted or it wasn't pursued that way. It was approved as a part of the development. Maybe Scott wants to chime in on that argument but I think it's good to have these conversations out and hear both sides of what at least I see in this situation and I don't have the history that you folks do with this issue but that's what I've seen in reviewing the documents and the transcripts so far.

Scott McCullough:  
Planning and Development  
Services Director

But by virtue of presenting the preliminary development plan and final development plan to the governing body at the time, it received all of its approvals with either explicit or implied variances to the parking system. So it is code compliant in that it received its approvals from the governing body for its use and we were all kind of using creative juices at the time to think, "Oh, it's kind of an exciting project." A lot of discussion about it being a new technology to the community especially but at the end of the discussion, it was an approved element of the project.

Commissioner Larsen:

Something you said a little bit ago is if it's approved by the governing body then its code compliant at that point.

Scott McCullough:  
Planning and Development  
Services Director

Well, that's how we generally perceive it, that it received all of its approvals.

Commissioner Larsen:

Okay.

Mayor Amyx:

Anyone else? Any other questions or comments? Okay. So we have a number of things that we really need to take into consideration here, as I've got to figure. The applicant has presented us a plan that maintains, was it 510 spaces in the garage. So the question comes in now, we've had the discussion about the code and what is the code and where it should be. Is the commission, and this is where we need discussion, are we comfortable with the plan as presented, with the 510 valet spaces that exist? We would be allowing, as I understand is presented, that valet system to work without a code. Is that right? Without a written code of the city.

Commissioner Herbert:

I know they can't disclose what this additional parking option is, but did we know how many spots that would be?

Mayor Amyx:

Jim, can you come up?

Jim Letchinger:  
HERE @ KU

It would be at a minimum 69 spaces which finalized our total count that's required and it is intended to be done without a parking structure.

Tom Markus:  
City Manager

Could I comment on that as well?

Mayor Amyx:

Please.

Tom Markus:  
City Manager

I spoke to a university representative about this because I had implored the developer to come forward and reveal where that was, what that was. I think there's still a negotiation going on, but the university reached out to me on that issue and said that that's moving forward and they had every confidence that that would be taken care of as well. But I suspect that it may result in a further review by this commission before it's actually finalized.

Vice Mayor Soden:

That's something I would want to expedite rather than adding valet code. I'd rather have planning working on that. It was either or.

Commissioner Herbert:

Tim had mentioned that the additional parking would be done by August 1st so I do think that's something we can keep in the back of our mind here as we're making a decision tonight is that ultimately by move-in day, we're going to have an additional 69 spots.

Commissioner Larsen:

For some reason, I was thinking you needed more than that for the parking. You're asking for 510 and you only 69 more beyond that.

Commissioner Herbert:

On the street.

Commissioner Larsen:

Oh, 108 on the street. That's right.

Commissioner Herbert:

Yes, we had said the 108 were for commercial count only. Correct?

Scott McCullough:  
Planning and Development  
Services Director

Well, they need 88 to accommodate the commercial. 88 of the 108, yes.

Commissioner Herbert:

Okay.

Scott McCullough:  
Planning and Development  
Services Director

So it's fully accommodating.

Commissioner Herbert:

So that buys them what, 20 additional?

Scott McCullough:  
Planning and Development

Right.

Services Director

Vice Mayor Soden: I don't know if comfortable is the word that I would use for this but I feel like this is the next step forward that needs to happen.

Commissioner Boley: I'm going to go back to resource utilization. I mean, if we can get 510 cars in that building, that's what we ought to do. I'd rather have them out there than building parking structures.

Commissioner Herbert: We have to be real careful how we say that though because there're a lot of things that you can do that don't pass code and I don't think we should set a precedent.

Commissioner Boley: I understand that. Given the fact that it's nearly built, it's a little different than, to me, but I'm coming at it from a different place. Okay?

Commissioner Herbert: Yeah. I've had a lot of projects where I sure wish I could've said, "We're pretty close to code. Good enough."

Commissioner Larsen: If this would've been raw ground, then would be the time to reevaluate how that's done, but we've got a building.

Commissioner Herbert: I don't want to tell Candy why she's got 250 cars more in the neighborhood than she could have.

Mayor Amyx: Okay. So the 510 valet parking places are okay without having the valet code in place?

Vice Mayor Soden: I would say acceptable. I wouldn't say okay or comfortable.

Commissioner Boley: Well, I mean, the word that our city manager used was "reasonable".

Vice Mayor Soden: Reasonable. That's a good word.

Commissioner Herbert: If it's being done in concurrence with the development of a code.

Vice Mayor Soden: I think the quarterly reports, too, will help us make sure that, how many are actually being used, will help with enforcement.

Mayor Amyx: Okay. The plan maintains the 108 on-street metered spaces. Then it revises the mix of commercial uses from restaurant use to a mix of restaurant and retail uses as in the report. This is coming from the developer, Scott. You've included all of this as part of all of our stuff?

Scott McCullough:  
Planning and Development  
Services Director

Right. We've reviewed that.

Mayor Amyx: Okay. The 100,000 dollars generated from the parking meter revenue, Vice Mayor, your recommendation was to put this back into the parking fund?

Vice Mayor Soden: Right. That might help fund any permit parking that we might want to do as well.

Commissioner Boley: I guess one comment I'd like to make on that is that if we're going to put the money in the parking fund, I think it makes perfect sense to put parking money in a parking fund. I'd like to make sure that our parking fund actually operates as an enterprise fund so it has revenues and expenditures that are associated with parking and not other unrelated items in that fund.

Mayor Amyx: Okay. Then we have the recommendation from staff is approval of the final development plan with the conditions that have been set forth in the memo. They are listed on our report, items one through five. That's correct. Then authorization to the City Manager to execute an agreement with HERE outlining additional undergoing performance requirements for the project and then, again, setting the parking meter fee and the fine scheduled for Mississippi Street, Indiana Street parking meters and direct staff to submit an adopting ordinance for future consideration. Fourth one would be the initiation of the valet parking code. That deals specifically with valet coding. Go without doing the entire parking code. Last week I brought up, or a couple weeks ago I brought up on that roof, the speakers as big as those doors and the TV system that I understand everybody loves to have and calm that down.

Jim Letchinger:  
HERE @ KU Just for the record, that will definitely close at 9:00 p.m.

Mayor Amyx: Okay, even better. Other conditions of this item.

Vice Mayor Soden: They already changed the flow of the intake so I appreciate that.

Mayor Amyx: Okay.

Commissioner Larsen: I know this probably isn't part of it, but I don't want to let loose of this Oread permit parking. I really want to see that move forward along with any sort of valet parking, anything to do with making sure that neighborhood has some right to parking there. I really wanted that to move forward soon.

Vice Mayor Soden: Me, too.

Scott McCullough:  
Planning and Development  
Services Director Mayor, may I speak very briefly to that? We actually have a report for the commission on that that I think you need as a first step. It actually outlined a series of recommendations to address the permit or to address parking in Oread and kind of a menu of

recommendations. I think maybe the first step would be to present that report to you and have you at least get familiar with it. It came out of a day and a half worth of work from an EPA grant that we did several years ago so it's a pretty healthy look at the issues.

Vice Mayor Soden:

Yeah. Let's do that.

Mayor Amyx:

Okay. So present that and we can consider initiation of that at a separate date.

Scott McCullough:  
Planning and Development  
Services Director

Correct. It's going to involve a lot of different stakeholders and organizations.

Vice Mayor Soden:

Are we expediting the valet code or are we just going to let it run a more natural course?

Mayor Amyx:

I think we ought to direct Scott... I'm going to take that up as a separate deal. The items then that we have to--.

Commissioner Herbert:

...real quick math question here. So we're at 510 with valet, right?

Mayor Amyx:

I keep adding, yes.

Commissioner Herbert:

We add 69 spots with the auxiliary parking, whatever that looks like. We buy ourselves 20 spots on-street, due to the changing from restaurant to commercial and restaurant. So that's 510 ...

Mayor Amyx:

Come up with 625.

Commissioner Herbert:

Plus 89, that puts me at 599. When do we complete this project?

Scott McCullough:  
Planning and Development  
Services Director

Commissioner, I've not studied any of the numbers that Jim's mentioning. There were about 36 shared and bonus spots in the calculation of original approval that has to be calculated in as well. So that may be where we're making up the ...

Commissioner Herbert:

Where are these spots at? These shared 30?

Scott McCullough:  
Planning and Development  
Services Director

There were, I believe 35 shared spots that he got credit for in the overall total of parking that were shared between the mix of uses and then there was one, I think, bonus spot that was part of the equation. So when this was originally approved, the parking was calculated kind of as a pool of parking and then there was some relief given through the code for sharing a certain number of spots.

Commissioner Herbert:

And that sharing is presumably part of that 108.

Scott McCullough:

That sharing is part of the total number of spaces. So that's

Planning and Development Services Director always been calculated in the total number of spaces.

Commissioner Herbert: Okay. Because I left here with the understanding that we were counting the 108 exclusively for commercial. Then I understand we did the little math trick to make 20 of those shift but I don't get ...

Mayor Amyx: Jim?

Commissioner Herbert: Can you get me to 624?

Jim Letchinger:  
HERE @ KU To be clear, we're providing 618 spaces which, per the original underlying approval. We're not changing any of the uses or anything that we'd got in the underlying approval. Quite frankly, if you would like us to build more than 67, we can deliver probably an extra 20 spaces on that additional lot. So we will provide 87 if you like. We might even have more than that. What we don't know is, until we do our engineering, how many we will have. So we gave you the very minimum but we're not trying to avoid anything that wasn't previously agreed to. This is the exact parking count that we've always had. But, we can build more spaces on the off-site parking.

Mayor Amyx: So, again, add up where you get 620 from.

Commissioner Herbert: I just think we've got to get to 624 without magical shared spots appearing.

Mayor Amyx: Scott, I think you need to show us 624 spaces somewhere.

Jim Letchinger:  
HERE @ KU At the end of the day, this will get all of the number of spaces to fully occupy the building that they need.

Commissioner Herbert: Because it has to for the NRA.

Jim Letchinger:  
HERE @ KU It has to. It has to for the code and for the NRA, yes. There were 685 spaces required. There were 577 spaces in the robotic garage.

Commissioner Herbert: I'm fighting for you because... You need to make sure you get to 624 because if you don't, you haven't met completion of NRA.

Jim Letchinger:  
HERE @ KU We have the 510 plus the 108. 618.

Commissioner Herbert: But those 108 don't count toward...

Jim Letchinger:  
HERE @ KU They're putting part of our overall approved parking count. They were part of the 685.

Commissioner Herbert: Okay.

Jim Letchinger:  
HERE @ KU So then the additional 67 that we're building gets us to 685 which was the original approved count.

Commissioner Herbert: Okay, so we never actually get to 624 specific to occupancy without that 108.

Scott McCullough:  
Planning and Development  
Services Director Without the 108, right. The 108 incorporated, is included...

Jim Letchinger:  
HERE @ KU Yeah. The overall 685

Scott McCullough:  
Planning and Development  
Services Director The overall 685 is commercial and guest and employees and residents.

Mayor Amyx: Mixed use.

Commissioner Larsen: Yes. We have that in our spreadsheet here, 624 for parking. I wanted to add one thing. This also includes that they are not going to get an occupancy permit for a certain number of units. Is that correct?

Mayor Amyx: 31.

Commissioner Larsen: 31 units? So that's included.

Mayor Amyx: Based on everything that you've seen, do we believe that there're 510 valet parking spaces in that building? At 7 and a half feet apart.

Commissioner Larsen: Are we going to count them?

Mayor Amyx: Am I going to count them?

Scott McCullough:  
Planning and Development  
Services Director We'll count them, yes.

Commissioner Boley: And what percentage would be seven and a half feet? Is it 20% for seven and a half feet?

Jim Letchinger:  
HERE @ KU I don't have the exact number, but I believe it was 22% for seven and a half feet.

Mayor Amyx: Okay. Does anybody have any other questions then on the final development plan?

Vice Mayor Soden: Enforcing the parking meters, it says in here that we're going to draft an ordinance for future consideration. Do I need to say now that I want to see those fairly heavily enforced or should I wait until when we actually work on the ordinance?

Scott McCullough:  
Planning and Development  
Services Director The ordinance just sets the fine schedule for the enforcement. I think if it had a direction on operational direction, it may be time to talk to us about that.

Commissioner Larsen: I know Teri said in her memo that we would be doing it up to 2 times a day.

Vice Mayor Soden: I'd like to do it more often than that if we can.

Scott McCullough:  
Planning and Development  
Services Director Mayor, if I may, in discussions with Terri Pierce, who's here by the way if you have questions specifically for her, is that we're going to have to get into the operations for a few months to understand them and monitor them and to determine what level of resources we have and what impact that is to downtown and what the fine revenue is coming in as well to see what we have as resources for funding any improvements if they're necessary. Our assumptions are that a couple of times a day, going up to enforce at this location, can be absorbed in the day-to-day operations today.

Mayor Amyx: With the great, efficient department that Teri runs and how often I see since folks come around and hit my car.

Commissioner Larsen: How much have you spent?

Commissioner Herbert: You know, there's a solution to that.

Mayor Amyx: There probably is. They do a great job. This is going to be a super operation on the meters.

Commissioner Larsen: I do appreciate that Teri had indicated in her memo that they could absorb it and not immediately ask for staff on that. I really appreciate that.

Vice Mayor Soden: That's part of why I was glad to see that we're getting some of the fees back because I think we're going to spending a little more and I do want us to look at perhaps credit card meters, things like that, as a pilot project that I talked about last time. Because while school is in session, I think it needs to be heavily enforced but there's a lot of time that school's not in session as well. So I'm not saying Sunday through Saturday, 9 to 6 p.m.

Jim Letchinger:  
HERE @ KU Yes. We are delivering the metering system here and it will be a credit card system.

Vice Mayor Soden: Excellent. That's good. So that might help with our costs as well.

Commissioner Larsen: I'd be in compliance more with the credit card system that's for sure.

Vice Mayor Soden: I'm looking forward to seeing it work.

Commissioner Larsen: Yes. That'd be nice.

Tom Markus:  
City Manager: You raised a question and I got to thinking about ... Matt raised the question about the actual number and asking Scott to verify. I'd suggest that maybe you add language subject to actual verification to the actual amount before that final occupancy is permitted in there. That we would have actually observe how that works and it seems to me that the objective here is to get those cars in that deck and that we should have some responsibility to observe it and be able to verify that before that final number. We're going to give them up to that max, if they can make it, but if we see some operational problem or issue that doesn't get them to that number, we should be able to reduce that number, so verifiable by the staff.

Mayor Amyx: Okay. So that'll be another condition to be added. So, again, the items for the conditions that have been placed on this, does anybody have any questions, comments, about one through five? Any other things to add? I assume the sixth item would be the comments that were brought up by the City Manager.

Vice Mayor Soden: I think we've lemonade out of lemons.

Mayor Amyx: Probably. The first item then, and folks, understand if you question my vote on this, it has solely to do with the parking and the code. I want you to all know that. I appreciate the hard work that you've done in trying to correct a problem but understand, I have concern about it but we'll get there. Okay. So I would entertain a motion then I guess for approval of the final development plan with the conditions listed in the staff report and the additional items that have been brought forward. Was this to include the initiation also of the valet system? That's got to go on the front burner. Correct?

Commissioner Larsen: We can add the Oread parking permit thing. Is that not?

Mayor Amyx: What's going to happen is he's going to bring the report to us and we're going to have that as a separate item over the next week or so.

Commissioner Larsen: Okay.

Mayor Amyx: Or next few weeks, Scott. We can add that to the future agenda item just so that everybody knows that it's coming. We have all the conditions in. Everybody happy? Okay. Then it must be a good deal. I'd entertain a motion of that final development plan with the

conditions as outlined.

**Moved by Boley, seconded by Vice Mayor Soden,** to approve the Final Development Plan, FDP-15-00642, with conditions set forth in staff's memo.

Staff recommends approval of the revised Final Development Plan subject to the following conditions:

1. Sheet 1 of the Final Development Plan shall be revised to include the parking table included in the applicant's "Parking Analysis – Interim Occupancy" document dated March 24, 2016.
2. The Final Development Plan shall include the following notes:
  - a. "This development shall adhere to the Parking Operational Plan dated March 2, 2016 which establishes 24 hour, 365 days per year full-service valet parking operations. Any change in the valet parking operations shall be reviewed and approved by the City Commission. Any use of the garage in a fashion other than that reflected in the Parking Operational Plan dated March 2, 2016 shall be a violation of the Final Development Plan."
  - b. "Residential occupancy of the mixed use building shall be limited to no more than 548 bedrooms unless and until additional parking is approved for the project."
3. The Parking Operational Plan dated March 2, 2016 and the parking diagram labeled "SK# 2 Rev. 9" dated March 29, 2016 shall be included in the revised Final Development Plan and recorded with the Register of Deeds Office as part of the Final Development Plan.
4. ~~During the first year of operation,~~ the owner/operator shall provide a ~~monthly~~ report to the City that reflects the use of the valet parking for the garage. The report shall include information on the vacancy rate of the garage and the peak hour demand for the garage.
  - a. Staff's recommends revising the timeline so that reports are due quarterly for the lifetime of the development.
5. Staff is aware of one instance of complaint due to construction activity impacting an adjacent property. Prior to any certificate of occupancy being issued, the applicant shall satisfy, to the City Manager's satisfaction, any complaints received related to construction activity.
  - b) **Consider authorizing the City Manager to execute an agreement with HERE, Kansas LLC, outlining additional ongoing performance requirements for the project.**
  - c) **Consider setting the parking meter fee and fine schedule for the Mississippi Street and Indiana Street parking meters and direct staff to draft an ordinance for future consideration.**

Mayor Amyx:

Explanation?

Vice Mayor Soden: Is this the quarterly reports and all that?

Mayor Amyx: What all is in this?

Scott McCullough:  
Planning and Development  
Services Director

Mayor, this is the agreement that essentially implements several of the discussion, of the provisions. It requires that the valet parking system be operated 24 hours a day, seven days a week, to satisfy that component of the project. It provides for valet parking systems escrow fund to address the concern that if one vendor goes away, they don't timely get a vendor back in line, online, that we will have some escrow funds to use and some liquidated damages to compel compliance with that. We acknowledge that the valet parking system complies with the NRA substituting the robotic for the valet system. It acknowledges that even with valet parking, HERE is unable to provide sufficient warehousing or self-parking spaces to sustain full occupancy that and they're only allowed residential occupancy for the number of automobiles that can be warehoused. It identifies and defines what substantial completion and parking is to mean that 100 percent of the parking be provided to commence the NRA. It solidifies and reiterates that no access from 11th Street and discusses parking on Mississippi and Indiana Street going toward the commercial component of the project and speaks to the donation that we've talked a little bit about and acknowledges that in addition to providing sufficient parking, there's no entitlement to receive any incentives under the NRA until such time as it complies with alternative conditions of this memorandum of understanding. Essentially reflecting all the provisions you tasked us with a few weeks ago.

Mayor Amyx: Questions for Scott?

Commissioner Boley: That will include the audit that the city manager was talking about?

Mayor Amyx: Any other questions on this? Okay. Thanks, Scott. Any comments on this item?

Jane Eldredge:  
Attorney

I have just one comment and that has to do with number three. Scott, could you roll that down for me, please? Number three is the one that is to the extent that there would be an acknowledgement that the valet parking system complies substantially with the NRA and the NRA requirement that there be automated robotic parking system. I do have an objection to that because what you're saying is that a valet system that requires human beings to park cars is equivalent to the automated robotic system that obviously didn't need to leave space for human beings. Those things are really not the same thing and I would urge you not to say that they are. The reason we need to have, of course, a code is to provide the

appropriate space for the human beings and although the robotic system may not have fit our code, it was approved. We can't change that but once they could no longer deliver a robotic system, we can change whether or not they comply with the code because that's a new problem and we have human beings parking cars rather than automated systems. Perhaps someday in the future, we'll have drones parking cars but until then, I think we need to be clear that this is not a robotic system. Thank you.

Mayor Amyx: Any other comments on the agreement with HERE? The performance requirements?

Vice Mayor Soden: I didn't like the word "complies" either and I think you guys were going to think of perhaps other verbs that might work better.

Mayor Amyx: Okay.

Commissioner Herbert: I do remember that conversation.

Mayor Amyx: Okay.

Vice Mayor Soden: Do we need to spit it out, a replacement word now or...

Mayor Amyx: Just approve the performance requirements and the agreement with HERE, exclude that item and tell staff to bring it back and amend it. That a possibility? Scott?

Vice Mayor Soden: I think they're all talking to each other.

Scott McCullough:  
Planning and Development  
Services Director

This attorney wants to express the intent of this provision.

Toni Wheeler:  
City Attorney

Right, paragraph three, I don't think is intended to state that the valet parking is in compliance with the code. What we are trying to state here is that it satisfies the NRA act and complies with the plan that was approved under the NRA act. We've looked carefully at the requirements of the NRA act. We carefully examined what was in the plan, and yes, robotic parking was references in the introductory section of the plan, but that was an introduction, it was not one of the critical components that's necessary in a plan under the NRA act. This paragraph is only to acknowledge that the replacement of the robotic system, of this valet system is, in our opinion, compliant with the NRA act. If you want to use a different word than complies, we can look at that. I don't want to suggest any words right now because it's a little bit late.

Mike Amyx: Okay. One of the things that we can do there is we can differ

this one agreement for a week until staff brought it back. It could even be a consent item at that point, I suppose. Any problem with that? Okay.

Mayor Amyx:

Next item on the agenda then is consider citing the parking meter fees and fine meter schedule from Mississippi St. and Indiana St. parking meters. Direct staff to draft and ordinance for future consideration. That's pretty well laid out on what it's going to cost per hour and what those fines are going to be, who gets the money when and where. Right?

Scott McCullough:  
Planning and Development  
Services Director

Yes sir.

Mayor Amyx:

Any questions or comments on that item?

Marci Francisco:  
Senator

I was out of line earlier I think earlier when I talked about permit parking and this seems to be an appropriate time to be out of line again. I just wanted to acknowledge, because you're talking about parking and fines that I felt it was a very important thing to bring up. I think it is part of the mix of how we might control this if we think about permit parking. I do not expect it to be initiated as any part of this agreement. I hope to go on record in the paper if they report this that I acknowledge that there are other people in my neighborhood who may disagree or have other interests, so I appreciate the comment that Scott made. Also, I think we have an opportunity in our next review of the overlay plan to at least identify that as an issue for the Planning Commission and the Historic Resources Commission. I appreciate your interest but actually hope that you don't do anything about permit parking tonight. Thank you.

Mayor Amyx:

Thanks. Okay other questions or comments on this item?

Commissioner Herbert:

Mayor, could we go back to the second item? If we defer that, obviously the third point we've got issue with a word that's in there, but there's a lot of that language that holds them to a contract that I'm really uncomfortable giving them a final development approval without language that holds them to substantial completion, substantial parking measures. Basically, what we just did was we gave them final approval and then said but we're going to defer any language that actually ties them down, and that's a really bad idea.

Commissioner Boley:

I think it's, consider authorizing the City Manager to execute the agreement. They can deal with that, right?

Mayor Amyx:

The agreement will be in place if we approve it tonight, and it will require them to adhere to everything that's there. How do we handle the question if the valet parking complies? What is the

language there?

Toni Wheeler:  
City Attorney We can use a different word other than complies, we can say satisfies. The neighborhood revitalization act performance agreement, we can say that it is a reasonable substitution for.

Commissioner Herbert: I like that one.

Vice Mayor Soden: Reasonable substitution.

Toni Wheeler:  
City Attorney Sorry I couldn't think of it up there, but once I sat down ...

Commissioner Herbert: Sorry, I just kind of like floated right over that.

Mayor Amyx: We'll get to the parking meter funds and the cost sharing agreement that's coming up. We're okay with the parking meter revenues and the fine schedule. Let's talk a minute then about this revised cost-sharing agreement.

Vice Mayor Soden: Do we need a motion for C separately?

Mayor Amyx: We're going to get to those in a minute.

Vice Mayor Soden Okay.

Mike Amyx: After we've gone through all of the work we find out its going to cost us a little bit more on our participation, correct?

Scott McCullough:  
Planning and Development  
Services Director Chuck, did you want to show some information about this item?

Chuck Soules:  
Public Works Director The revised cost sharing agreement basically includes the adjacent parking sidewalks on basically Indiana and Mississippi and the contract we're having a pretty difficult time trying to bid on a city project, which was the street, and then having to butt into or work with potentially another contractor who might get the project done, the private side, or on the HERE side the angle parking and they're supposed to connect. We've got with the development group and we decided to bid it all as one project, we hoped to see better bids, but the original bid did come in. Our share was \$258,000, so it was a little bit more than we had estimated way back when we started the project. But the HERE group has, again, they have submitted at least their share of the first part of the contract where we cost-shared out Mississippi and on 11th Street. We've already received those funds and we're just waiting for the bids for the additional work and when it all comes in as one passage then we'll reconcile it and this agreement will allow us to go ahead and proceed and basically commits the HERE development to providing their

share of the money before we actually bring it back to the commission to award.

Mayor Amyx: Did we attempt to renegotiate that part so that we would remain at the \$214,000?

Chuck Soules:  
Public Works Director That's in the agreement specifically, we won't be over that amount.

Mayor Amyx: Okay.

Chuck Soules:  
Public Works Director We've already had a bid, it can go less but it can't go more.

Mayor Amyx: Okay. Any questions of Chuck? (None) Okay, thanks Chuck. Any comment on that either? (None) Okay, thank you all. Okay, item number B. Let's go back and consider authorizing the City Manager to execute the agreement with HERE LLC outlining the additional performance requirements for the project. The language is proposed by the City Attorney. Toni, again what was that?

Toni Wheeler:  
City Attorney A reasonable substitution or something along those lines.

Vice Mayor Soden: That's fine with me.

Commissioner Larsen: That works.

Mayor Amyx: You all happy with that? Okay. Any other questions on any part of this agreement? Commissioner you bring up a very good point, we've got to have an agreement to make sure that we hold everyone to the fire.

Commissioner Herbert: I didn't mean to jump on you like that, I was just a little afraid we were going to make a big old mistake, add to the pile.

Mayor Amyx: Part of the deal. We'd sooner or later get there. Okay. I'll tell you what, I have trouble with the valet park just because we don't have a code, but I do believe we need to have an agreement in place that holds everybody in place. I want everybody to know that personally I may have an objection to the valet parking system and whether or not it complies with the NRA and all the stuff that goes along with it, but Commissioner I appreciate you bringing it back up, that we need this in place, so I will be supporting this item. I would entertain a motion then to authorize the city manager to execute the agreement with HERE Kansas LLC.

**Moved by Commissioner Herbert, seconded by Commissioner Larsen, authorizing the City Manager to execute an agreement with HERE, Kansas LLC, outlining additional ongoing performance requirements for the project. Motion carried unanimously**

**Moved by Vice Mayor Soden, seconded by Commissioner Boley**, to set the parking meter fee and fine schedule for the Mississippi Street and Indiana Street parking meters and direct staff to draft an ordinance for future consideration. Motion carried unanimously.

d) **Consider approving the revised Cost-Sharing Agreement.**

Mayor Amyx: Again, let's go back, the maximum amount we can pay is 214, is that what you said Chuck? Plus the 44?

Chuck Soules:  
Public Works Director Right.

Mayor Amyx: Okay. And again, how much additional is that that we're having to come up with?

Chuck Soules:  
Public Works Director The original estimates were the city share was going to be approximately 150, or that's what we had budgeted, and then through the design and then through the bidding of the actual costs for our share, which is only the travel lanes on Mississippi, and we share 50/50 on 11th Street. That was really an issue after we had decided we were going to do Mississippi we kind of started taking a look at the condition of 11th Street and HERE agreed to participate with us to rebuilt that so that was a 50/50. Our budgeted amount was 150, and we'll be able to cover this through the infrastructure sales tax.

Mayor Amyx: Again, we rented 150 and now we're going to 250?

Chuck Soules:  
Public Works Director That's what the bids came in at. Our agreement with HERE was basically 50/50 on 11th Street and 50 percent of the cost of the travel lanes on Mississippi. When the bids came in our 50 percent was 214, plus the other 44 for the sewer lane work.

Mike Amyx: Our costs when up that high just because one contractor may run into another one?

Chuck Soules:  
Public Works Director We were trying to get the sewer line work in over spring break. Do you have some other information?

Randy Larkin  
Senior City Attorney I just wanted to point out that was what the cost was going to be originally for us under the original bidding. We capped at 258 so that if the bids come in higher we are exactly where we would have had to pay under the original cost sharing agreement. We are not paying any more than what we had anticipated previously.

Mayor Amyx: Okay, because as I read this it was like we were paying another \$108,000.

- Randy Larkin:  
Senior City Attorney
- Under the original cost sharing agreement that was our share. Under the revised cost-sharing agreement then we're capped at that level. If the bids come in higher then we don't have to pay any more, if it comes lower then we get a better deal.
- Mayor Amyx:
- Okay, so we're not going a dime higher than we were originally.
- Randy Larkin:  
Senior City Attorney
- It might be less depending on how the bids go.
- Mayor Amyx:
- Okay, that's what I need to know. An extra \$108,000, I just thought I'd bring that up in conversation. Okay, everybody understands it, everybody's okay with that? Okay. I would entertain a motion to approve the revised cost-sharing agreement.

**Moved by Commissioner Larsen, seconded by Commissioner Herbert, to approve the revised Cost-Sharing Agreement. Motion carried unanimously.**

The City Attorney's Office recommends leaving the existing Development and License Agreement, proposed Cost Sharing Agreement, and the NRA Performance Agreement as they are and entering into a separate agreement with HERE, to clarify the thresholds for eligibility with the existing NRA Performance Agreement and add requirements that will address other issues including:

1. A provision requiring HERE to staff valet parking 24 hours a day, 7 days a week. The agreement will require HERE to deposit money in escrow with a liquidated damages provision in the event that the valet parking terminates and HERE does not replace the operator within 72 hours.
2. An acknowledgement that the proposed valet parking and future approved parking complies with the existing NRA agreement that references robotic parking.
3. Substantial completion of construction, for the purposes of the NRA rebates, shall be interpreted to mean that 100% of the parking to accommodate full use of the building would be provided. If HERE is not compliant with this provision by December 1, 2016, the first year of NRA eligibility will be lost. A similar annual timeline will determine eligibility for future years.
4. Assuming that it is feasible to access the second floor of the valet parking garage through the interior of the HERE mixed use development, a provision prohibiting vehicular access to the building from 11th Street.
5. A provision setting forth the pattern of ingress and egress from Mississippi Street to the valet parking garage.
6. A provision to the effect that all parking on Mississippi Street and Indiana Street needed to accommodate the planned commercial use will be allocated solely to commercial uses within HERE's mixed use development and that all commercial space within the building will be available and eligible for occupancy at the time any Certificate of Occupancy is

issued. HERE shall agree to endeavor to fill as much of the commercial space as possible.

7. A provision stating that HERE shall develop and implement a plan to provide the full amount of parking required to bring HERE's mixed use development to full residential and commercial occupancy.
8. A provision stating that HERE shall not be eligible for rebate under the NRA Agreement until all of those conditions are met and continue to be met.

The City Commission recessed at for approximately 10 minutes at 8:22 p.m.

The City Commission reconvened at approximately 8:32 p.m.

## 2. **Discussion of Mayoral terms.**

Mike Amyx:

Just so that everybody knows last week I had talked to Tom and Diane about placing this item on the agenda as that we needed to have the discussion. Normally in the old days of tradition, next Tuesday night we would've selected, we would select a new mayor and obviously with the change in the election laws that deal with the timing of when we run for office going from the first Tuesday of April to the first Tuesday of November for the general election, it changes the way the governing bodies in the state have to set up the procedures. Toni did put together a memo that told us any number of things that we have to do and the directions that we have to give the staff to prepare as I understand it, Toni, the necessary ordinances or necessary ordinance that would outline everything that we have coming up next year from filing deadlines being June 1st and the odd number year and then we would now file with the county election office, the county clerk, rather than the city clerk as has been done forever. Do I understand it right, and I want to make sure that this is right in your memo, that it provides the governing body with the opportunity to hold partisan elections after passing ordinance? Folks I wholeheartedly recommend we don't do that, that's not right, but anyway, that's just me. Again, the item that talked about, we can give the direction to staff to prepare all those items and do it but the term as mayor obviously is something that the commission selects its leadership and that's kind of where we are in this thing. We know that a new commission will be seated. This is where I get a little fuzzy, second or third week of January... Second Monday?

Toni Wheeler:  
City Attorney

It's the second Monday.

Mayor Amyx:

Okay, the second Monday of January, in the even years, okay follow along guys, we'll have our election in the odd year and

then there will be a time from November to the second Monday of January where we'll have a new commission seated at that time. At that time that would be normally when the commission would select it's leadership at that time including the mayor and vice mayor, but that kind of lays everything out. Toni, if I've forgotten anything please?

Toni Wheeler: No, you did a fantastic job. That covers it.

Mayor Amyx: Read your memo. After the proclamations tonight, this was easy. The biggest part about this is, and I know that because we are being asked to do something that really hasn't been done in the past, and that is we've gone through a year where... I've been on the commission a while and I don't ever remember going through this but having a mayor, not having a mayor, putting a new mayor in, and I was fortunate enough to receive the position from my colleagues here and we've done, I think we've done a lot of good things together. The truth of the matter is we're being asked to set something up that we're receiving as, from the direction of the state.

Commissioner Boley: May I interject for a minute?

Mike Amyx: No. Not yet. I'm here to tell you the toughest part about this job is we all have pretty strong feelings about one another, and we don't make one another mad and all of this, or upset anybody and all of this, that's one of the things. Interject.

Commissioner Boley: I just wanted to send our thanks via Senator Francisco to Topeka for providing us with this opportunity to rejigger our electoral ordnances. Thank you Senator Francisco and your colleagues.

Mayor Amyx: Okay, so as we go through this tonight, one of the things that I would like to have the commission really think about is, I may have some direction on this too as I think it would be a good idea. I've thought about this throughout the day, I was trying to come up with a plan that would kind of take it a little bit out of the political arena, but you know at the same time too it's always going to be that and I just want to lay it out for you a little bit in advance of taking public comment and questions and things. Every once in a while, not to say that I'm shirking any responsibility at all, but we have two people that are on the commission that would probably be very good mayors, but you know at the same time, I think would have the opportunity to serve as well. One of the things that I did visit with before our meeting tonight, and I apologize, I thought it up a little bit late in the day, but the opportunity of putting together a sub-committee of the commission by the two members of our commission, Commissioner Larson and Commissioner Herbert, that would make a recommendation back the commission on the terms of

mayor as we go forward. Realizing that we've got that date in January if that's ultimately the day that we're going to select. There's a number of people that have contacted me over the weekend with a lot of great plans about the way that they think that it ought to happen, and I think that those are very good ideas. This gives an opportunity for these two folks to hear all of these and make recommendation back as to when my term ends and, you know, Vice Mayor Soden's term as mayor would begin and that ... I don't know. Just a thought.

Vice Mayor Soden:

There're lots of plans.

Mayor Amyx:

The thing is it would give them the opportunity and just so that you know, I wish I would have thought of this earlier. Just the opportunity to have them sort through everything and maybe put together one that really works for the future. Not of us, but of the commission, and the governing body of the city. That's just one idea.

Commissioner Boley:

Essentially, what you're saying is you'd like to have them study and make recommendation for the new tradition for the commission.

Mayor Amyx:

Whatever that new tradition may look like.

Vice Mayor Soden:

Or just the next, until January 2018.

Commissioner Herbert:

I don't think it's necessarily deciding a new tradition it's just ...

Mayor Amyx:

Okay, well we are setting a new tradition though.

Commissioner Herbert:

Sure.

Mayor Amyx:

We're going to establish the dates on which these things happen.

Commissioner Herbert:

Okay.

Mayor Amyx:

I mean, I've heard folks that have come forward with ideas, retaining April to April, good idea. Starting in January every year. We still got to get to the point where, where we're at going from here to January of 18.

Vice Mayor Soden:

Just here to January 2018, is what they're going to discuss.

Mayor Amyx: Right. I mean, that's just the idea. Like I say, both of them I think would be very good mayors, but I mean in all truth probably not going to happen to us.

Vice Mayor Soden: It's a two person sub-committee so would they be able to talk to the other three?

Mayor Amyx: Because of the way that our quorum is, talk to the other three? No ma'am. At this dais when they come back.

Commissioner Herbert: I think the idea of it is that since Commissioner Larson and I are not by tradition candidates to be mayor at any point in our term we don't have a dog in the fight and so it's an impartial look at how we're going to plan term and turn over and change.

Mayor Amyx: Here again, I don't have ...

Commissioner Larsen: What sort of time frame are you thinking on this?

Mayor Amyx: Three or four weeks?

Commissioner Herbert: What are you doing tonight?

Commissioner Larsen: Yes, I'd say we wrap this up.

Mayor Amyx: I mean, at most.

Commissioner Boley: That previous mayor's term would have expired when?

Mayor Amyx: Next Tuesday at 5:45.

Commissioner Boley: Okay, so when we selected Mayor Amyx in August does that give us one year from August for that term? Or does his term expire?

Mayor Amyx: I believe, and I could be wrong, I'm filling the unexpired term of the former mayor.

Commissioner Boley: Do we have to decide next week?

Commissioner Herbert: I don't know.

Toni Wheeler:  
City Attorney: No, you don't have to decide next week. With this transition period that the state law has put us in there is some flexibility. Our codes will have to be updated anyway. Currently our code says that the commission will select its mayor and Vice-mayor annually, but all of those provisions will have to be reviewed and modified to comply with the state law, so you have great flexibility.

Commissioner Boley: That goes back to my original question, since we selected mayor Amyx in August, is that annually? Go ahead and tell, I mean for legal purposes.

Toni Wheeler:  
City Attorney You could take that approach, if you wanted to.

Commissioner Boley: Okay.

Toni Wheeler:  
City Attorney What I'm trying to communicate is you have maximum flexibility to make any decisions between now and January 2018.

Commissioner Herbert: I think next week is off the table just because the City Manager and I will not be present at next week's meeting. If you're assigning me as half the sub-committee, it would probably be important that I be here.

Commissioner Larsen: I can't continue without you.

Commissioner Herbert: Yes.

Mayor Amyx: All right, I mean, like I say I bring it up now, it's just an idea. I had the opportunity like I said, to visit with so many people over the weekend about ideas and plans that they had, and I think that both of these two commissions represent obviously great numbers of people. Time to time they have conflicts in the way on specific issues and I think that we put them in a room and say you got to hammer this thing out, I mean ...

Commissioner Larsen: Thanks Mike.

Commissioner Herbert: Well when you describe it like that.

Mayor Amyx: It's an idea, so anyway. Any other questions? Public comments?

Marci Francisco:  
Senator Mayor and City Commissioners, I've actually come down to talk about this topic. I really appreciate bringing it up and the chance to be here. I do want to say it's clearly the choice of the commission as to who they choose as mayor, and I put this in before your comments this evening, and now, thanks to the meddling by the state legislature and local government we've added some choices for you in scheduling the terms to fit in with that new election cycle. I thought this might be a good time for me to share a little bit of my history and experience. From now more than 30 years ago about the process. I served as mayor from 1981 to 83. When I was elected in 1979 I got a call from the City Manager asking if I was aware of the tradition that had been used for selection of mayor. That tradition was to have the members who were elected to four year terms serve one of those years as mayor with the highest vote getter serving the third year of their term, and the second highest vote getter

serving in the fourth year of their term. There're some pretty good reasons why this worked well beyond a shared understanding of what was to be expected. Each commissioner who was serving 4 years had something to look forward to, and also the opportunity to witness two other people in how they did their job. Instead of well that's how it's done, you could think, I really thought one of them did a good job of running meetings, or another did a really good job of getting comments from all the other commissioners when we made a decision. You would think about how you could best serve in that role. There were some downsides. When a new set of three commissioners were elected there was a chance that you would miss your opportunity to serve in that capacity. That happened in 1983 when Nancy Shontz was passed over and one of the newly elected commissioners was elected as mayor the first year of their term. There's a lot to learn being a commissioner and being mayor and I'm not sure it makes a lot of sense to try and do that in your first year. Then what happens is you spend the next three years looking back instead of looking forward. We've been electing commissioners who were elected to a four year term, ever since, but we haven't ever gotten back to that old tradition. I hope that you as a commission or the sub-committee seriously consider the opportunity you do have to establish a new tradition that might make even more sense. If you keep the April to April terms for mayor you could keep the pattern we have now of electing someone to not only oversee the budget process, but also to see its implementation in the first few months. If the highest vote getter in elections started their term in April of their second year, they would likely have some experience of serving with two different mayors. It wouldn't be a full two years with two different mayors, it would be probably one year, or less than a year as one and part of another. If the commissioners were to elect both the highest and the second highest vote getters partway through their second and third years of their terms and they chose to run again for commission they would not be serving as mayor when the campaign got underway. Perhaps a little more sensible than having someone in the position as mayor also be campaigning for office. I want to thank each of you for stepping up and taking the challenge of a nine month longer term than you had been expecting, and I think we have a really good commission in place and I'm hoping that some of the complex situations, we find ourselves in, settle down. April to April elections may also make sense because even as each of you serve this longer term you would not be lengthening the terms of an individual in their term as mayor. We would still be looking at one year terms as mayor. Here's the probably least probable part, and who knows, the legislature might come to its senses and realize that we should let local government be in charge of their own government and we could get back to April and April terms. I stand for any questions, but really appreciate this opportunity to share that with you.

Mayor Amyx: Okay, so by going by April to April, just so that I understand again. One, if we decide to go to this sub-committee format, you would provide all of that information?

Marci Francisco:  
Senator I would be happy to do that and talk with people about that. It would mean if someone's elected in November that they knew that they would be starting in January under the current mayor. I think another good thing about that is there's enough discussion, or was enough discussion, when you got elected one Tuesday, about who's going to be the mayor the next Tuesday. I would hate to drag that on for all of November, December, and the first part of January. It seems like it might be good to say, you're elected, you're going to be a commissioner, you're going to start in, you're going to have a chance to work with these people, and April is the time that we seat a new mayor. You might all have also some ideas though about how this fits into the overall schedule. The one thing I was thinking about was the budget, when that process starts, but again it's totally your decision.  
Thank you.

Mayor Amyx: Thank you.

Marci Francisco:  
Senator Thank you.

Mayor Amyx: Other public comment?

Frank Janzen: I just have a question. I'm not really understanding what's going on. If we're required to have an election in November, how can you serve April to April? I don't get that.

Mayor Amyx: That's when the term as mayor as suggested by the Senator would begin. It's just different from January to April.

Frank Janzen: You'd still have election in November but then serve from April to April?

Mayor Amyx: No, no, no, your term begins the second Monday of January. What the Senator suggesting is that the term of mayor begins in April.

Frank Janzen: The term of mayor not the commissioners?

Commissioner Herbert: Right, you'd be seated, you just wouldn't be seated right there.

Frank Janzen: Okay, and she also mentioned the problem of having an election in November but not being seated until January, is that a ...

Mayor Amyx: I think if there was something we could send to the Senator to take back to Topeka, this idea of having lame duck. I think our current system has worked very well for the citizens of our

community. You have election on Tuesday, the next Tuesday you either are commissioner or you're not. That way the public's pretty much in charge of who their representatives are, but this one here, this lame duck, this is not, I don't think its good business.

Frank Janzen: The current rules are that we're going to have a city commission election in November with a primary in August and all that.

Mayor Amyx: Yes and all that fun stuff.

Frank Janzen: And not being seated until January.

Mayor Amyx: You got it.

Frank Janzen: Then Marci can take information back to the legislature to try to give us local rule like they have local rule.

Mayor Amyx: We've given her the authority to get it changed back.

Commissioner Larsen: I just would add that, to take back with you Marci, to tell everybody up there to get out of our business.

Commissioner Herbert: Just remind them that they like limited government and so they should stop specifically going against limited government.

Mayor Amyx: Other public comment? Anyone else? Okay, back to the commissioner.

Vice Mayor Soden: One thing that is important to me, is that the year before those 4 year people come up they're not serving as Mayor or Vice Mayor.

Mayor Amyx: During their year as re-election?

Vice Mayor Soden: Yes, when they're campaigning, that's terrible.

Mayor Amyx: That's a very good point from both of you, that doesn't work. You're in control of an agenda and that's not a good time.

Commissioner Herbert: Particularly if you find yourself in a situation where you would be not re-elected, serving from April, and then suddenly your April to April would become April to January.

Mike Amyx: You're out.

Vice Mayor Soden: I mean look at our House Reps, they have two year terms and they're constantly running for re-election. Is the sub-committee going to address all seven of these things, or just the mayor business?

Commissioner Herbert: I think we address number seven, just with a collective no.

Vice Mayor Soden: Yes, that would be a collective no.

Mayor Amyx: No partisan.

Commissioner Herbert: I think number 6 is just an operational rule. That doesn't really matter of we could file in one place versus another.

Commissioner Boley: The state's already taken care of that.

Commissioner Herbert: Right.

Mayor Amyx: I think that what we could do is to direct staff to prepare the ordinances with, or to start working on preparing the ordinances with everything but the term as mayor. If we wanted to do the sub-committee group as looking at what would be reasonable to go from this point to 2018, January of 2018, then they would just work on that portion. It would come here for final approval.

Vice Mayor Soden: They have a couple weeks?

Mayor Amyx: Three or four or whatever it takes, because Matt's going to be out of town.

Vice Mayor Soden: He's going to be gone.

Mayor Amyx: I'm going to guess three weeks, whatever it takes to get that done.

Vice Mayor Soden: Yes, I want them to have a workable timeline.

Mayor Amyx: We get it back on the agenda so that we can finish the direction to Toni and Randy to prepare those ordinances that would show what that term as mayor is and she's already going to probably have all the rest of it done. Right? It seems fairly simple to me the things that we have to deal with.

Commissioner Boley: One thing that I'm trying to find in here and I'm not sure I do is what happens with Vice Mayor Soden and my terms. Is that in your memo Toni, I'm sorry.

Vice Mayor Soden: That's number five, isn't it?

Commissioner Boley: No, that's just for the commissioners that were elected the two-year term.

Toni Wheeler:  
City Attorney: Oh that's just ...

Commissioner Herbert: Presumably whatever decision we come back with as a starting

point for Vice Mayor Soden would also be your starting point.

Commissioner Boley: I'm talking about actual terms of office of the Commissioners.

Toni Wheeler:  
City Attorney Correct. Vice Mayor Soden and Commissioner Boley's terms were set to expire in 2019. Under the law, the commission can alter those terms by an ordinance, or it can take no action, and in the case where it takes no action, your terms are then automatically extended to the second Monday in January of 2020.

Commissioner Boley: I just wanted to say that I'm not comfortable voting to extend my term in office. I think that's not where I want to be.

Commissioner Herbert: I just think the state legislature already did that for you.

Commissioner Boley: I don't think they did. I think it's silent and I think the ordinance has to deal with that, is my understanding.

Toni Wheeler:  
City Attorney We only have elections on odd years in November, and so...

Commissioner Boley: I understand that, but I honestly do not want to vote to extend my term in office. Maybe somebody else can do it, but I don't plan on voting for that.

Commissioner Herbert: I'll vote you off the island here?

Commissioner Boley: I'm just like, you know.

Commissioner Herbert: We might have a lot of power, you just want to come back with, we've thought about it, we've decided that Lisa and I would like to co-mayor for the next 4 years. We appreciate your support.

Mayor Amyx: I think we've got to get you to finish your term.

Commissioner Boley: My term, I was elected for a term of 4 years. That would be April, right? The statute is silent on extending the terms for the people who were elected for 4 year terms last year.

Toni Wheeler:  
City Attorney You're correct, the statute only specifically addresses the terms that were supposed to expire in 2017.

Commissioner Boley: Exactly.

Toni Wheeler:  
City Attorney But, the law provides that if you take no action it would just serve to extend those to the next election period.

Commissioner Herbert: That's fine.

Toni Wheeler: There's case law that supports that.

City Attorney

Commissioner Boley: If you bring an ordinance back that says Stuart's term is going to be extended for 9 months I'm not going to vote for it, that's just all I'm saying.

Commissioner Herbert: Better hope you've got three then.

Commissioner Boley: I can play it either way Matthew, I can play it either way.

Commissioner Herbert: In theory what we could do is that we can pass an ordinance that would extend the terms of future elected commissioners to that...

Commissioner Boley: That wouldn't be me.

Commissioner Herbert: No, that wouldn't work.

Commissioner Larsen: The future after this.

Commissioner Boley: Again, the state law is silent on that, but if you bring something back about mayor terms or something like that, you put that in there, I can't vote for it.

Mayor Amyx: But if it's not in there then is it assumed that his term would automatically extend?

Toni Wheeler:  
City Attorney: Yes.

Commissioner Boley: You're not going to let me off the hook?

Toni Wheeler:  
City Attorney: If the commission takes no action, then that is how it will operate.

Mayor Amyx: That's how it'll work.

Commissioner Boley: Okay.

Mayor Amyx: We won't take an action so you're here. You understand?

Commissioner Boley: Yeah, okay.

Commissioner Herbert: Election by default.

Commissioner Boley: Just don't ask me to vote to extend my term, it's just not right.

Mayor Amyx: Your Tuesdays are taken up until 20 whatever.

Commissioner Larsen: 2020.

Mayor Amyx: Everything runs out in 2020. What do we think about a sub-committee? Or is there another way we want to do it?

Vice Mayor Soden: That's fine with me. I just want them to have a workable timeline.

Mayor Amyx: I'm not going to put it on until they're ready. Is that fair?

Commissioner Larsen: Yes.

Commissioner Herbert: Mayor, I'm honored, thank you.

Mayor Amyx: I'm glad you guys are stepping up. I guess one of the things that I would suggest to you, at least on my name, take it out of the equation. Don't try to tie a name to things. I know that's going to be tough. Just dates on the calendar. I would recommend if Toni says we can do this?

Toni Wheeler:  
City Attorney: The sub-committee? Yes.

Mayor Amyx: Okay. The public?

Toni Wheeler:  
City Attorney: It could be public, but two of you can meet.

Mayor Amyx: I just want to have all the rules and that everybody understands.

Toni Wheeler:  
City Attorney: I would suggest that any written information that is submitted to the two should be made public or should be shared with everyone.

Mayor Amyx: Okay.

Commissioner Larsen: If we get something that's just addressed to us we should forward it to you so you can...

Vice Mayor Soden: To Bobbi.

Commissioner Larsen: Yes, to Bobby.

Mayor Amyx: I would suggest one thing, that we do suggest that anybody that has a plan or an idea, such as Senator Francisco brought forward or anyone else who has a plan on how to deal with the terms of Mayor from now until 2018, if they want to submit things that would be fine. Then both Commissioner Larson and Commissioner Herbert would act as committee that would carry that out and bring back to us their recommendation.

Commissioner Herbert: Very good.

Commissioner Larsen: Sounds like a plan.

Mayor Amyx: Okay, then I would entertain a motion that we direct Commissioners Larson and Herbert to bring back to this commission, a plan that would establish the terms of mayor, or to be considered as terms of mayor from this date until the second week of January of 2018, second Monday.

Commissioner Herbert: January 8th.

Mike Amyx: Okay, and also to direct staff to start preparing the ordinances for the terms of office and the election requirements for the office of Lawrence City Commission, entertain all of that in a motion.

**Moved by Commissioner Herbert, seconded by Larsen,** to direct staff to prepare the necessary ordinance to address the issues discussed in staff's memorandum, including the terms of city commissioners, with the exception of the term of the mayoral position; create a subcommittee consisting of Commissioner Herbert and Commissioner Larsen to evaluate the issues and develop recommendations for the terms of the mayoral position to be considered by the full Commission. Motion carried unanimously.

**E. FUTURE AGENDA ITEMS:**

Tom Markus, City Manager, outlined potential future agenda items.

**F. COMMISSION ITEMS:** None.

**G: CITY MANAGER'S REPORT:**

Tom Markus, City Manager, presented the report regarding the 2015 Utilities Integrated Plan Annual Report; and, the City of Lawrence testimony on Legislative Issues now on-line.

**H: CALENDAR:**

Tom Markus, 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 9:07 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON APRIL 19, 2016.**

  

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Brandon McGuire, Acting City Clerk