



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

September 25, 2012

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

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed Tuesday, September 25, 2012 as National Voter Registration Day.

Mayor Schumm also pointed out that Lawrence won the “Best of Topeka” award for best downtown in Northeast Kansas.

B. CONSENT AGENDA

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

1. Approved City Commission meeting minutes from 09/11/12.
2. Received minutes from various boards and commissions:

Board of Zoning Appeals meeting of 07/05/12
Historic Resources Commission meeting of 07/19/12
Lawrence Cultural Arts Commission meeting of 08/08/12
Mechanical Code Board of Appeals meetings of 07/12/12 and 07/26/12
Public Health Board meeting of 07/16/12
Sign Code Board of Appeals meeting of 07/05/12
3. Approved claims to 233 vendors in the amount of \$17,284,108.96 and payroll from September 9, 2012 to September 22, 2012 in the amount of \$1,931,597.38.
4. Approved licenses as recommended by the City Clerk’s Office.

Retail Liquor License for On the Rocks Discount Liquor, 1818 Massachusetts St



5. Approved appointment of John Hachmeister to the Lawrence Cultural Arts Commission for a term that expires 01/31/14.
6. Bid and purchase items:
 - a) Approved sale of surplus playground equipment on Gov Deals.
 - b) Awarded bid for Bid Number B1251, Project UT1208KW Chlorine Contact Basin Scum Skimmer Equipment Replacement, to the low bidder CAS Constructors for \$42,749 and authorized the City Manager to execute the contract.
 - c) Approved purchase of one (1) Ford Explorer for the Lawrence Douglas County Fire & Medical Department to Laird Noller Ford for \$28,736.
7. Adopted the following ordinances on second and final reading:
 - a) Ordinance No. 8792, allowing possession and consumption of alcoholic liquor on the public right-of-way in conjunction with the Arts Center Final Friday event on Friday, September 28, 2012, from 12:00 p.m. – 12:00 a.m. in a portion of the 900 block of New Hampshire Street.
 - b) Ordinance No. 8780, regarding sidewalk dining and hospitality license regulations.
8. Authorized the City Manager to execute a License Agreement permitting Heartland Community Health Center to place an informational ground sign in the City's Parking Lot at 1 Riverfront Plaza in accordance with the terms of that agreement.
9. Approved as signs of community interest, a request from the Lawrence Home Builders Association to place directional signs in various rights-of-way throughout the City during the annual Fall Parade of Homes, September 29 – October 8, 2012.
10. Received request from Community Wireless to access certain County/City fiber-optic cables. Referred to staff for report.

Mayor Schumm announced that prior to regular agenda item number 2, the city commission would be recessing into executive session.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report. He added to the report that a representative of the KU Student Senate would be attending City Commission meetings on occasion.

D. REGULAR AGENDA ITEMS:

1. **Conduct public hearing and consider adoption of Resolution No. 6995 setting out the findings and determinations of the governing body of the City of Lawrence,**

and ordering the construction of an additional parking level on the parking garage at 707 Vermont Street.

David Corliss, City Manager, presented the staff report.

Schumm asked what the process for a protest petition is.

Corliss said you would conduct the public hearing, if you adopt the resolution we have it published in the newspaper, there is then a 20 day protest period. The protest has to be signed by the majority of resident property owners and a majority of the property square footage. Resident property owner means you have to own the property and live within the Lawrence city boundaries. The city commission can decide not to proceed even without a valid petition.

Schumm said you meant 50% of the land?

Corliss said yes. It is calculated by square footage of the lots, not the structures.

Amyx said we don't know how many people inside this district are resident property owners.

Do we know the square footage necessary to reach 51%?

Corliss said not at this time.

Moved by Cromwell, seconded by Dever, to open the public hearing. Motion carried unanimously.

Bryan Russell said he lived at Hobbs Taylor lofts. He urged the commissioners to exempt residential properties from the benefit districts. He said people owning residential condos at Hobbs Taylor would not receive any appreciable value to the properties. If you decide to go forward with the library then the taxpayers at large should pay for it. The city manager noted that we provide our own parking downtown. We maintain that. There is no nexus between the new parking spaces and condos. If you keep residential properties in the district and it passes, then staff needs to recalculate the square footages.

Dennis Brown said three or four years ago a developer placed an addition on the back of a building and needed to take out some city parking spaces. That parking had been taken by a developer and now you were talking about an assessment for more parking. There seems to be

a disconnect. If you approve this additional parking, how long before a developer asked for dedication of spaces for their business, and would you approve it? He suggested that you not proceed with the benefit district and stick to what the voters approved.

Joe Patterson said the problem he has is that this project was approved by the general project, and now you were changing the project. The voters' thoughts need to be carried out as they voted upon and not adding to the project.

Teresa Hill said a key purpose of the garage was for children using the library and the pool. How much risk do you add to their safety when adding 72 spaces? Consider the excited toddler and the mom halfway in the car unstrapping the infant. The toddler runs into the traffic lane. Our children's safety is the most important concern. Limit the number of cars in the garage.

Peter Zacharias said he owned property both near and far from the garage. There is a tremendous need for parking downtown. There has never been enough parking. In the summertime with the pool open the garage will still be full. Downtown parking benefits everyone downtown. The city has done a good job of making the district large enough to make the financial burden spread out over a lot of properties. He said he didn't see an intrinsic safety concern and he supported the benefit district.

Ralph Gage, World Company, said you are putting a square peg in a round hole. If more parking is needed, the public should pay for public parking. They questioned four aspects of the proposal, that the district contained residences, that it contained tax exempt property (i.e. that it contained businesses that provided their own parking, and taxes on those private spaces already pay taxes to support public services) and the fourth unfair element is the protest process because the burden is so large due to the city owning so much of the land.

Bob Roten, First United Methodist Church, asked why this wasn't part of the original plan, and why are non-profits included? We have a limited use of parking, peaking on Sunday

morning. This parking location will not be a direct benefit to us. The other point to make is the amount of property the city owns is a big obstacle to a successful protest.

George Paley said he asked the commission to reconsider. We have all experienced the pool and library parking uses. This is more of a public use. He said he supported more parking but asked that you reconsider the funding method.

Moved by Cromwell, seconded by Amyx, to close the public hearing.

Schumm said regarding Hobbs Taylor, you have a unique situation with living units on top of commercial. Can you split those out and only include the commercial.

Corliss said he thought we could. If you are going to do that you have to have a rational basis such as excluding residences that have their own parking.

Schumm said for the non-profits, mostly churches, what options do we have?

Corliss said you can enter into an agreement whereby the city pays the assessment, and if the use changes the assessment reverts to them. The city would pick up the assessment unless the use changes. One of the difficulties is that the state law does not account for the use, only that the property gets a benefit. One case law in Kansas said that it's not the specific use that the law looks at, it is the proximity of the property. From a policy standpoint, if you want to exempt certain property, such as that which provides its own parking, you do that by agreement.

Schumm said several benefit districts have been created over the years. Have churches been included in those?

Corliss said we have included all of the CD district.

Dever asked Dave to summarize how other surface lots were paid for.

Corliss said the one he is most familiar with is the 800 block of New Hampshire. Some of the other surface lots had smaller footprints for their benefit districts.

Schumm said most of the lots as they came online, the property was within a short distance or contiguous to the lot. He had been in 5-6 of those benefit districts over those years.

Dever asked if this is the largest scale parking improvement.

Corliss said as far as cost, yes.

Carter asked if there is any ability to remove the city from the square footage as far as the protest is calculated.

Corliss said there wasn't a legal mechanism, but the commission could decide as a matter of policy to look at the percentages without the city property.

Schumm said he thought that was the best way to proceed. To exclude that in a handshake agreement with the public that if 51% of the non-city property protests, we could decide not to proceed.

Carter said that sounded more fair to him. Are we about \$320,000, and would the bonds go for about 2%?

Corliss said based on recent experience, he thought that was probably what it would be in the fall of 2014. We would probably do a temporary note now and then bond it when we conclude the project.

Carter said he wasn't supportive of paying more than what we had already committed to spend on the project.

Corliss said the source of funds for the city's participation in the benefit district would be the parking fund.

Amyx said a lot of the problem he had is that we asked people to go to the polls a few years ago to fund a library project. Now we are asking them to pay an additional amount. There comes a time when enough is enough and he thought we had reached that. We can't keep asking people to dig a little deeper. He thought it was the wrong time, and it was wrong to ask the residences and the churches to pay.

Schumm said he has been in these parking districts and every time another one comes by the same arguments come up, but where would we would if we hadn't built them. He said he would like to see this more forward. These are parking spaces on sale, the \$14,000 per space is a lower price. There is some opposition. He doesn't think this is a change to the project. He said

some of the arguments were good about residences and people that provide their own parking. He would like to see if we could work around those. He said he would like to consider the protest without the city's land in the calculations. He would like to see it move forward. He said he had three parcels in the district and had disclosed that. He thought it was a great opportunity. If you get people to come downtown and try a few times to park and can't find a space, they aren't coming back to downtown.

Carter said those were his initial concerns. Removing our property mass from the voting makes it more fair, taking residences and non-profits out, then letting downtown businesses decide for themselves. He didn't want to get in the way of that possibility. Those few things would make it more equitable.

Dever asked why we exempted the county courthouse building.

Corliss said it is not in the CD zoning district. The only non-CD included was adjacent to the garage and also the city's GPI zoned land.

Dever said a couple things seemed unfair to landowners in the assessed district. We are taxing people with their own private parking for both the property with buildings and parking. You are basically penalizing people for providing off street parking. The non-profit assessments should be looked at. We are already doubling the number of spaces in the lot by building the garage. He said the city at large is paying a large portion of this already. There are gray areas that make him uncomfortable. Let's take a look at how we can pay for this thing. It's a great idea to add parking and the garage will take burden off people who are 2-3 blocks away. He said upper floors of garages are used less frequently, so it becomes less desirable, but it will still take pressure off other parts of downtown.

Cromwell said the top floor of the other parking garage is heavily used. He thought it was being used by people who are working and are downtown for a long time. Otherwise those people would be parking somewhere else. It is not necessarily that someone inside of Buffalo Bob's is parking there, but maybe someone working at Bob's is, and that frees up space for

customers. Regarding the library project and how parking fits in, we came up with a library budget that is as tight as possible. What wasn't fair and what nobody wanted was to ask the voters to approve a library, a garage, and other things. As we have started designing the project we identified an opportunity and a creative way to finance this. He agreed with statements about making this equitable. He can see excluding residences and churches. Our job sitting up here is to plan further out than a few years. We are going to need those spots in the future, and downtown will benefit today.

Schumm asked if we could submit our comments and have this come back with options.

Corliss said he hears that the commission wants a process to exempt residents and businesses that provide their own parking, properties that are tax exempt, and not include the city property in the protest calculation.

Schumm said there is one difficulty in the businesses that provide parking. They still benefit from additional parking. If that is the sole requirement to exempt a business, that doesn't seem fair in the other direction.

Carter said he thought we wouldn't include the parking itself in the square footage calculation.

Corliss said you are talking about not including that in the calculation for the assessment.

Dever said he would like to take a look at that and see what the totals look like.

Amyx said if we exempted residential, would the amount of the assessment have to go back in the assessment on the other properties and we'd have to re-notify.

Corliss said maybe. Let's see what the numbers come back as.

Schumm said when you start digging into this you are going to find there some sort of rhyme or reason with a threshold to consider.

Amyx said as we look at this district without the city property, could we look at what's left and how many property owners it would take.

Corliss said yes.

Schumm asked if we are under time constraints.

Corliss said he didn't think so. We would probably have this on in 2-3 weeks. We might actually find out what the bid will be during the protest period.

Schumm asked what was budgeted for the existing spaces.

Corliss said 4.25 million.

Schumm asked what if the bids came in at 4.0 million, can the extra reduce the assessment.

Corliss said it would be up to the commission.

Schumm said our next item would be to recess into executive session.

Moved by Dever, seconded by Amyx, to recess into executive session for approximately 30 minutes for the purpose of consultation with attorneys for the city deemed privileged under the attorney client relationship. The justification for the executive session is to keep discussions with the attorneys for the city confidential at this time. Motion made at 8:02 p.m. Motion carried unanimously.

The City Commission resumed the regular session at 8:28 p.m.

2. **Consider initiation of zoning items related to the northwest corner of West 6th Street and K-10 and refer to planning commission. The City Commission voted to withdraw the earlier land use items related to this property at their meeting of September 18, 2012.**

Randy Larkin, Assistant City Attorney, presented the staff report.

Amyx asked if we rescind the votes and the majority wished to send it back to Planning Commission, would it come back to the City Commission for final approval again.

Larkin said yes.

Mayor Schumm called for public comment.

Jane Eldredge said she appreciated having the item on the agenda. She said she had a meeting with Schumm, Dever, and staff, and made phone calls to other commissioners. She

said she would like you to move forward with approving all three of the applications. She wanted to make it clear that that was her request. The city was planning way out into the future with these items. The zoning is site specific and is a little different than the other items. You are good and careful about being fair to landowners and this seems a little unfair, and she asked to move forward with the applications.

Gwen Klingenberg said you have already planned this corner twice, in the K10 Plan and the SmartCode. One of the reasons it was planned as a business park is because of the gateway. It says this area is to be office industrial warehouse. The employment related land use should be maintained. This sits on the corridor between Manhattan and Columbia on the animal sciences corridor and is an opportunity to develop primary jobs in that field. On the K10/40 plan it says this would best be suited for warehouse and other employment uses. She said she is asking that we be equal and fair to all, including the city and neighborhood and landowner, and that you send it to the Planning Commission with no set boundaries on what you want.

Carter said that last week he said when this first started that we would not rezone this if the rec center didn't go forward, and the cleanest way to restart the process was to deny it. One of the consequences of not acting on it is neighbor angst and we have heard that clearly. Denying it didn't pass and we rescinded it. Through the past week it seems like the best way to get this going for the neighbors would be to send it back to Planning Commission, rescinding the action from last week, asking them to take a look at it based on the changes that have occurred. Here are the changes, take a look at what appropriate zoning would be.

Amyx said one of the things is if we go ahead and rescind, and that is probably appropriate due to our concern for the neighbors, it is obvious to me that there are probably different considerations that need to be made. We are going to ask the Planning Commission to make recommendations back to this body, with the change that has occurred, what is the appropriate zoning for that area. This body will make the decision. I want the Planning

Commission to make their recommendation and I don't want to lead their discussion. Being asked to rescind and send it back to Planning, I guess I can do that at this time.

Cromwell said in looking at this from last week, his comments then were that he wanted the Planning Commission to have an opportunity to take a look at this in light of the fact that the Sports Village is not going to be at this location. He said he agreed that they need a clean slate to work from. If we need to rescind to keep this as clean as possible he thought he could go along with that. He said his is interested in the input of the Planning Commission.

Schumm said he had been pretty adamant that if the rec center failed for any reason he wasn't in favor of rezoning any land that was not needed for that. We have a rec center in the general vicinity, possibly with a larger project than before. The site is now in the 150 acre range, more a park than just a regional rec center. It has grown and grown for the best. We have an obligation to support that with ancillary uses. There is still a need for additional land uses. He was willing to send this back to the Planning Commission and have them look at the whole area. He wanted all property owners notified. He said he wanted to see a comprehensive view of the whole area. The area will be a major commercial, industrial or mixed use area, a major are for activity and he hoped the Planning Commission could come back with some innovative plans for the area. He hoped they could take a broader global view. He would support rescinding and sending it back to Planning.

Moved by Dever, seconded by Carter, to rescind motions from last week to withdraw Comprehensive Plan Amendment CPA-4-2-12, Text Amendment TA-4-3-12, and Rezoning Z-4-5-12. Motion carried unanimously.

Larkin said with that motion you have reopened the four options you had earlier.

Moved by Carter, seconded by Dever, to remand Comprehensive Plan Amendment CPA-4-2-12, Text Amendment TA-4-3-12, and Rezoning Z-4-5-12 to the Planning Commission for consideration per the City Commission comments tonight and the specific direction as follows: Given the change in circumstance that the regional recreation center/sports village is no

longer planned for the Gateway Addition property west of K-10, the City Commission has not approved or dis-approved the applications and directs the Planning Commission to review the comprehensive plan, text amendment and rezoning applications in light of the change in circumstance of the regional recreation center/sports village relocating to a property east of K-10. Motion carried unanimously.

E. PUBLIC COMMENT:

K.T. Walsh said if you visit Hulu and search “up to speed Kansas” you will see something featuring two sites in our community.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

None.

H: CALENDAR:

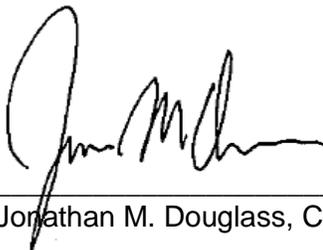
David Corliss, City Manager, reviewed calendar items.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Carter, seconded by Cromwell, to adjourn at 8:54 p.m. Motion carried unanimously.

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



Jonathan M. Douglass, City Clerk