

**June 13, 2012**

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, June 13, 2012 with all members present.

**CONSENT AGENDA 06-13-12**

Gaughan moved approval of the following Consent Agenda items:

- ▶ Commission Order Nos. 12-024, 12-025 and 12-026 (on file in the office of the Clerk); and
- ▶ Conditions of Grant for the Juvenile Justice Authority Grant Conditions Agreement for state fiscal year 2013;
- ▶ Authorized the Sheriff's office to complete the purchase of one (1) 212 Ford Expedition in the amount of \$30,388.00 from Shawnee Mission Ford using the MACPP joint vehicle bid;
- ▶ Agreement with Safety National Casualty for Worker's Compensation excess coverage at a \$500,000 retention level for all employees for \$72,739 for June 15, 2012 through June 15, 2013.
- ▶ Authority to Award Contract/ Commitment of County Funds standard resolution for KDOT for the reconstruction of the Route 6 curve, a half-mile south of Clinton.

Motion was seconded by Thellman and carried 3-0.

**YANKEE TANK/SET PUBLIC HEARING DATE 06-13-12**

The Board reviewed and considered the special assessment for the Yankee Tank Community Improvement District dam improvements and considered approval of each of the following documents and set in motion the following actions:

- **Exhibit A** - Statement of Costs
- **Exhibit B** - Assessment Roll Certification
- **Exhibit C** - Notice of Public Hearing
- **Exhibit D** - Form of Notice of Hearing and Statement of Cost Proposed to be Assessed.
- Established June 27, 2012 at 6:35 P.M. to meet for the purpose of hearing any and all written or oral objections to the respective assessments set forth therein;
- Cause the County Clerk to publish the Notice of Public Hearing (**Exhibit C**) in the official County newspaper not less than 10 days prior to such public meeting date;
- Mail the Form of Notice of Hearing and Statement of Cost Proposed to be Assessed (**Exhibit D**) to each and all owners of property affected by such assessments at their last known post office address on the same date as the publication of Notice of Public Hearing (**Exhibit C**); and

- File each of said documents of record in the office of the County Clerk and make the same available for public inspection.

Flory moved to set the above listed items into action including setting the public hearing date for the Yankee Tank Improvement District for July 27, 2012 at 6:35 p.m., in the Commission Chamber of the Douglas County Courthouse located at 1100 Massachusetts Street, Lawrence, Kansas. Motion was seconded by Thellman and carried 3-0.

#### **EMERGENCY COMMUNICATIONS 06-13-12**

The Board considered waiving the formal bidding process and authorizing staff to access the State of Kansas (28440) and Western States Contracting Alliance contracts with Motorola Solutions for design and proposal of P25 800MHz Digital Simulcast Radio System; and considered waiving the formal bidding process and authorizing staff to access the State of Kansas and Western States Contract Alliance contracts with Motorola Solutions for Civil Engineering related to system site development in the amount of \$281,194.00. Scott Ruf, Director of Emergency Communications, presented the items.

Douglas County Emergency Communications at the direction of the 9-1-1 Advisory Board solicited budgetary proposals from three vendors for the radio project: Motorola Solutions, Cassidian Communications, and TAIT Communications. After reviewing submitted proposals, Motorola Solutions was the only vendor capable of providing the system best suited for implementation in Douglas County.

Gaughan opened the item for public comment. No comment was received.

Flory moved to authorize the Director of Emergency Communications to access the State of Kansas (28440) and Western States Contracting Alliance contracts, and to notify Motorola Solutions of our intent to negotiate for design and implementation of new P25 800 MHz Digital Simulcast Radio System as expansion of the KDOT Radio System in Douglas County. Motion was seconded by Thellman and carried 3-0.

And, Gaughan moved to authorize the Director of Emergency Communications, subject to review and approval by the County Counselor and County Purchasing Director, to approve Statement of Work and Professional Services Agreement from Motorola Solutions for civil engineering work in the total amount of \$281,194.00. Motion was seconded by Flory and carried 3-0.

#### **ACCOUNTS PAYABLE 06-13-12**

Flory moved to approve accounts payable in the amounts of \$321,611.07 to be paid on 06/14/12. Motion was seconded by Thellman and carried 3-0.

### **MISCELLANEOUS 06-13-12**

More than one Commissioner may attend the Baldwin senior wheels event Saturday, June 16 from 8:00 a.m. to 10:00 a.m. No County business will be conducted.

### **RECESS**

At 4:22 p.m., Gaughan moved to recess until 6:35 p.m. Motion was seconded by Thellman and carried 3-0.

### **RECONVENE**

The Board reconvened at 6:35 p.m.

### **PLANNING/INVERNESS PARK DISTRICT PLAN 06-13-12**

The Board considered revisions to the Inverness Park District Plan, CPA-2-1-12, initiated by the City Commission on January 17, 2012 and the adoption of a Joint City/County Resolution for Comprehensive Plan Amendment (CPA-2-1-12) to amend *Horizon 2020*, Chapter 14, Inverness Park District Plan. Dan Warner, Lawrence-Douglas County Metropolitan Planning Staff presented the item.

Warner gave a background history on the Inverness Park District Plan including the revision process. The Lawrence City Commission directed Planning Staff in January 2012 to make changes to the Remington Square property to accommodate higher residential development on the undeveloped portion of the property. This was approved unanimously on April 23, 2012 by the Planning Commission with the caveat that the developed portion of the property will need a higher density zoning district in the event the undeveloped portion of Remington Square property is divided for development in the future.

The property is currently Zoned RM15, which permits 15 dwelling units per acre and the property is maxed out at 15 dwelling units per acre today. Additional dwelling units cannot be added to the property without rezoning. If the east portion of the property is split off in the future, the property will no longer be compliant with the RM15 zoning. The property owner will need to seek rezoning to a higher density zoning district, RM24, in order to maintain compliance with the Development Code should the property to the east be divided from the current Remington Property.

Gaughan stated this "up zoning" could set a dangerous precedent. He asked how we can avoid that. Warner replied there isn't precedent because today the property owner can't add dwelling units nor can he if he splits off 5-acres. He is only putting property into compliance.

Thellman asked if there is general consensus that this plan meets everyone's concerns. Warner stated there is not a consensus of support throughout the neighborhood regarding this plan.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved to adopt Joint Ordinance No. 8732 of the City of Lawrence, Kansas, and Resolution No. 12-18 of the Board of County Commissioners of Douglas County, Kansas amending the Comprehensive Land Use Plan "Horizon 2020" revising the Inverness Park District Plan; adopting and incorporating by reference "The Inverness Park District Plan, April 2012 Edition" prepared by the Lawrence-Douglas County Metropolitan Planning Office. Motion was seconded by Thellman and carried 3-0.

**PLANNING/NORTHEAST SECTOR PLAN 06-13-12**

The Board considered the approval of Comprehensive Plan Amendment, **CPA-6-5-09**, to *Horizon 2020* – Chapter 14 to include the Northeast Sector Plan. The item was approved by Planning Commission on a 5-4 vote on September 20, 2010. The amendment was referred to the Planning Commission by the Board of County Commissioners and the City Commission for consideration of specific issues. It was approved by the Planning Commission on a 7-2 vote on April 23, 2012. Dan Warner, Lawrence-Douglas County Metropolitan Planning Staff presented the item.

Warner gave a history of the Northeast Sector process of approval. The City Commission recommends the Board of County Commissioners approve Option 3 which eliminates 300 acres of future industrial use south or west of the airport.

Gaughan opened the item for public comment.

Charles Novogradac, 945 Ohio Street, stated he was concerned about drainage on his farm caused by future industrial development. He supports this plan.

Barbara Clark, 2050 E. 1550 Road, stated this area of the county is unique because of its contiguous class 1 and 2 soils and this community has better options to develop industrial needs. She supports this plan.

Jerry Jost, resident of North Lawrence, showed a slideshow of past floods and stated drainage concerns if the area is intensively developed. He supports this plan.

Ted Boyle, president of North Lawrence Improvement Association, encouraged the Board to approve this proposal.

Warner clarified that this Northeast Sector plan came to the County Commission with recommendation from the Planning Commission. The plan still must go before the City Commission for approval.

Flory stated he feels Option 3 as presented tonight is a victory of attrition. Landowners he knows that opposed the plan gave up their fight in the attempt to restrict the potential use of their land. They are not here tonight and he didn't expect them to be. In the Planning Commission minutes, Commissioner Blaser put it correctly when he said "what had changed was the audience." Flory stated he believes most of the concerns expressed are perhaps legitimate but premature, speculating and to some extent exaggerated. The long torturous process was obviously a preemptive strike to stop any industrial/commercial development north of the river. This sector plan doesn't protect one square inch of Class 1 or 2 soils. It doesn't divert or prevent one gallon of stormwater runoff and it doesn't save one penny of tax payer money on infrastructure. Just like the previous plan that came before this Commission, it didn't damage or destroy a single inch of Class 1 or 2 soils. It didn't create one additional gallon of stormwater runoff or didn't spend one cent of taxpayer dollars. It's a sector plan. Now, it does eliminate any possible use of additional land for industrial use. And it does that because it effectively closes the door to the possibility of a major economic project in that area which could very well enhance the community, provide jobs and possibly improve the stormwater situation. We won't know because people won't be interested in looking. A sector plan doesn't change zoning or approve development. It doesn't prohibit development. What it does is send a signal to anybody outside the area that these are the obstacles you will encounter if you try to development there. Flory went on to discuss that his premise is individual property owners should have the right to use their property and the government and community should only restrict or limit that use as necessary to effectuate public safety and welfare. He thinks the property owners who fought to have a little more say-so in how their land is used have lost in this process. Flory commented that he knows we need planning and a form of control on how people use their property which is done through zoning and land use restrictions. However, Flory said government can legally and appropriately restrict use but it should be the least restrictive alternative and maintain the individual liberty. At the sector plan level, a preemptive strike against what a use can be without any plan on the table or an effective way to evaluate is government going too far. He said this sector plan does not reflect the least restrictive alternative. We've gone from 300 acres of proposed industrial use to 125 acres to zero acres in our long-range view of this area. Flory stated the other sector plan version was a compromise. It didn't endanger anyone or spend any money. It didn't do anything except make it possible for the right organization to come in and develop and meet our standards, which in Lawrence and Douglas County are very high. We have now foreclosed that opportunity and told the property owners that's foreclosed. He stated he thinks that's premature and inappropriate. It's giving the government too much power and the individual too little liberty. For that reason he said he will vote against Option 3.

Gaughan stated he intended to support the plan for some of the reasons Commissioner Flory opposes it. He said when we look at the sector plan; it's the Board's responsibility to look at them within the context of the entire community and what the entire County has to offer. He said this Commission has made a number of acres available for industrial projects. Gaughan said he has supported industrial development at Farmland and in the Northwest side of the community and doing so with the understanding that each one of those opportunities is part of a larger network of decisions and debates the community has undertaken in the past. When it comes to this sector plan, Gaughan stated he has looked at the whole picture and feels this plan, based on the evidence that he's seen, protects the public's investment. It was mentioned in the plan what kinds of improvements would be required for development. Considering what the community can afford to invest in, improvements in North Lawrence are not the most cost effective way to improve our economic opportunities in Douglas County. The improvements that need to happen are multi-million dollar projects. We can get more for the money in other communities. The colors on the sector plan don't guarantee that specific type development, but it does set the policy that guides the community's decision making process. That doesn't happen in a vacuum. If it did we'd be without an airport. But we're not. Gaughan said to balance the availability of industrial prospects with a resource we know is limited and is finite and is of some level of importance, we have to balance these factors together and we do it at this level. He stated he appreciated Commissioner Flory's comments on the rights of the individual and it's the Board's responsibility to incorporate those rights into rights that set the policy for the community. Gaughan stated he plans to support Option 3.

Thellman said if it's a matter of attrition that causes us to be here, then so be it. The issue of public safety, public property and preservation of our finest soils are issues that go to the core of this. In terms of the economic development that might be lost by adopting this sector plan, which may be overstated given the obstacles in the way, there are stormwater issues, flooding issues and extraordinary costs associated with development. Even though there is no industrial snowflake on the map, that doesn't keep a landowner from bringing a proposal forward. In the same way that it doesn't necessarily protect the soil or keep the flooding from coming, it doesn't keep development from happening either. The reality is this is an extraordinarily difficult area to develop. Thellman said Scott McCullough, Director of Planning, made that statement prophetically. It's a matter of putting the needs of the 2500 people in North Lawrence paramount and their right to protect their property from unnecessary flooding. It doesn't make sense to develop a sector plan that is an invitation for development where the risks are great, the cost is great as is the potential loss of life and property. That should be our first thought. She said agriculture is an industry and has economic

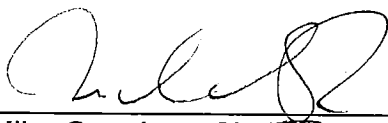
development value and job creation. This sector plan supports the best and highest use of the land, and is an effective stormwater buffer. Thellman said she agrees with City Commission Finkeldei (as stated in the City Commission minutes) that the plan with less than 300 acres of industrial property wouldn't succeed. It would take a large developer extraordinary amounts of money to provide the infrastructure. She said a Commissioners job is more about meeting the public interests rather than individual interests. Her priority is to the community of North Lawrence, the greater community of Douglas County and the taxpayers. To develop an area that has historically flooded is irresponsible. Thellman supports the plan presented.

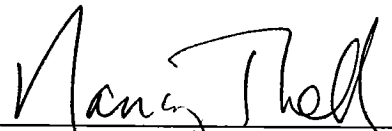
Gaughan moved to approve Joint Ordinance No. 8748 of the City of Lawrence, Kansas, and Resolution No. 12-18 of the Board of County Commissioners or Douglas County, Kansas amending the Comprehensive Land Use Plan "Horizon 2020" pertaining to the Northeast Sector Plan; amending Chapter Fourteen, specific plans to add the Northeast Sector Plan; and adopting and incorporating by reference "The Northeast Sector Plan, may 2012 Edition" prepared by the Lawrence-Douglas County Metropolitan Planning Office. Motion was seconded by Thellman and carried 2-1 with Flory in opposition.

**APPOINTMENT 06-13-12**

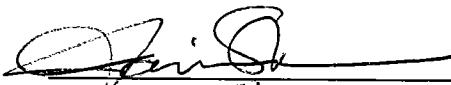
It was the consensus of the Board to appoint Commissioner Thellman to represent the Board of Commissioners as lead Commissioner on the new Public Works Project.

Gaughan moved to adjourn the meeting; Flory seconded and the motion carried 3-0.

  
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Mike Gaughan, Chair

  
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Nancy Thellman, Vice-Chair

ATTEST:

  
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Jamie Shew, County Clerk

  
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Jim Flory, Member