



City of Lawrence

DAVID L. CORLISS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

October 23, 2012

The Board of Commissioners of the City of Lawrence met in regular session at 5:00 p.m., in the City Commission Chambers in City Hall with Mayor Schumm presiding and members Amyx, Cromwell and Dever present. Commissioner Carter was absent.

A. EXECUTIVE SESSION:

1. **Consider motion to recess into executive session for approximately one hour for the purpose of consultation with attorneys for the City deemed privileged under the attorney-client relationship. The justification for the executive session was to keep discussions with the attorneys for the City confidential at this time.**

Moved by Cromwell, seconded by Dever, to recess into executive session for approximately one hour for the purpose of consultation with attorneys for the City deemed privileged under the attorney-client relationship. The justification for the executive session was to keep discussions with the attorneys for the City confidential at this time. Motion made at 5:01 p.m. Motion carried unanimously.

The City Commission concluded the executive session at 6:00 p.m.

After a short break, the City Commission meeting resumed in regular session at 6:35 p.m.

B. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed Tuesday, October 23, 2012 as Lights on Afterschool Day.
2. Proclaimed Wednesday, October 24, 2012 as Kansas Food Day.
3. Proclaimed Friday, October 26, 2012 as Indigenous Food Day.
4. Proclaimed Saturday, November 10, 2012 as Celebrate Marine Corps Birthday.



5. Proclaimed Wednesday, October 31, 2012 as Halloween Beggars Night.

C. 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 10/02/12, 10/09/12, and 10/16/12.

2. Received minutes from the Homeless Issues Advisory Committee meeting of 09/11/12, the Community Development Advisory Committee meeting of 09/27/12 and the Public Health Board Meeting of 08/20/12.

3. Approved claims to 263 vendors in the amount of \$6,656,181.50, and payroll from October 7, 2012 to October 20, 2012 in the amount of \$1,836,054.48.

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

Retail Liquor License for Harper Liquor, 2220 Harper St Ste: C.

5. Bid and purchase items:

a) Set bid opening date of November 13, 2012, for a new floor system in the Bly Room at Holcom Park Recreation Center.

b) Authorized Elite Construction to install new concrete basketball courts and connecting sidewalks at Veterans Park for an estimated cost of \$25,000.

c) Awarded bid for the 2012 Master Street Tree Program to Rosehill Gardens for \$32,895.

6. Adopted on second and final reading, the following ordinances:

a) Ordinance No. 8811, establishing no parking along the west side of Delaware Street from a point 595 feet north of 22nd Terrace, north 225 feet. TSC item #6; approved 9-0 on 10/1/12.

b) Ordinance No. 8813, establishing no parking along the west side of New Hampshire Street from 17th Terrace to 19th Street. TSC item #7; approved 9-0 on 10/1/12.

c) Ordinance No. 8814, establishing a yield sign on eastbound 9th Street at Delaware Street. TSC item #8; approved 9-0 on 10/1/12.

7. Adopted Resolution No. 7000, requesting the Douglas County Emergency Communications Center use Douglas County's contract tow rotation list for towing services within the City of Lawrence when requested to do so by the Lawrence Police Department.

8. Approved the following items related to the City owned former Farmland property:

- a) Approved rezoning, Z-12-00119, of approximately 31.7 acres (and adjacent railroad right-of-way) from I-4 (Heavy Industrial) and VC (Valley Channel) Districts to UR-FP (Urban Reserve – Floodplain Overlay) District, located in the NE1/4 & NW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.* Adopted on first reading, Ordinance No. 8805, to rezone (Z-12-00119) approximately 31.7 acres (and adjacent railroad right-of-way) from I-4 (Heavy Industrial) and VC (Valley Channel) Districts to UR-FP (Urban Reserve – Floodplain Overlay) District, located in the former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). (PC Item 4A; approved 6-0-1 on 9/24/12)

- b) Approved rezoning, Z-12-00120, of approximately 170.4 acres (and adjacent railroad right-of-way) from I-4 (Heavy Industrial) District to UR (Urban Reserve) District, located in the NE1/4 & NW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd. *Initiated by City Commission on 8/7/12.* Adopted on first reading, Ordinance No. 8806, to rezone (Z-12-00120) approximately 170.4 acres (and adjacent railroad right-of-way) from I-4 (Heavy Industrial) District to UR (Urban Reserve) District, located in the former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd. (PC Item 4B; approved 6-0-1 on 9/24/12)

- c) Approved rezoning, Z-12-00121, of approximately 170.7 acres (and adjacent highway right-of-way) from I-4 (Heavy Industrial), I-1 (Limited Industrial), A (Agricultural) County Districts and CC200 (Community Commercial Center) City District to IG (General Industrial) District, located in the NW1/4 & SW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.* Adopted on first reading, Ordinance No. 8807, to rezone (Z-12-00121) approximately 170.7 acres (and adjacent highway right-of-way) from I-4 (Heavy Industrial), I-1 (Limited Industrial), A (Agricultural) County Districts and CC200 (Community Commercial Center) City District to IG (General Industrial) District, located in the former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd. (PC Item 4C; approved 6-0-1 on 9/24/12)

- d) Approved rezoning, Z-12-00122, of approximately 59.0 acres (and adjacent highway right-of-way) from I-1 (Limited Industrial), B-1 (Neighborhood Business); A (Agricultural) [County Districts] and IG (General Industrial) District to IM (Medium Industrial) District, located in the SE1/4 Sec 5-13-20 & SW1/4 Sec 4-13-20 (Former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd). *Initiated by City Commission on 8/7/12.* Adopted on first reading, Ordinance No. 8808, to rezone (Z-12-00122) approximately 59.0 acres (and adjacent highway right-of-way) from I-1 (Limited Industrial), B-1 (Neighborhood Business); A (Agricultural) [County Districts] and IG (General Industrial) District to IM (Medium Industrial) District, located in the former Farmland Industries property, N of K-10 between Greenway Circle & E 1575 Rd. (PC Item 4D; approved 6-0-1 on 9/24/12)

- e) Approved Special Use Permit, SUP-12-00100, for a Westar substation to provide electricity to the Former Farmland Industries property and surrounding

properties. The property is located N of K-10 between Greenway Circle & E 1575 Rd. Submitted by Bartlett & West for Westar Energy. The City of Lawrence is the property owner of record. Adopted on first reading, Ordinance No. 8809, for a Special Use Permit (SUP-12-00100) for a Westar substation to provide electricity to the Former Farmland Industries property and surrounding properties. (PC Item 4F; approved 6-0-1 on 9/24/12)

9. Accepted dedication of easements for Minor Subdivision, MS-12-00033, for Parkway Plaza No. 5 located at 3512 and 3514 Clinton Parkway.
10. Authorized the increase of golf cart fees at Eagle Bend Golf Course for 2013 rentals by \$1.00 per cart.
11. Authorized reimbursement in an amount not to exceed \$12,400 in relocation expenses for EMR, Incorporated as an economic development retention incentive.
12. Authorized the Mayor to sign a Release of Mortgage for Janice M'Caelin-Light, 918 Murrow Court.

D. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report.

E. REGULAR AGENDA ITEMS:

1. **Conduct public hearing to consider the vacation of right-of-way at 2104 Bob Billings Parkway, owned by Immanuel Lutheran Church & University Student Center.**

David Cronin, City Engineer, presented the staff report.

Moved by Cromwell, seconded by Amyx, to open the public hearing. Motion carried unanimously. No public comment was received.

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

Moved by Amxy, seconded by Dever, to approve Order of Vacation of right-of-way at 2104 Bob Billings Parkway. Motion carried unanimously.

2. **Open public hearing, and continue to November 20 the hearing regarding exterior yard conditions at 331 Johnson Avenue and to consider adopting Resolution No. 6996, declaring the exterior to be in violation of the City's Environmental Code and ordering the property owner to remove all violations within a specified period of time. Should owner fail to comply, the City would contract for the removal of the exterior yard violations.**

Moved by Dever, seconded by Cromwell, to continue to November 20, 2012 the public hearing regarding exterior yard conditions at 331 Johnson Avenue and to consider adopting Resolution No. 6996, declaring the exterior to be in violation of the City's Environmental Code and ordering the property owner to remove all violations within a specified period of time. Motion carried unanimously.

3. **Consider the following items regarding the 9th and New Hampshire Redevelopment Project:**

- a) **Continue the public hearing on the Redevelopment Plan for the South Project Area Tax Increment Financing District.**
- b) **Continue the public hearing on the creation of the Transportation Development District for the project.**
- c) **Consider adopting on first reading, Ordinance No. 8791, adopting the Redevelopment Plan and approving a Redevelopment Agreement for the South Project Area (needs 2/3 majority), Ordinance No. 8803, creating the Transportation Development District for the project and authorizing levying an additional one percent (1%) sales tax on property owned by the developer, and Ordinance No. 8804, authorizing the issuance of Industrial Revenue Bonds for the project.**

Mayor Schumm said that Commissioner Carter was absent tonight, and that one of the items needs a supermajority vote for passage. He said if it was apparent that there were less than four votes for the item, that the item be continued to a meeting when the full commission could consider it.

Diane Stoddard, Assistant City Manager presented the staff report.

Gary Anderson, Gilmore and Bell, presented the redevelopment agreement.

Mike Treanor, Treanor Architects, said he was available for questions.

Schumm opened the public hearing on the Redevelopment Plan for the South Project Area Tax Increment Financing District and on the creation of the Transportation Development District for the project. No public comment was received.

Moved by Dever, seconded by Amyx, to close the public hearing. Motion carried unanimously.

Amyx said under the redevelopment agreement, he asked if the renderings that included the changes on the top of the building were included on the agreement.

Anderson said those renderings were indirectly incorporated, but were not an exhibit.

Amyx said the footprint was not changing, but the top of the building in the old renderings was open with glass and he asked if that area was still glassed in.

Treanor said the footprint was still the same, but the use was changed. Restaurants were discussed, but it has changed to condominiums in the space now.

Amyx said before there was discussion about light passing through that area, and he wanted to make sure that was still the case.

Stoddard said in the plan there was an exhibit that included the new renderings which was Exhibit E.

Corliss said the agreement referenced Exhibit E as a contractual obligation.

Schumm said the public funds support additional parking in downtown. There was a concern voiced to him that this should be dedicated to parking and not have an opportunity for change of use. He said that was a reasonable expectation in that they should ensure that it would be parking in the long term. He asked if there was language already in the agreement, or could there be, to ensure that.

Anderson said currently the agreement did not contain a restriction on use of the parking garage. He thought if the commission's desire was to restrict that long term it would be wise to do that by a separate restrictive covenant so that it extended beyond the time of the redevelopment agreement, which expired after a specified timeframe.

Amyx asked about the inclusion of the street as it headed west from 9th almost to the alley between Massachusetts and New Hampshire and if it was used solely to cover the roundabout area.

Anderson said yes, the boundaries of the redevelopment district go down the rights-of-way of New Hampshire and 9th. There was an attorney general's opinion that required the right-

of-way to be included if street improvements in that right of way were to be improved as part of the district.

Amyx said if someone didn't support the roundabout, should that area not be included in the district.

Anderson said the commission previously created the district. If someone wanted to not spend funds on the streets it would have been appropriate to exclude them.

Stoddard displayed old and new renderings of the project.

Dever asked if those elevations were in the new packet.

Stoddard said yes. The old ones were on the October 2 meeting.

Micah Kimball, Treanor Architects, displayed renderings of the project. The green area was the area that had been planned for the restaurant. He displayed the old elevation and perspectives. He displayed the current plans showing 3 condos in place of the restaurant. The left hand side was open terrace and the pool has been removed and moved to the ground floor.

Dever said the drawings appeared to show a wall around the terrace.

Kimball said there was no wall in that location and was rooftop only.

Dever said the elevations show a structure on the southern portion on the rooftop where the pool had been.

Kimball said it was the mechanicals and stairwell.

Dever said it looked like the elevation showed it built up with the same wall, and asked if there was a condo in that space or not?

Kimball said no.

Cromwell said it was the plan that mattered, not the elevation.

Kimball said the perspectives might help illustrate that the wall was recessed. The plan presented to HRC and City Commission that was presented previously, you could see a built out space to access roof components.

Schumm asked if there was no change.

Kimball said that was correct. No additional wall was built or added to it.

Amyx said it had looked like a whole new floor added in the renderings, this was more clear. He appreciated the clarity.

Cromwell said it had not been clear because the floor plan shown was a working draft that was inaccurate.

Schumm asked about dedication of the parking long term.

Bill Fleming said he couldn't imagine any other use than parking.

Schumm asked if it was appropriate to ask that that covenant be placed on the property.

Amyx said yes, but he assumed that any change would have to come back to the Commission anyway.

Corliss said he wasn't sure if that was true.

Anderson said the agreement required the project be built according to the plan. Once the redevelopment agreement was extinguished after the TIF expired, only land use regulations would control. It could be possible for the use to change.

Schumm said he thought it was important, because it was public money used for parking. He said he would feel bad if that parking ever went away after it was financed with public dollars. He would push for that to be included in an agreement.

Amyx asked if they could go over one more time if a change in use of the total facility happened when the TIF was in place.

Anderson said the redevelopment agreement said the project had to be operated according to the plan. If there was a change in use and they wanted to continue receiving the TIF, they would have to ask for an amendment of the south project plan and the redevelopment agreement. If the TIF had expired, they would be subject to land use controls but not the redevelopment plan anymore.

Amyx said the public responsibility, the agreement made tonight, would be terminated if the use changed without approval.

Anderson said you could declare it in default.

Schumm asked if anyone was hesitant about 8791.

Amyx said they had cleared up the concern he had with the top floor. One question again was the roundabout and if that would be discussed later in the evening?

Corliss said yes.

Schumm asked how they would attach to the motion the agreement regarding the parking.

Anderson said you should direct staff to revise the agreement to include a reference to the restrictive covenant.

Schumm asked if it should be in a separate motion.

Anderson said yes.

Moved by Amyx, seconded by Dever to direct staff to revise the redevelopment agreement to require long term parking for the economic life of the project. Motion carried unanimously.

Moved by Amyx, seconded by Cromwell, to adopt on first reading, Ordinance No. 8791, adopting the Redevelopment Plan and authorizing the Mayor to sign a Redevelopment Agreement as amended above for the South Project Area. Motion carried unanimously.

Moved by Dever, seconded by Cromwell, to adopt on first reading Ordinance No. 8803, creating the Transportation development District for the project and authorizing levying an additional one percent (1%) sales tax on property owned by the developer. Motion carried unanimously.

Moved by Dever, seconded by Cromwell, to adopt on first reading, Ordinance No. 8804, authorizing the issuance of Industrial Revenue Bonds for the project. Motion carried unanimously.

4. **Consider the following development related items for the proposed mixed use project at 100 E. 9th Street:**

- a) **Consider the applicant's appeal of the Historic Resource Commission's conditions of approval related to the Downtown Design Guidelines review regarding building setback and on-street parking.**
- b) **Consider the request for demolition of the existing structure located at 100 E 9th Street.**
- c) **Consider the roundabout proposed for the intersection of 9th and New Hampshire Street.**

Lynne Braddock-Zollner, Historic Resources Administrator presented the staff report.

Schumm asked if the Barker roundabout had the pedestrian protection.

Zollner said yes.

Micah Kimball, Treanor Architects, presented renderings of the project. He said he wanted to present the building designs, elevations, program for the building, the roundabout for commission comments, and go through the setback and appeal. They were happy with every HRC condition except for the setback, which they wanted to do to preserve the parking. They needed City Commission approval for demolition of the existing buildings on the site. The program included apartments, office and bank on the ground floor, public restrooms for the farmers market, LEED and sustainable design. The site plan showed the roundabout and the ground floor uses as a mix of office and retail and a clubhouse for the apartments above. There would be approximately 120 apartment units. The top floor would have apartments and an outdoor pool. The southeast corner had terraces which helped taper the building back from the street. They have tried to break up the massing to fit into the downtown fabric. He said the elevations reflect a building that would appear built over time. You see for future discussion a wall that was set back from the street. They have grayed out that area to not distort the elevation.

Schumm asked what the wall was for.

Kimball said they had two story apartments, but you can't see that space that was pulled back.

Cromwell said it was only 12 feet back through, and asked how they could not see it.

Kimball said it was the perspective from the street.

Schumm said if you were far enough back you could see it.

Kimball said it was similar to Hobbs Taylor where there was no viewing angle where you could actually see that. He said they were overall the same size as Hobbs. Moving on to the roundabout, a picture from 1910 showed the Humane Society Fountain which was in the middle of the intersection. That fountain has been moved to South Park. As they did intersection improvements to make it operate more efficiently and safely, the roundabout did maintain the downtown grid. It changed the movement through the grid and made it significantly safer. Studies show accidents, injuries and deaths reduced significantly. There was also an increase for pedestrian safety. You were never in the throat of the intersection and currently had to cross three lanes. The roundabout provided refuge islands and only needed to cross one lane before reaching that island. Everything was a right in, so there were no left turns. The proposed roundabout was the same size as 19th and Barker, 90 feet total diameter. That one had a larger planter than proposed and had a mountable curb. The project had more right-of-way than the Barker roundabout. The parking reduction in the setback along New Hampshire, they were proposing head in angled parking. In order to do that, the building setbacks were increased by nine feet, to provide a ten foot sidewalk. The parking and the sidewalk both served the retail. 19 spaces was still well below what they would provide normally. Without the setback, and with parallel parking, it would be even less. The setback helped with relieving the building from the roundabout. He showed photos of Hobbs Taylor. The ten foot sidewalk was comfortable for that size of building. The downtown guidelines said there needed to be zero setbacks, but 8 of the ten buildings on the block were entirely or partially not on the property line, all except Borders and Pachamamas. There was angled parking on the south project but it came within two feet of the property line. This project on the corner was approaching the property line but was pulled back 5 feet for the south 2/3 of the project. Hobbs was set back 6-7 feet from the property line. Reuter had about 5 feet of setback; Knology was zero to 12 feet back. 900 New Hampshire was

6-7 feet. The Arts Center was on the property line at portions, but the center portion was set back 17 feet. There were some buildings on the property line but most were not. It was a wavy line, a gray area.

Schumm asked how many parking spaces would be in the new structure.

Kimball said about 100.

Schumm said less than the number of apartments.

Kimball said yes.

Amyx asked how many accidents were reported at 9th and New Hampshire over the last few years.

Kimball said he didn't have those numbers. They were in the middle of a traffic study right now.

Amyx said he disagreed that this was a continuation of the grid system. There were large trucks that delivered downtown and asked if those trucks were able to get around.

Kimball said yes, they would make sure the maneuverability was there for trucks, even the largest fire trucks.

Amyx asked about the traffic counts compared to Barker.

Kimball said he didn't have those counts.

Dever asked why they wanted a roundabout instead of a standard intersection.

Kimball said they had to improve the intersection. A roundabout would improve traffic flow and pedestrian safety, allowed some aesthetics to the area, and improved mobility.

Dever asked if they had drawn up an intersection without a roundabout.

Kimball said a sketch was done, but preferred the roundabout section.

Cromwell asked if Kimball had walked across the roundabout at Barker. He said it was dangerous and thought pedestrians avoided it. He watched trucks go over mountable refuges, which means it's not much of a refuge. He knows a traffic study would be done, but he lived next to one of those roundabouts.

Kimball said narrowing the throat to reduce the speed helps. Narrower streets, in general, and angled parking would help with that as well. These things helped as control measures.

Schumm said the speed limit was lower at 9th and New Hampshire than at 19th and Barker.

Mayor Schumm called for public comment.

Dennis Brown, Lawrence Preservation Alliance, said they were in opposition to the roundabout. He said 9th and New Hampshire, given the approved developments, clearly would have the most density and mass of any intersection downtown by far. To also introduce into the streetscape what was essentially an anomaly for downtown, would increase the focus and attention away from 9th and Mass and to 9th and New Hampshire, especially if a signature art piece was added. 9th and New Hampshire was not the historic center of our downtown historic district. Traffic would increase. If a stoplight was eventually installed, that would mirror the stoplight at 9th and Vermont and continue the grid. A roundabout was not the way to go, from a historic perspective.

Mike Treanor said they were making history. They were not going to do the roundabout if the city didn't agree and that was still in the process. They were trying to inform the commission and the public tonight. He suggested giving more time for the traffic studies. Historically, a fountain was located there.

Schumm said regarding the downtown design guidelines, he sat on the original committee and for the most part there was consensus reached early on. He didn't recall much discussion about New Hampshire and Vermont. The emphasis was on Mass and the character of buildings. A lot of design elements relative to the buildings. One of the things they never envisioned was additional parking, especially subterranean. Parking had become a huge issue now. On New Hampshire they pointed out the buildings that were set back from the lot line. They were also that way on Vermont. He didn't know that the rigid line defined in the guidelines

was all that strong. He said he was in favor of the angled parking for the additional space. That was a valuable asset. If they decided to go with that, he said he would like to look at the guidelines about those issues. He didn't think this damaged the design opportunities for the future if they set it back. Hobbs Taylor looks good. Parallel parking was more dangerous.

Amyx said he agreed about the setback and thought this would work. He liked the angled parking which worked at Hobbs Taylor. He asked if that area would be metered.

Corliss said yes.

Amyx said the increase of 11 spaces was tremendous. He didn't think they were damaging the guidelines. As far as setback and angled parking, he was supportive.

Cromwell said he liked the setback and the angled parking.

Schumm said the commission could ask for additional study on the roundabout. He was kind of in favor of it. He appreciated what Brown said, but he thought it would be a handsome intersection with a little new flavor and flair. It could work from a safety standpoint. Traffic was moving slower than at Barker. They could ask staff for more comments and a final plan on the roundabout and traffic calming.

Cromwell said he appreciated the design. It was attractive and interesting. He just didn't like the roundabout though. He didn't need to see additional input. He was prepared to say no on the roundabout, respectfully.

Schumm said if this comes down to a 2-2 decision he would ask that they defer a decision until there was a full commission.

Dever said they were talking about transportation district improvements. He understood that some people believed that a roundabout would move traffic more safely. Others disagree. Dennis pointed out that this would move the focus from 9th and Mass. He thought they should ask the developer for the best intersection they could get. Was that a roundabout? Maybe. Once the project developments there would be a lot more cars and pedestrians. He was not ready to decide tonight. This was unique and exciting. It was important to make a wise and informed

decision. He was not ready to say yes or no. He has seen other treatments of intersections that could be effective.

Amyx said he would not vote for a roundabout at that intersection.

Schumm asked what if they ask staff to research similar areas and intersection treatments, and they could come back when a full commission was present.

Corliss asked Planning staff if decisions on the other items but not the roundabout slowed down the other approvals needed.

McCullough said they still needed site plans, so there was plenty of time to explore the intersection issues.

Cromwell said it was a good use of staff time to look at the best possible intersection, but he was not interested in having them research this or any other roundabout.

Moved by Dever, seconded by Cromwell, to continue consideration of the intersection improvements to a later meeting. Motion carried unanimously.

Moved by Amyx, seconded by Dever, to uphold the applicant's appeal and approve the submitted design with setbacks and angled parking as set out in the request. Motion carried unanimously.

Moved by Amyx, seconded by Dever to approve the demolition of the existing structure located at 100 E 9th Street. Motion carried unanimously.

The City Commission recessed for a short break at 8:34 p.m.

The Commission returned to regular session at 8:45 p.m.

5. **Consider authorizing the Mayor to execute an agreement with the Kansas Department of Transportation for the 9th Street, Tennessee Street to Kentucky Street improvements, and approve the removal of parking on south side of 9th Street between Tennessee Street and Kentucky Street and adopt on first reading, Ordinance No. 8815, establishing no parking along the south side of 9th Street from Tennessee Street to Kentucky Street.**

David Cronin, City Engineer, presented the staff report.

Schumm asked how wide the bike lanes were.

Cronin said 5 feet, which was the smallest allowable.

Schumm said currently there were no bike lanes in that block.

Cronin said that was correct. He continued his staff report.

Amyx said several years ago when they put bike lanes adjacent to the parking, could that be done here?

Cronin said no, if you include the center turn lane. To include the five lanes, bike lanes, and parking, you would have to widen the street. It would be difficult to accommodate.

Mayor Schumm called for public comment.

Todd Thompson said he owned the old KP&L building. He paid a little over \$24,000 in property taxes last year. He had 4 parking spaces in front of the building that were used largely by their elderly clients because they were the closest. He said he was not present to be difficult, but those were important parking places to their firm. He said they had invested in the building extensively. He would like to stay downtown and he would like to keep his parking. He said parking was expensive. He said the 7 spaces that they were talking about eliminating, was to have a one block long bike lane. In front of the Gill Agency there was no bike lane. This was not extending the bike lane, but would be creating a one block long bike lane. It was admirable to try to say the City was pro-bicycle, but it was not appropriate that he had to be the one to bear the consequence of an ineffective symbolic gesture. The bike lane on the south side of the street would connect to nothing. Intrust Bank, one of the newest buildings in the area, has parking. No bike lane was required. The curb actually sticks out farther than it used to, to slow down traffic. He said he was in favor of this project to a degree. Something needed to be done. Several vehicles have hit his building. Putting in a one block bike lane was not part and parcel of that safety improvement. The Carnegie was recently remodeled and that block redone. The parking was left and no bike lanes were added. No bike lanes were talked about for 9th and New Hampshire. When it was not happening anywhere else, he was having trouble seeing why it was needed here. Put it in on the north side, but not the south. He was interested in making it

look similar to what was at Intrust Bank. It gave people the signal that they were entering the downtown area. That made more sense than putting in a one block bike lane. He would be interested in giving up a few feet if the parking spaces were left. There was a strip of grass that was difficult to maintain anyway and parking could be moved over. As a bicyclist he didn't even see the need for the bike lane. You received a letter from Sustainability Action Network, talking about the common design downtown. That letter indicated the city was considering using that same design further west. He suggested having staff redesign this to leave parking on the south side, rather than taking parking.

Schumm asked how many feet Thompson was suggesting were available for this project.

Thompson said there was a least a two foot strip. He was willing to push the sidewalk over.

Schumm asked staff if Mr. Thompson's offer created opportunities to look at.

Cronin said they could look at those opportunities, but we needed an additional 3 feet of road width. They would most likely need to set sidewalks back closer to buildings and he didn't know if other rights of way or easements were needed.

Corliss asked if that improvement could be with KDOT funding.

Cronin said no. As far as sidewalk goes, it would be several thousands of dollars, as well as the additional roadway pavement.

Corliss asked about the time frame for getting back to KDOT.

Cronin said soon. They needed to finalize design in November.

Dever said he was with Thompson on this one because there was only one block of bike lane and wondered what would be gained. He supported good effective bike lanes but not token efforts.

Cronin said the bike lane on the south side was the size of the roadway. They could make the lanes wider with that room instead. He said staff could certainly look at the costs of widening the street and providing the parking.

Dever said the costs covered the striping, fixing the curbs, but not major construction on the right of way.

Cronin said not the parking though, it was not in the scope considered by KDOT. It was a stretch to get them to cover the milling.

Dever said it's not as simply as building out and putting the parking space in.

Cronin said not with the widening of the street.

Schumm said maybe these weren't highly used now, but if they keep adding density they might in the future. He recognized these were high priority intersections.

Corliss said to do the turn lane and parking, they would have to widen the street. It might be just too expensive. It might be turn lane versus widening. It would cost a lot more than \$17,000/space to keep those spaces if they wanted to add the turn lane.

Schumm said the commission would direct staff to come back and look at this.

Mike Myers said there was a loud voice not being heard tonight – that of the bicyclist. Every foot given to bicyclists makes it safer, even if it's just a single block. He appreciated the concern for the parking but those spaces belong to the public. There were a lot of people that would probably like to comment on this. Even one block gives bicyclists an opportunity to get out of traffic that was trying to pass the bicyclist.

Schumm asked if there was any interest in looking at the spaces on the north side rather than the south.

Corliss said they could but they would have to jog the road.

Schumm said the commission would take a look at what Thompson was offering the City.

Moved by Cromwell, seconded by Dever, to direct staff to look at options for road, parking and bike lane designs for 9th Street, Tennessee Street to Kentucky Street improvements. Motion carried unanimously.

6. Receive staff update on Varsity House, 11th and Indiana project.

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

Schumm said once again, there were only four members present, and if ending up with a 2-2 vote, he would like to continue this to another meeting when there would be a full commission.

Mayor Schumm called for public comment.

Paul Werner, Paul Werner Architects, said the developer visited with staff prior to the dismantling of the building, so it was not fair to characterize this as ignoring the conditions. In hindsight he wished they had more detailed discussions earlier in the process. He thought combining #1 and #3 from Scott's memo would be his recommendation, with all available material going back into construction.

Cromwell asked how much that would be.

Werner said the second and third floor would reuse more materials than the first. They would use a majority, almost all, of the existing material from the second and third floor of the old building. The first floor used the least amount. He wished the cedar shingles hadn't been primed because they look like new construction. If they weren't they would have been more obvious to the average person.

Amyx said it's not the same house at all. When he considered the house to be moved, it would remain together. He thought the agreement worked out would work. He monitored that project, wondering when the house would come back. He felt like he had been had. He thought he was a fair person. He recommended that the Commission go to that site with staff and be told exactly what was left and how it would be used. Again, he believed that he had been had,

and he wanted to see what was left. He thought it was absolutely not in compliance with the site plan.

Werner said he hoped to work with him on that suggestion to go on site together. There were other conversations that led to where they were and they would try to fix it and move on.

Amyx said he wasn't sure how to fix it. He suggested including people from Preservation Alliance when going up there. This was something that the public took pride in. That was his thinking, and he believed something needed to be said. Is this a different building? Absolutely. He said they could make it look like it, but replica isn't the same thing.

Dever asked at what point in time the city told Werner it was okay to cut up the building and move it.

Werner said in October last year, but he was not present. The owner met with Lynne. That was done before any dismantling was done. At the time it was moved, there was one level of parking where they were going to move it. As the parking was built it became evident that moving it off site would be preferable. That conversation was had, but I was not there. It was agreed to. There should absolutely have been more conversation though.

Dever said originally they were going to have it on one spot on the lot, then another. It was done with administrative approval, in your opinion?

Werner said he believed they went back to HRC, and that was where the conditions came in. After all that the owners went back and talked to staff about dismantling the house.

Dever asked if that was documented anywhere.

Werner said no.

Cromwell said this body approved moving it, and moving it didn't happen. He asked where the breakdown occurred.

McCullough said Thomas and Lynne and their contractor met on the issue. Lynne looked at the historic values and it was a valid way to move the building. That didn't invalidate the

conditions already approved. Staff had every expectation that it would come back and be essentially the original building.

Dever said they had to figure out if it merits further action by this body.

Werner said he spelled out several things in his memo. One thing not made clear to the public was that the sleeping porches would not come back.

Dever said asked if it was never planned to put the foundations back. No one was going to be satisfied because the west side of the building was hacked off. The Commission didn't make that decision.

Werner said early on everyone agreed that the west end of that building needed to be demolished. The windows had been replaced with acceptable replacements.

Cromwell said he was still confused about staff and their roles. There was a failure in communication, and they did not want to have that happen again. Where was the failure and how were they going to be able to get at this issue.

McCullough said the failure was that the building didn't come back as expected.

Cromwell said dismantling was only the moving method.

McCullough said they heard the challenges and accepted that as a legitimate way to move the building, which would then come back and be reassembled. They had conditions of approval and a development plan that implemented the compromise.

Cromwell asked if they had any feel for what would constitute the Varsity House in the future.

McCullough said new window, roof, mechanical would be expected.

Schumm said what they had was a 90% new building. The conditions said the "existing structure" would be relocated. It says "existing structure" repeated numerous times. He said this was not the same house as when starting out.

Ann Margaret said this was ridiculous. People involved with historic resources did not confuse disassemble with move. She said she often felt there was no enforcement when she

was on the HRC. The city falls down on doing anything more than lip service on preservation. She was not buying this.

Dennis Brown said the agreement said “the existing structure would be relocated.” LPA believed the existing structure did not exist. When the developer announced the structure would be disassembled they knew it would be lost. Statements that it would not survive the move were false. Balloon structures were moved all the time. When Fritzel said reassembly would be easy Brown did not believe it. No concerns were expressed that dismantling the structure would prevent it’s ever being rebuilt. Last Thursday he visited the site and found a new house using some framing materials salvaged from the Varsity House. There would be no original trim, flooring, staircases, stone facing. This in no way resembled the compromise agreed to. The new shingles and windows were causing the public to see a new house. Thomas said it was a new house. Commissioner Amyx did everything he could do to piece together this compromise. He did exactly what a great commissioner should. A site plan violation had occurred. It was not the first time this developer had taken liberties with a site plan. Approving a combination of options 1 and 2 would be good. Option 3 would be a travesty. They should pay a settlement large enough to send a message that site plans must be complied with.

Stan Hernly said the developer knew that old houses were balloon framed. Perhaps you remember when the university built new scholarship halls. They moved a balloon framed house in one piece and it now sits on Kentucky Street. He said an earlier plan denied by HRC showed a replicated/relocated Varsity House. A later plan said relocated. A day before the denial came to you, a compromise was reached so they didn’t get to discuss it. The elevations showed a “relocated original Varsity House”. It was obvious that cutting up the house into parts wasn’t what preservationists wanted. Thomas snookered the HRC and LPA, he co-opted the Planning staff, he bamboozled the Commission into thinking there was an amicable resolution.

Ted Boyle said in North Lawrence they thought this was the straw that broke the camel’s back. There was the Varsity House, AstroTurf, and flagpoles. This sets a precedent for builders

and developers. Right now, they were having a problem with a builder on Elm Street. North Lawrence wants to see something done.

Gwen Klingenberg, Lawrence Association of Neighborhoods, said she heard 90% of the building was supposed to come back. If the applicant can't correct this, they were asking that the commission send a strong message to applicants that this was unacceptable.

Schumm asked Lynne Zollner if she could shed any light on the meeting she had with the developer.

Zollner said she meet with the developer and the mover. She used a National Park Service guideline on moving historic structures. Dismantling it was an acceptable method, and her understanding was that it would be dismantled, numbered, and then reassembled.

Schumm asked if they brought forth this publication.

Zollner said no, she had that knowledge.

Schumm asked if she thought they had an understanding of it.

Zollner said at that time, yes.

Amyx asked if the material notations were on the Varsity House or the new part of the project.

Zollner said the new part.

Dever asked what Hernly meant about being co-opted.

Zollner didn't believe she was co-opted. The structure didn't come back the way she expected.

Dever said the National Park Service said it was an acceptable method to dismantle. Did you discuss specifics of how it was to be done or did you assume it would be done correctly?

Zollner said they discussed, at that meeting, how the dismantling took place and how the pieces were numbered and put back together.

Schumm said when Zollner attended the meeting, did she have a fairly good understanding and was fairly well assured that it would be handled in a professional preservation manner?

Zollner said correct.

Dever asked who said it was okay to lop off the west side of the building.

Zollner said the approved plans showed that.

Dever said one of the major citations of lack of conviction was the defining characteristic of the stone foundation. If one of the major things they didn't do was restoring the stone foundation, how would he comprehend what was right and wrong.

Zollner said the foundation would be faced with the stone.

Dever said what part.

Zollner said the entire foundation.

Dever asked if they approved taking the western portion off. That wasn't something slipped in at the 11th hour?

Zollner said that was correct.

Schumm said it was deemed not as significant as the original structure.

Zollner said correct.

Dever asked if staff ever documented that the building could not be moved in its entirety, and did they agree to oversee the dismantling and reconstruction. He asked how Zollner was involved in this process.

Zollner said Code Enforcement does the site plan review.

Dever asked if Code Enforcement consulted with Zollner.

Zollner said yes.

Cromwell said going forward, he asked what could be done to spell things out and get them in writing. He asked if inspections should be more often.

McCullough said staff was involved at certain points in a development project. Staff did what they could to articulate conditions of approval. Staff would get involved during the inspection process. Staff was at that point now, and that was how they learned about it. One of our building inspectors brought back a report about what they saw which started their investigation.

Zollner said she would have the conditions of approval specify how the removal would take place.

Corliss said he appreciated staff's comments. Moving forward they need to look at it systematically. The next project might not be moving a structure, but they needed to take a larger look at this issue.

Schumm said he would give Werner time for rebuttal if he wanted. He asked if Fritzel wanted to say anything. Neither Werner nor Fritzel spoke.

Amyx suggested continuing this item to meet on site with staff and others, look at options 1 and 2, not 3, go to the site and listen to where this project was going from this point forward. He suggested placing the item back on the agenda the next possible date. If they could not come to agreement, then talk about possible fines at that point.

Schumm said Werner's letter looked like more of the same. There was a lot of stuff here that stated they'll use new stuff where they think it was necessary. He asked how much of the 2nd and 3rd floors were left.

Werner said all the walls, studs, enough wood floors for one floor. Everything he had been told was the 2nd and 3rd floors matched what they had.

Schumm asked if he had seen those materials.

Werner said not personally.

Schumm said they needed to complete the project. It wasn't going to be what he or many others expected. Sanctions were warranted. He didn't want to give the impression that

when they had an agreement, it could be broken. He would like to see the project completed. He could work with Amyx to see what was left, but he thought sanctions were in order.

Cromwell said he agreed. The complete structure could not be reassembled. They haven't met the conditions set forth by HRC and this body. There had to be some sort of fine or we'll have people paying no attention to what the commission said in the future. The first compromise didn't work, didn't happen. Now they had to come up with a new agreement. Let's see what could be done with Varsity, and then see what could be done to help preservation projects in the future.

Dever said he wasn't sure what they meant by sanctions.

Schumm said money.

Cromwell said there were other sanctions such as denying occupancy.

Schumm said damage had been done under our original agreement. They could look at what's left and have discussions about how to move forward. Before occupancy was granted the commission needed to discuss penalties. They had a contract, and it was broken. Therefore, they have a situation where there should be a financial penalty. That money should be used to help preserve other historic structures.

Dever said you mean #2, negotiate a settlement.

Schumm said he meant #1 and #2. Bring the project as close to where they want it to be, and among the five of us discuss what cash penalty could be supported.

Moved by Amyx seconded Cromwell to determine that the project is not in compliance with the conditions of approval at this time given the observations to date; direct staff to monitor the progress from this point forward; and insist that the applicant use as much of the original structure as possible, especially on the exterior, as construction continues in order to bring the structure into compliance with the intent of the conditions of approval; to determine that the project has not met the conditions of approval and cannot meet the conditions given the construction to date; and to direct staff to negotiate a settlement with the owner with the

intention of furthering the historic preservation efforts in the community by directing the funds to a historic preservation organization. Motion carried unanimously.

F. PUBLIC COMMENT:

KT Walsh said through the 9th and New Hampshire project they have brought up that there might be the bodies of 4 black soldiers buried on the site. A few days ago crews came to drill samples on the site, and they weren't aware that they had a responsibility to look for bones and stop if they were found. She was concerned that the message wasn't getting to the crews doing the work.

Corliss said staff would reiterate that with the property owner that they need to convey it to all appropriate contractors and subcontractors. The city didn't have any regulatory authority on that, it was a state regulation, but again, staff would reiterate it to the owner.

G. FUTURE AGENDA ITEMS:

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

H. COMMISSION ITEMS:

Dever asked if the brick from the alley on Indiana was palletized and put in a city lot.

McCullough said staff would check into that.

I. CALENDAR:

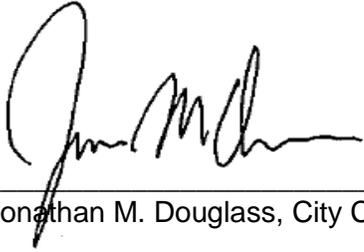
David Corliss, City Manager, reviewed calendar items

J. CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Cromwell, seconded by Amyx, to adjourn at 10:28 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON 11/13/12.

A handwritten signature in black ink, appearing to read "Jonathan M. Douglass". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan M. Douglass, City Clerk