



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL DEVER

COMMISSIONERS
MIKE AMYX
JEREMY FARMER
DR. TERRY RIORDAN
ROBERT J. SCHUMM

July 23, 2013

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 Dever presiding and members Amyx, Farmer, Riordan and Schumm present.

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Proclaimed Tuesday, July 23, 2013, as the City of Lawrence, Kansas Celebration of the 23rd Anniversary of the Americans with Disabilities Act.

B. CONSENT AGENDA

Riordan pulled item 7 from the consent agenda for separate discussion.

Moved by Amyx, seconded by Schumm, to approve the consent agenda as below minus item 7. Motion carried unanimously.

1. Received minutes from various boards and commissions:

Cultural District Task Force meeting of 06/25/13
Public Health Board meeting of 05/20/13
Sister Cities Advisory Board meeting of 05/08/13
Sustainability Advisory Board meeting of 06/12/13
2. Approved claims to 256 vendors in the amount of \$3,931,217.75.
3. Approved the drinking establishment license for Rick's Place, 846 Illinois.
4. Bid and purchase items:
 - a) Awarded City Bid No. B1344, PW1334, Farmland, Fence Construction around Above Ground Storage Tanks, to AmeriFence Corporation, in the total amount of \$29,242 provided the contractor could meet the terms established in the contract documents.
 - b) Awarded City Bid No. B1345, PW1227, Dillons Store #98, Traffic Control, to Vintage Greenmark, Inc., in the total amount of \$48,721 provided the contractor could meet the terms established in the contract documents.



- c) Authorized the City Manager to Execute an Engineering Services Agreement, in the amount of \$299,000 with Black & Veatch Corporation for Project UT1304 Wakarusa Wastewater Treatment Plant and Conveyance Corridor Facilities.
 - d) Approved and authorized the City Manager to execute Change Order No. 2 to the construction contract with Garney Companies, Inc. for project UT1206DS O'Connell Road Waterline Extension increasing the contract amount by \$81,856 and contract time by 50 calendar days.
 - e) Authorized the renewal of the City's annual agreement for Microsoft software maintenance for the period of July 1, 2013 – June 30, 201 to Software House International for \$89,264.
5. Adopted on second and final reading the following ordinances:
- a) Ordinance No. 8882, for a Text Amendment (TA-12-00205) to the City of Lawrence Land Development Code, Chapter 20, Article 11, to modify the requirements for a Retail Market Study. Initiated by City Commission on 8/21/12.(PC Agenda Item 6; approved 7-0 on 6/26/13)
 - b) Ordinance No. 8884, allowing the possession and consumption of alcohol on the 100 block of E 8th Street during Sandbar Birthday Party, August 10, 2013 to August 11, 2013.
6. Adopted the following resolutions:
- a) Resolution No. 7034, authorized the issuance of General Obligation Bonds for certain Main Trafficway Improvements (6th Street and 23rd Street improvements in 2014) in the amount of \$325,000.
 - b) Resolution No. 7035, authorized \$40,000 in general obligation bonds for the improvements at 9th and Kentucky Streets.
 - c) Resolution No. 7036, authorized \$100,000 in general obligation bonds for the improvements on 9th Street from Emery to Michigan.
7. THIS ITEM WAS PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. Approved Site Plan, SP-13-00230, for a sidewalk hospitality area for The Roost, located at 920 Massachusetts Street. Submitted by Mike Myers of Hernly & Associates for Terra Firma LTD, property owners of record.
8. Approved Special Event, SE-13-00269, for a Country Produce tent sale extension at the Discovery Furniture parking lot, 2525 Iowa Street, from August 10 through August 23, 2013. Submitted by Julie Galemore, Country Produce, with permission of Discovery Furniture, property owner of record.
9. Authorized the City Manager to execute development agreements for access management improvements at Myers Liquor and Jiffy Lube (located at the northwest corner of 23rd and Alabama Streets) and the proposed redevelopment of 1420 W. 23rd Street, which included Chipotle and Car Toyz; and, authorized the Mayor to sign

Supplemental Agreement No. 3, adding the new projects to the original city/state agreement.

10. Set a due date of Tuesday August 20, 2013 for the Request for Proposal (RFP) for engineering services for the design of stormwater and geometric improvements to the intersection of 23rd Street & Ousdahl Road, Project PW1134.
11. Approved changing the Sister Cities Advisory Board bylaws to clarify the length of term for advisory board members; modifying the definition of quorum and clarify the role of friends groups.
12. Approved a Temporary Use of Public Right-of-Way Permit for the Kansas State Fiddling and Picking Championship for the closure of Massachusetts Street between North Park Street and South Park Street on Sunday, August 25, 2013, from 8:00 a.m. – 7:00 p.m.

Regarding consent agenda item 7, a person sent a letter with a concern that some of the businesses that had approved sidewalk dining areas also had signs and items that blocked the sidewalk. He asked staff if there were any regulations regarding items that impede the flow of foot traffic on the sidewalk between the sidewalk dining fence and the street curb.

McCullough said the previous City Commission passed a code revision to the City's sign code that would allow A-frame signs in the downtown district as well as other commercial districts, if meeting certain standards. One standard was that A-frame signs had to be within a foot of the building. He said there would be no signs permitted between the fence and out in the sidewalk. He said if there were signs impeding traffic, there was an enforcement issue and staff would visit with the owner and have the owner pull that sign back to the building.

Riordan said he had no problem with this particular business, only the concern he described. If there were violations, staff needed to enforce that regulation.

McCullough said twice a year staff did a comprehensive inspection of sidewalk dining and used complaint based enforcement from there on.

Riordan said there weren't too many businesses downtown that had sidewalk dining and asked if staff could send each sidewalk dining license holder a letter asking them not to put anything between the sidewalk dining railings and the sidewalk.

McCullough said staff sent a notice when the sign code was amended educating downtown business owners on the new standards and asking those owners to comply. He said he personally observed good compliance to start that new code, but he did not know where it stood today. He asked if Riordan was asking about this specific applicant.

Riordan said no. It was just a letter from a concerned citizen.

McCullough said staff had recently advised downtown merchants on that particular sign code. If staff needed to meet with certain individuals, they would be happy to do that asking those individuals to pull their signs back to their building.

Riordan said if there were no other concerns, he would move to adopt item no. 7.

Schumm said he received an email from another individual who was the architect for this site and it detailed the extraordinary amount of labor, conditions, and hoops he had to jump through to receive an outdoor dining permit. He said it seemed rather excessive and didn't know if there was a way to streamline that process.

McCullough said that issue was on staff's list to look at efficiencies and site planning for those types of uses downtown. He said he spoke to the applicant and architect and staff would try to streamline that process with a shorter list of requirements for those types of site plans.

Dever called for public comment. None was received.

Moved by Riordan, seconded by Schumm, to approve Site Plan, SP-13-00230, for a sidewalk hospitality area for The Roost, located at 920 Massachusetts Street. Motion carried unanimously.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report.

D. REGULAR AGENDA ITEMS:

1. **Conduct a public hearing regarding the issuance of a Drinking Establishment License for Basil Leaf Café at 616 West 9th Street and consider granting a distance limitation waiver.**

Jonathan Douglas, Assistant to the City Manager, presented the staff report.

Mayor Dever opened the public hearing regarding the issuance of a Drinking Establishment License for Basil Leaf Café at 616 West 9th Street and to consider granting a distance limitation waiver.

After receiving no public comment, **it was moved by Schumm, seconded by Farmer,** to close the public hearing. Motion carried unanimously.

Mayor Dever asked if there was any Commission discussion.

Riordan said he had no reservation in granting a distance limitation waiver because a liquor store was located between the Basil Leaf Café and the church.

Moved by Farmer, seconded by Riordan, to find that the proximity of the sale of alcohol by Basil Leaf Café at 616 West 9th Street was not adverse to the public welfare or safety, and to grant a distance limitation waiver. Motion carried unanimously.

2. **Receive update on Traffic Study on Lincoln Street, from North 2nd Street to North 7th Street.**

Chuck Soules, Public Works Director, presented the staff report.

Farmer said in the minutes from the November 2009 Traffic Safety Commission meeting, it was approved 5-3 to reduce the speed limit to 25 mph. He asked if it was tabled by the Traffic Safety Commission.

Soules said he believed that was correct.

Schumm asked Soules why this item didn't go before the Traffic Safety Commission.

Soules said it was a request from the Traffic Safety Commission to take another look at this item.

Schumm said he thought everything went through the Traffic Safety Commission even if the City Commission requested it.

Soules said staff thought they would bring the information back to the City Commission. This item had been before the Traffic Safety Commission a couple of times. He said staff could take this item before the Traffic Safety Commission if the City Commission desired, but typically

it wasn't warranted and the TSC would probably send the item back without a recommendation to implement.

Schumm said without a recommendation or a recommendation for denial.

Soules said without a recommendation to implement or a recommendation for denial.

Riordan said based on a traffic study there was no indication for traffic calming devices at that location.

Soules said no, other than it was an area with ditches on both sides and the mailboxes up to the street where residents had to stand in the street to get their mail which was one of the concerns from the neighborhood. He said based on speeds and volumes it was a standard residential street. There has only been one accident in the last three years at 5th Street.

Schumm said 30 feet was standard for residential streets, but Lincoln Street was very narrow and the fact that mailboxes encroached on the street made it narrower. He asked about the width of Lincoln Street.

Soules said the width was 18 to 20 feet.

Schumm asked about the width of a standard street.

Soules said the street standard width was 27 feet. He said it was a residential street and narrower streets should have lower speed limits.

Riordan said he understood that speed limits could be set, but streets typically claim their own speed limits.

Soules said he didn't know if there was an actual speed limit sign at that location, but state law required 30 mph unless otherwise posted.

Amyx said a long time ago, the speed limit was reduced from 30 mph to 20 mph in Old West Lawrence. He asked if staff ever looked into how the lowering of the speed limit impacted the median speed limits.

Soules said he didn't know if any speed studies were performed.

Amyx said studies were done at numerous locations throughout that neighborhood regarding 20 mph speed limits and the number of stop signs.

Farmer asked if the Manual on Uniform Traffic Control Devices addressed narrower streets.

Soules said for residential, the street width could be 20 feet wide and with that type of traffic volume, the street would be wide enough. He said MUTCD (Manual on Uniform Traffic Devices) dealt with traffic control and ASSHTO (American Association of State Highway and Transportation Officials) dealt with pavement widths.

Dever said staff provided the City Commission with 2 links for spreadsheets to review which was for Ranked and Unranked, Unfunded Traffic Calming. He said when he clicked on the Unranked, Unfunded Traffic Calming spreadsheet, there was a list that was titled, "City of Lawrence List of Traffic Calming Devices" which was approved, but lacked funding. He asked if that meant they were unranked.

Soules said the Traffic Engineer prioritized the ranking based on speeds, location, schools, pedestrians in the area, volumes, crashes, sidewalks etc. He explained the spreadsheets.

Dever said the two spreadsheets were complimentary to each other. He said the total numbers of projects were projects that had been discussed and approved or in limbo and the other spreadsheet with numbers were projects that had been approved, but had not been funded.

Soules said correct.

Dever said that unranked didn't mean that it hadn't been approved, but it meant that those projects were not in any particular order.

Soules said yes, the City had been approving traffic calming for several years with no funding. A couple of years ago the City Commission decided to stop approving those projects if those projects weren't going to be funded. He said staff went ahead and continued the list and

a lot of those projects might not be good projects anymore because traffic calming was subjective.

Dever asked Soules if there was a list of projects that had been approved by the City Commission and by the Traffic Safety Committee, but not funded. He said those spreadsheets had a multitude of items.

Soules said the City Commission might want to use the list that the Traffic Engineer maintained and had rankings with priority order.

Schumm said relative to North Lawrence, he asked how many streets were similar to Lincoln Street in terms of width and traffic volumes. If the City Commission decided to make some type of adjustment to that street today, would the City have a lot of other streets coming in with the same types of request or was that a street in terms of the amount of traffic it carried, the width, and the seemingly dangerous stuff that the neighbors felt was present.

Soules said there were a number of streets in North Lawrence that had the same characteristics, similar to Lincoln Street.

Schumm asked Soules to compare that with traffic volumes.

Soules said he didn't know if Lincoln Street carried any more or less traffic than any average residential street. He said 1,000 trips a day was standard and the highest number of trips in that area was approximately 770 trips a day which was right after pulling off of 2nd Street.

Mayor Dever called for public comment.

Ted Boyle, President, North Lawrence Improvement Association, said the Lincoln Street project had been going on for 3 years. He said the Traffic Safety Commission told the association "no" and it wouldn't do any good coming before the City Commission. That was when he approached one of the City Commissioners and presented information, materials, and signatures of the residences that lived along Lincoln Street. He said Lincoln Street was probably one of the narrowest streets in North Lawrence. The only stop sign was at 3rd and Lincoln and 7th and Lincoln and onto Lyon Park where most of the traffic came from. He asked

about the cost effectiveness of those speed calming devices and why were 3 of the speed humps placed between 9th and Walnut and 9th and Locust. He said there were 4 houses on the west side and a cornfield on the east side. He asked what criteria warranted placing those speed humps at those locations. He said those speed humps were constructed before the micro resurfacing project was completed in North Lawrence and the residents didn't receive any information regarding those speed humps. He said this discussion was about a street that was 16 to 18 feet wide with open ditches, mailboxes encroaching into the street, and where two vehicles could not pass, but yet the City stated it was not cost effective. There were 10 or 11 new homes being built in the 700 block of Lincoln, right behind Lyon Park and the traffic would increase. He said there were a lot of small children that lived on Lincoln Street and the sidewalks were only on 3 of the blocks of that street on the south side.

Riordan asked why people wouldn't go down Lyon Street and go the same speed.

Boyle said Lyon Street was a wider street and was the street that was primarily used by the people that utilize the ball diamond fields and tennis courts. He said he received a call from the Parks and Recreation Department, indicating that they would like to change one of the tennis courts into a pickle ball court which would produce more traffic. He asked if those 3 speed humps on North 9th Street, outweigh the speed humps on Lincoln Street.

Schumm asked if there were any stop signs on Lyon Street from 2nd to 7th Streets.

Boyle said no.

Dever asked Soules to explain why the City placed two speed humps on North 9th Street when the resurfacing project was done.

Soules said on June 7th the Traffic Safety Commission heard this request and staff typically notified adjacent neighbors and neighborhood groups. He said the City received a request from a resident in that area who was concerned about the speeding traffic that was visiting a local club. He said it was approved by the TSC based on speeds. The speeds averaged 36.8 mph averaged 463 vehicles per day which wasn't excessive, but it was the

speed of traffic. He said it was brought before the City Commission at the August 3, 2010 meeting and was approved. He said when the micro-surfacing project was done, those speed humps were constructed.

Kim Deroulette, resident on Lincoln Street, said there were a total of 16 children on her block. She said she had 3 children and 2 of her children almost were hit by a car and her mailbox had been knocked over twice.

Schumm asked about her address.

Deroulette said they lived at 434 Lincoln on the south side.

Schumm said if it was decided to put in speed bumps, those speed bumps wouldn't go in right away because they had to wait until there was major maintenance. He said it seemed speed was an issue because there was a long stretch that was uninterrupted. The 85th percentile speed was consistent with the 30 mph speed limit up or down a mile or two per hour. If putting a stop sign in at 5th Street and Lincoln in the middle of the span between 3rd and 7th Streets, that traffic would be stopped in the middle of that run which could be done after an ordinance had been adopted and would be far less cost. Also, when getting enough stop signs in an area, it forced traffic to a less obstructed route and the traffic might head to Lyon Street which was a better through street and had no stop signs from 2nd Street to 7th Street and it would create a push to have that traffic on that street as opposed to up and down Lincoln Street. He said Locust Street to the south was a nice wide street as well and he could see Locust and Lyon Streets functioning as two parallel streets that then would tie into 7th Street, if trying to get to the east side of the neighborhood.

Amyx said if Lyon Street was used more, he asked if the City Commission should look at Lyon Street at a later date to see if traffic calming or additional signage was needed.

Schumm said the City Commission could look to see if any traffic calming was needed on Lyon.

Amyx asked if Schumm was suggesting to place a 4 way stop at 5th and Lincoln Street, and place traffic calming on the list to be done at a later date.

Schumm said his suggestion was to see if the stop sign suggestion worked and solved the problem. He said it was his understanding that some of those traffic devices might be a decade away before getting installed, unless the City wanted to spend a ton of money for those traffic devices.

David Corliss, City Manager, said that statement could be fair, but again he didn't want to be too global. The City Commission set the priorities and if the Commission wanted to move money from a different project or street maintenance to accelerate the approved traffic calming devices, that could be done. He said he had been hesitant to recommend that because he had seen a greater need for street maintenance, but the City Commission could change that. He said staff had tried to get at traffic calming devices as street maintenance was done. He said he was very sensitive to the safety issue as well. It could take some time unless there was outside money or direction from the Commission to get to some of those traffic calming devices.

Dever asked if Boyle had an opinion on the stop sign that Schumm proposed at 5th Street.

Boyle said they initially considered stop signs when they went before the TSC. He said the TSC said that stop signs were not a traffic calming device and people would stop and accelerate faster to get away from the stop sign as well as run those stop signs. He said they could temporarily try the stop sign approach while waiting for a traffic calming device. He said it was possible that the North Lawrence Improvement Association could request CDBG money for one of those devices or assist in getting something done on Lincoln Street. He said they had been fighting this problem for about 3 or 4 years. He said Locust and Lyon Streets could handle the traffic, but a narrow street like Lincoln that wanted the walkability and bicycles, that street was the narrowest street they had.

Schumm asked if it would be worth a try to do the stop signs now to see how it function and then see if they would need to include traffic calming devices at a later date.

Boyle said it sounded reasonable.

Schumm said the stop sign could be installed within two months.

Soules said the Traffic Engineer had some authority to do some things quickly and might be able to implement that installation by writing a letter to the Chief of Police and draft an ordinance in the meantime. He said staff would install that stop sign as quickly as possible.

Corliss said staff probably would need to put up some warning flags. He said staff could move quickly on that stop sign if it was the Commission's direction.

Amyx said in conjunction with this stop sign, staff might want to get traffic counts on Lyon Street.

Dever said he agreed and was the only reason he would say the stop sign might be valuable because the TSC claimed that it caused people to speed up, but by diverting traffic it might actually help the problem because it was only one block away and no stop signs.

Schumm said he avoided the Old West Lawrence neighborhood because a person had to start and stop so many times.

Farmer said Lincoln Street was such a narrow street and at a 2011 TSC meeting, one of the Traffic Safety Commissioners felt that the counts that were comparable to this street were relatively low. He suggested lowering the speed limit on that street to mitigate some of the other potential impacts of a stop sign.

Dever said he would be in favor of mitigating devices, both speed change and a stop sign. He said he didn't know when they would get around to the speed humps, but if there was a real problem, everyone would be concerned about not doing anything.

Riordan said if both suggestions were done, traffic would move north to Lyon Street. He said Lyon Street was designed for more traffic volume.

Amyx suggested doing a speed and traffic count on Lyon Street.

Moved by Schumm, seconded by Farmer, to direct staff to install a 4 way stop at 5th and Lincoln Street and reduce the speed to 25 mph on Lincoln Street between North 2nd and North 7th. Motion carried unanimously.

Corliss said the Vice Mayor wanted staff to perform speed and traffic counts on Lyon Street to get a benchmark prior to the installation of a stop sign.

Schumm suggested a traffic count on Locust Street to see if there was increased traffic on that street too.

Riordan suggested picking a time when people were using those streets which was when the parks were opened.

3. **Receive status report and letter from Hernly Associates regarding property at 1106 Rhode Island Street.**

Britt Crum-Cano, Economic Development Coordinator, presented the staff report.

Stan Hernly, Hernly Associates, said they had finalized their development group with the people that were interested in putting cash into this project and had also made an offer to the current owners of the property and hadn't had a chance to negotiate their offer. He said he had updated some construction and development costs projections and a list of other details he outlined in his letter to the City Commission. He said they had done everything they could on their end and were at a point of figuring out whether they could negotiate an agreeable price with the owners. If they were able to negotiate, their next step was to officially form their LLC and purchase the property moving down the road of development.

Schumm said Hernly was negotiating with the property owner to try and take possession of the property.

Hernly said correct.

Schumm asked if the negotiation would happen. He said they had the threat of condemnation over the property and they were trying to salvage that property by getting

someone to invest a bucket load of money and wanted to know, pretty quick, if the deal was going to go through or not because they had been dealing with this issue for some time.

Hernly said from their end of the development, in March they had an appraisal of the property and knew what the property was worth if there was nothing at that location and was ready to be developed as open empty ground. He said whether they could get to an agreeable number he didn't know yet.

Schumm asked about the timeline in Hernly's opinion on whether they would negotiate or not.

Hernly said he didn't have an answer. He said they talked to the owner on the phone a couple of times, but hadn't received a counter offer at this point.

Schumm said that was a question he would ask the property owner too.

Amyx said Hernly received a response back from the seller on July 16th.

Hernly said correct.

Amyx asked if Hernly had set up meetings.

Hernly said they tried to set up meetings but their schedules hadn't worked out to have those meetings.

Riordan said if the property was condemned, did the City take ownership.

Dever said yes.

Riordan asked how the City decided a fair amount to pay for the property.

David Corliss, City Manager, said through the condemnation process. He said the City didn't do that frequently so he would outline that process. He said the condemnation was only authorized by the City Commission by ordinance. He said staff would file a petition with the District Court, which was a lawsuit, and the court would take jurisdiction of the matter and would then conduct a hearing in which they appoint 3 disinterested appraisers and those 3 appraisers then conduct a hearing, review the property and determine the value of the property before the taking and then after the taking which essentially established the value of the property. The

appraisers notify the court of the value and then the City had a certain period of time to pay that value to the court and when that amount was paid, the City took possession and title of that property. That did not exhaust the property owner's appeal opportunities. They have had the process so far where they could also put information into the hearing and other things as well. If the property owner disagreed with the value of that property then it went to a trial setting where evidence was produced, a jury would hear the evidence and looked at the before and after values establishing the taking value for the property. He said like any other lawsuit it could go to an appellate level, usually not so much on facts, but by the law such as were the right factors included in the value determination. Condemnation took 60 to 90 days. He said there were costs that were almost always borne by the condemner, which was the City in this case and would have to pay to file the lawsuit, the City's appraiser, the court appointed appraisers, and other costs.

Schumm asked why the value was different before condemnation and after condemnation.

Corliss said in this case, it really wasn't, but in many cases for condemnation it was because the City was taking a portion of property, for example. In this case the City was taking the entire bundle of those two lots. In a lot of cases it was taking an easement. He said in any case, they would go through the process of the value before and after the condemnation, but in this case, it was the same.

Schumm asked if Hernly purchased an appraised value and was that appraised value shared with the potential seller.

Hernly said correct.

Riordan said if the Commission were to set a time limit of 3 weeks, he asked if that was a reasonable amount of time for Hernly to work with the owners to decide what could be done.

Hernly said from their end, he thought so.

Farmer said the last meeting they had on May 7th, everyone was very amenable, but now it seemed there was not as much excitement surrounding this item.

Hernly said he was excited and would really like to get started. He said they needed to get to a point where they could find the right price. It took a while to get their group finalized and didn't go right out on May 8th. He said they finalized their group toward the end of June and got their proposal together and to the property owner right after the 4th of July.

Farmer asked if that was Hernly sense on both sides that there was still that excitement.

Hernly said he thought so, but he would let the owners speak to that question.

Schumm asked if Hernly had financing in place.

Hernly said they met with 2 different banks and both banks were interested in providing financing up to 80% of an appraised value. He said part of the issue he outlined in his letter to the Commission was that it cost more to actually do the work and there were 6 different pieces to the financing end of it.

Dever asked if the property owners would like to speak or was there any further information they could provide the City Commission about their stand on the offer and whether or not they would negotiate a price at this point in time so the City could move forward with its process.

Brian Barland said they hadn't had a chance to sit down with Hernly and his group to discuss the dollar amount. He said he wasn't objecting to selling the property and liked Hernly's project. He said they were working on the negotiation.

Schumm asked what kind of timeline could Barland offer. The question was asked of Hernly if 3 weeks was reasonable from his situation and asked if 3 weeks was reasonable for Barland.

Barland said it depended on how their discussions went.

Schumm said they were down the road and the City Commission was going to do something with that property and it was time to get it done. He said the Commission could give

the property owner 3 weeks. He said Barland stated that they were willing to sell it and would either sell it to the City and the City would condemn it or sell it to a purchaser. He said it seemed like that in 3 weeks that decision could be made. If going to the City there was plenty of room for fairness in appraisals, appeals, and input from them and other concerned individuals, but the Commission would rather see a negotiated settlement between the two and would like to see the Barlands sell it to the Hernly. He said it seemed like it could turn into a cat and mouse game if they didn't have a finish line.

Barland said that they were removing all of his negotiation ability right now. He said what Schumm was saying was that he had to take Hernly's offer whatever it was.

Schumm said no, Barland could wait to see what the City was offering.

Barland said he had numbers available to him that gave bare ground with no structures and valued at \$70,000 to close to \$200,000 on vacant property. He asked if they threw in any value for historic structures or were they worth nothing and the structure was a white elephant that no one wanted to deal with because there were associated costs and other obligations.

Schumm said he was laying out where he thought they were at on this issue. He said 3 weeks was plenty of time for Barland to decide what was going to happen to that property. The property had been vacant for years. He said it wasn't a rush job and had been in violation of the codes for many years.

Barland said they've tried to move forward and asked if Schumm recalled what that property looked like 3 years ago, they had made extensive changes. He said they were asking for additional time to try and make those things happen.

Schumm said the City Commission had given that additional time.

Barland said they were trying to go another route because it wasn't a good time to do things bank wise because a person couldn't borrow money on vacant property. He said they found someone they were trying to work with and they wanted some time to get a fair value for the property. He said they would take an offer right now from the City.

Schumm said the City might end up with the property.

Dever said the Commission would discuss how to move forward in light of Barland's comments.

Farmer said he knew the property had been in Barland's family for a long time. He said his family owned property in North and East Lawrence for a long time and it would be really hard to let go of the property. He asked if that was a factor for Barland. He said it seemed like the tenor and tone was different than where Barland was in May. He said the City Commission wanted to make it fair for the Barlands. He asked if it was more equitable value for their property or just the fact that Barland didn't want to let the property go.

Barland said it was all about equitable value for that property. He said it was a two lot corner property, close to downtown. He said they were past the emotional part of that property when they sold their items on that property. He said they wanted a fair equity out of that property. He said he didn't have numbers before, but he did now and it told him that those numbers were low. He said even if they went to eminent domain, the prices were going to be higher.

Dever said that was a great explanation and he appreciated those comments because it helped the Commission understand.

Barland said he would be glad to discuss this issue with Dever and Riordan to fill them in on the whole circumstance over that.

Schumm said Barland somewhat acknowledged that the condemnation process was a fair way to go and that Barland would be treated very fairly in that process and that he would probably receive a greater price for their property than negotiating with the current purchaser.

Barland said if Schumm would have asked him that several months ago, he would have had a different feeling. Today, he had a little bit different feeling. He said he dealt with those things before on easements and didn't know what happened until coming out on the other end.

Schumm said Barland indicated that that process, at this point, would be fairer than negotiating with the current persons wishing to purchase the property.

Barland said he wasn't saying that at all. He said they needed to discuss where both parties stood before they knew the final number. He said they didn't know the final number. He said it was a business decision from their end and he understood that.

Riordan said what concerned him most was that they had a house that was allowed to be dilapidated to a point where the City had to come in and force the Barland's to make changes to the property. Now they had someone that wanted to come in and save that house and now they were arguing about money. He asked if that bothered Barland a little bit that he was the cause of this house being dilapidated. He said they should be talking about preservation and trying to save the house. He asked if Barland had any interest in saving this house and if not, why not.

Barland said he had an interest in saving the house. He said his father bought that property in 1963, and they were simply working through the estate. He said when the City was looking at condemning the property 2 years ago it was not their intent to have the property demolished. He said that was when the Lawrence Preservation Association stepped in and made their offer at land value which was nowhere close to reasonable. He said they made another offer, but it was not reasonable to sell that property to that party. He said there was no sense for them to do work on the property now if they sold the property. There was an interest on their part to get something done with that property. He said whether it was with Hernly and his group or another group in which they were evaluating offers, or themselves, they were still evaluating those items.

Riordan said he didn't see any interest in preservation of that house and hoped Barland would re-evaluate that decision. He said he only heard about money and Barland had gotten beyond the fact that this was a family property. He said he didn't hear anything a minute ago that changed his mind.

Farmer said that was what he had heard on May 7th, but he didn't hear that tonight.

Bob Barland said over the last 60 days, there were 2 other potential buyers. Those buyers interests were for more money for property, but less interest for the property. He said there would be less money spent on this property, less tax dollars, and less development in that corner. He said they could take more money and the City would get hit, or they could take a hit and they would get hurt. He said part of the reluctance was if those other parties moved forward, their offer could be potentially 50% more than Hernly's offer. He asked if they shouldn't consider those offers.

Dever said absolutely.

Bob Barland said if it was Hernly's offer or no offer, with 21 days that would be a done deal, but other things were added and their willingness to work, they offered to forego some of the cash on the purchase price to assist Hernly over a period of time. They found a person that might have an interest in buying Hernly's federal tax credits and the possibility of finding a bank that would fund Hernly's project. He said it was not like they weren't going to deal with Hernly and they had been trying to move the project through at a reasonable fashion. He said Hernly was trying to go other places for money and that wasn't upsetting them. There were other things that were in the mix and not just a cut and dry deal. He said in 3 weeks they might be able to provide the City Commission with another update.

Dever said on May 7, 2013, the City Commission adopted on first reading an order exercising eminent domain in the condemnation of fee simple title to the Barlands' private property interest. He said because the Commission did that, normally the next step would be to have second reading. If the Commission would forego this second reading any longer it would feel like there was really not a sense of urgency that they tried to imply when they adopted the ordinance on first reading. He said he wasn't trying to light a fire under anyone because the Commission tried to do that July 17, 2012 when they started this process. He said it's been a year and more than a year by the time they were done talking about this property and the

Commission believed they had given the Barlands ample time. He said he apologized if it felt like the Commission was trying to make a decision, but what the Commission was trying to do was to honor the Barland family, their property, and rights by allowing them to negotiate a deal prior to the City approving the final reading of the ordinance. He said the Commission lost some of their patience and/or leverage to give the Barlands more time when they adopted the ordinance on first reading. He said to hold true to the City's standards and to order, they wanted to move this issue forward quickly. He said it wasn't that the Commission didn't want to give the Barlands time because the Commission gave the Barlands the time and now things seemed to be happening and unfortunately, it was in a very compressed timeframe. He said he was glad there was interest, but there's definitely a sense of urgency and the Commission couldn't continue to forego a final decision on this issue.

Mayor Dever called for public comment.

KT Walsh, East Lawrence Neighborhood Association, said regarding the 3 week time limit, personally she would support that amount of time because this property had been in the air for so long and people did need a fire under them. She thanked Riordan for his comment about preservation.

Dever said the Commission needed to decide how to move forward with the second reading and how much time was needed. He said he heard different timeframes and he would like Commission comments regarding the timeframe.

Schumm said he had purchased and sold property before and it didn't take a long time. It could happen very quickly. He said he didn't see that 3 weeks was an extraordinary short period of time to negotiate the price of this property. The Barlands indicated they had a second person interested in the purchase and they need to tell that person to make an offer. There was also Hernly's offer and if they didn't like either of those offers, then they could let the City know to condemn the property and the City would take their best shot going through the condemnation process which hired 3 different appraisers to come up with a fair value. He said if

the Barlands didn't like the end price, they could file a lawsuit in court. It was a very equitable process. He said the Barlands had 3 ways to go and 3 weeks was a genuinely good length of time. He said he was ready to have the 2nd reading of the ordinance, 3 weeks from tonight.

Amyx said he thought there had been ample time. He said the Commission had given more than enough time. He agreed with Schumm to place the ordinance on 2nd reading in 3 weeks.

Farmer said he had the same sentiment, but his sense was that they would be back in the same place, in terms of more time.

Schumm said he wasn't going to extend it past 3 weeks from tonight.

Farmer said he didn't meant to extend the time, but that this situation was going to be in the same place in 3 weeks.

Riordan said in this situation, in 3 weeks, unless this property was sold, he would only be able to vote for condemnation. He said if the Barlands came back to tell the Commission that the property hadn't been sold then that would trigger his vote for condemnation. He said they needed to create a situation where they could try to preserve this home. The only way to do it was to increase the pressure. There had been ample time and in 3 weeks it would either be condemned or sold.

Dever said in the letter from Hernly and Associates, there were some contemplated grants and other funding sources that were going to make this complicated. He said he hoped that any discussions, for example there was a grant from the City for \$41,300.00 and other grants involved, he would like to make sure Hernly's was aware. If there were any details that needed to be worked out, he suggested that the City Commission work those out before the City Commission met in 3 weeks because he didn't want to talk about money that was going to be the decision making or the final straw in allowing this happen when they hadn't had a discussion about that. He said they wanted this property to cash flow and to be done right. He said \$41,000 of City development grant money could be viable at some point in the future, but it

wasn't in the budget. He said he wanted everyone to know that there was some City participation anticipated in this as well.

Moved by Schumm, seconded by Riordan, to schedule for August 13 the 2nd reading of Ordinance No. 8856, ordering through the exercise of eminent domain the condemnation of fee simple title to private property interests commonly located at 1106 Rhode Island Street, and authorizing the filing of a petition in Douglas County District Court. Motion carried unanimously.

4. **Conduct a public hearing on the 2014 Budget and consider items related to the adoption of the 2014 budget.**

David Corliss, City Manager, presented the staff report.

Schumm said the other two items the City wanted to fund, the Dental Clinic and Hearthstone, he asked if those were coming out spending down balance fund.

Corliss said one funding item was coming out of special alcohol and the other was included in the budget because it was a small amount.

Mayor Dever opened the public hearing on the 2014 Budget.

Michael Almon, Sustainability Action Network, said ever since 1976, Lawrence has produce a string of bicycle "plans" such as The Pedal Plan – 1976, Central city Neighborhoods Plans (bicycle elements) – 1979, The Bicycle Compatibility Index – 1999, The Bicycle Works Program – 2001, The Lawrence-Douglas County Bicycle Plan – 2004, The Bicycle Facilities Map, The Complete Streets Policy – 2010, The MPO Transportation Plan (bicycle components) – 5-year cycle, The Unified Planning Work Program – annual, and The Multi-Modal Transportation Plan. Each of these "plans" includes much analysis and designation of potential bicycle infrastructure, and many bicycle policy recommendations. None of them include funding for implementation of actual bicycle infrastructure. And the Transportation Improvement Program does nothing more than set budget priorities. In the common meaning of the word "plan", none of these documents are plans, because they allocate no funds. For example, if your family would plan a vacation this Summer with destinations, accommodations,

travel, entertainment and meals, but you didn't budget money to pay for it, that would be no plan at all. It would be only a dream. All of Lawrence's supposed bicycle "plans" are really nothing more than wish lists. After 37 years our bicycle network remains fragmented and unsafe because bicycle infrastructure is chronically unfunded or underfunded as incidental add-ons to auto projects. You as Commissioners know full well that the City Budget is your plan. You choose what specifically you will do in the next year and what you will relegate to future wish lists. If there is any bicycle plan at all, it is this budget. Consider the Unified Planning Work Program objectives with operative terms so typical of all these "plans": Encourage integration of bicycle and pedestrian transportation needs; Encourage and promote increased regional bicycle and pedestrian travel; Encourage and support the development of a regional bikeway system. Just who is the City encouraging? Individuals can do no more than buy a bicycle and helmet and lights and put themselves in harm's way. Safe and convenient bicycle lanes and boulevards can be funded and built by only the City. It's the City that holds the purse strings and authority. So what is needed to implement the bicycle network? Professional design and comprehensive funding. The network needs to provide practical transportation to and from places like schools, parks, or work. Like auto roads, it needs to be properly designed for it to be convenient and safe. Like the AASHTO guides auto infrastructure, the NACTO Urban Bikeway Design Guide is the most effective tool for designing bicycle infrastructure. To competently apply the NACTO designs, Public Works needs a Bicycle Network Engineering Division, parallel with the current catch-all Engineering Division. Well designed bicycle boulevards, bicycle tracks, bicycle lanes, side paths, bridges, and parking will require a Bicycle Division Manager. Most importantly, implementation of the bicycle infrastructure calls for a budget of 25% of all transportation related revenues, about \$1 million per year (excluding personnel services). We ask that you defer approval of the 2014 Budget, and instruct the City Manager to bring it back in two weeks on 6 August after reallocating funds to achieve the staffing and infrastructure objectives listed above. Your second reading is scheduled for 13 August.

Melinda Henderson said she wanted to thank staff and the Commission for the time and effort regarding the 2014 Budget. She wasn't present to ask for additional money for anything, but to bring up a subject that was related to the budget and would like to have a more formal discussion about it later. On page 14 of the budget, under the General Operating Fund, one of the items for the increase in the mill levy was for police overtime costs, but it wasn't broken down into any specific event or occurrence. She said she specifically wanted to discuss whether they could allocate some of that police overtime to more officers available to enforce the fireworks ban, the next 4th of July because it was noisy in Lawrence this year. She said she lived with a friend that very generously offered her a place to live without having to pay rent. She said she had his permission to discuss this issue with the City Commission along with another neighbor. They were both Vietnam Veterans and both suffered from post-traumatic distress disorder. In Brook Creek Neighborhood on the 4th of July, she felt they were in a war zone. It was the worst night of fireworks she could remember experiencing in Lawrence. It was very difficult to see the effects of all the illegal fireworks. She said when this ordinance was drafted in 2002, Vice Mayor Dunfield, at that time, stated that veterans left town because they couldn't stand the explosions going off and the cities that had banned fireworks were no less patriotic than this community. She said there had been a lot of discussion about shooting off fireworks being a god given right and it's patriotic and she was not going to dignify those perceptions with a response. Before this ordinance was signed, there might have been some Korean War Veterans and Vietnam Veterans, since then, the City now had Iraqi War Veterans and Afghanistan War Veterans and they needed to take a second look at why this ordinance was created. It was created originally for safety because of the fire the year before. She said it was not just a safety issue, but a health issue. She would like to see this item placed on the agenda sometime soon as a formal agenda item so that there could be a good discussion about priorities, budgets, and what the citizens expect because there were a lot more veterans in town

now than when this ordinance went into effect. If we want to be patriotic they needed to be considered first and foremost.

Dan Phelps said he was present to support the proposal that Almon spoke of for the Bicycle Engineering Division. He said he and his wife sold their car and now use bicycles as their sole mode of transport around town in Lawrence. He said he rode the streets in Lawrence on a daily basis, usually between 1 to 4 miles, often times he was towing his almost 2 year old child behind him in a bike trailer so he knew first-hand about dangers in inadequate infrastructure for the streets of Lawrence for bicyclist. He said he would like to applaud the City's efforts in their previous efforts and support for increasing bicycle use and safety, but despite those efforts, the bike network was grossly inadequate and there was much action in funding needed in order to create the safety that was necessary. He said the City needed a comprehensive bicycle plan, uniform efforts, effective management, and most importantly adequate funding to ensure the safety of bicyclist and to promote the viability of using bicycles as alternative to cars.

Jeremy Rothe-Kushel said he wanted to support budgeting in bicycles and infrastructure that was necessary for safe and effective bicycling in this town. Definitely, if they could fund a top notch recreational center, then the City could support making sure people don't die when they're on the streets bicycling and to make sure they could get to where they needed to go when bicycling. He said there wasn't as vigorous attendance and discussion as there should be for something as important as the budget. He said last week he brought his opinion to the table about the process of the Rock Chalk Park having two pieces that were fairly obvious to him. One was secrecy and the other nepotism. After his comments, he was accused of participating in venomous and offensive discourse and was accused of speaking of un-factual claims. He said after the meeting, a woman came up with her son who was a boy scout who was reporting on the evening and wanted to know his name. He said the woman couldn't believe the way he had been responded to, in terms of saying things that she said were pretty clearly in the

newspaper if people had been paying attention over the last year. He said she felt intimidated and wanted to speak up for him. He said there was a culture of intimidation that went on. He said maybe it wasn't on purpose and maybe it was a culture that had been evolved overtime. He said, what he said about Rock Chalk Park last week was not wild and was not an accusation, but a declaration of what the process was. Anyone that looked at the process from the beginning, KU made an obvious choice to have Fritzel as the contractor because he was linked into the Endowment, his father-in-law was on the board and he was a pretty good builder. It made a lot of sense for them to go with their boy. Once the City was involved there were other considerations going on such as open process. It was pretty obvious to a lot of people that the City broke its own law by not bidding out the process, doing a half process of bidding the process that actually was fraudulent because the contractor knew he was guaranteed the other end that he could pad and whatever he wanted to. He said he would like to look at the larger picture in terms of budget making and ask people to look at comprehensive annual financial reports, rather than the budget. That was where a lot of the assets of the people of Lawrence that had been stashed over the years and they should look at that because there are possibilities of not increasing people's taxes to pay for everything the city needed in Lawrence.

Riordan said the definition of nepotism was "the practice among those with power or influence of favoring relatives or friends especially by giving those people jobs." He said that was an accusation and asked Rothe-Kushel which relatives and which friends were given political power and given jobs.

Rothe-Kushel said he had mentioned the name Thomas Fritzel.

Riordan said Thomas Fritzel was a person that lived in the City and he wanted Rothe-Kushel to mention friends or relatives, and to define the term "nepotism" correctly.

Rothe-Kushel said the decision to go with Thomas Fritzel by the college likely involved his father-in-law. He was also involved in Intrust Bank that was financing the project at some level.

Riordan said Rothe-Kushel stated there was nepotism that occurred and inferred it was on the City Commission. He asked how that was possible.

Rothe-Kushel said the City Commission entered into a nepotistic process unabashedly and teamed up with a nepotistic process. KU was completely allowed to and it was in their ethics to do so and made a lot of sense to choose Thomas Fritzel. It might have made sense for the people of Lawrence to choose Thomas Fritzel to do the job if the citizens had gotten a good deal on the matter rather than paying for infrastructure. If looking at the mandate of the taxes that this project was pulled from, he doubted that it would include covering infrastructure for some top notch university.

Riordan said Rothe-Kushel still hadn't answered his question. He said to quit beating around the bush and what Commissioners on this board had a relative or friend who had benefitted because of the City Commissions power.

Rothe-Kushel said he didn't say that any specific Commissioner had been involved. The entire process with the entire Commission except for Amyx entered into and ultimately confirmed was a nepotistic process and he was sure that could be proven. He said it wasn't a legal term, but more like some things were not illegal even though they're nepotistic. However, Farmer who accused him of spewing venomous and offensive rhetoric, his campaign was partially funded by the Fritzel's.

Riordan asked Rothe-Kushel to answer the question and he had not heard an answer.

Schumm asked if this was the first time Rothe-Kushel visited the City Commission during the budget session.

Rothe-Kushel said yes.

Schumm asked if Rothe-Kushel was aware that there had been many meetings on the budget and a lot of citizen input and the Commission had taken that information and came up with this final product.

Rothe-Kushel said he was glad that people were participating and that the Commission was considering their opinion.

Schumm asked if Rothe-Kushel was aware that the City did publish a budget.

Dever said and also the Annual Financial Report.

Rothe-Kushel said he knew and had looked up the Comprehensive Annual Financial Report, but what he was saying that a lot of people were not aware that there was a lot of playing around with the numbers when going to a budget from a Comprehensive Annual Financial Report. He said vast millions of dollars of the City's assets were seen in the Comprehensive Annual Financial Report and the accounting that was done, it was not just Lawrence, but the entire country, was completely out of sorts in terms of the way that any normal person would do a budgeting process. For example, it would basically be saying to the IRS, that a person couldn't pay his/her taxes because they would have a car payment in 5 years. That happens at the level of municipalities and people should look at that. It was an open secret and he wasn't saying the City Commission was trying to hide it.

Farmer said he wanted to clarify two things for the record. He said he appreciated Rothe-Kushel's comments and wanted to go back and listen or watch to what he said because he was very keenly aware of not saying or doing anything to attack anyone. He said he was frustrated with the lack of civility that existed around how they talked to each other. He said he was saying "we" as a community. He said he distinctly remember saying "this type of venomous offensive communicative style" did no one good. He said he wasn't calling Rothe-Kushel out or saying he was venomous, he was just saying that when they got into shouting matches, he didn't use the City Commission's desk or microphone, and didn't when standing in Rothe-Kushel's shoes to the previous Commission whether or not he agreed with that Commission, to speak of their incompetence or make accusations about what he believed their intentions were. He said his concern with this all along, if he could have one impact as a City Commissioner, it was not to have his name on a building or have some project because he didn't care about that,

but what he wanted more than anything was the tone of how they treated each other in this community to change, on behalf of everyone because it was not productive. He said he was incredibly frustrated and not with Rothe-Kushel, but the fact that we're okay with this. Secondly, he appreciated Rothe-Kushel bringing up the elephant in the room and did receive campaign contributions from the Fritzel family and at no point, did anyone say to him, that they were going to give him money in exchange for you doing this for me. He said when you make those assumptions about his integrity it was wrong, because he didn't make assumptions about Rothe-Kushel.

Rothe-Kushel said he didn't ever accuse Farmer of doing any quid pro quo for his campaign contribution all he was noting was that Farmer received money for his campaign to get onto the City Commission from the contractor that received the contract. He said he didn't actually believe that there was any directive communication. Meanwhile, Farmer received money from the Fritzels and didn't vote against their interest. He said he wasn't saying there was anything illegal thing going on, but noting the way it seemed to work.

Riordan said Rothe-Kushel was just inferring that that affected Farmer.

Rothe-Kushel said he didn't know and asked if it affected Farmer.

Farmer said he wanted to discuss the matter with Rothe-Kushel. He said this was part of the toxicity that existed in this community and people think that way about each other and make those kinds of assumptions. It was not productive and incredibly hurtful to anyone that wanted to run for this office or any public office for that matter. There was a vein of needing to change that conversation. He said it needed to be done because if the community continued to go down this road, it was not going to be pretty over the next ten years because it was going to get more disrespectful, rude, toxic, and more frustrating for everyone involved, citizens, Commissioners, and the public. He said he agreed they needed to get more folks involved and he appreciated that, but let's work on that together rather than constantly doing this.

Rothe-Kushel said fair enough. He said he wanted to reemphasize that facts when people disagree on facts, no matter how hard they dispute the facts, that was not a personal attack and he didn't hear any disputes about any facts he brought up. He said he didn't take stuff personally, but took it personally when the facts he brought up were not addressed.

Mike Myers, Chair of Livewell Lawrence Healthy Built Environment work group said he wanted to speak to Almon's comments. He said he wanted to thank the Commissioners for their hard work on the budget. He said Almon had some solid and good ideas behind his idea of a dedicated staff and funding for shared use pathways, bike lanes, and sidewalks. He said Livewell Lawrence was geared toward making this community more connected and networked for bicycles and pedestrian facilities and those elements served to make the City an attractive community for people from out of town for any number of events or a safer community for biking and so forth. He said they had done a good job in the last decade of building some facilities like that and could definitely do a better job. He said maybe in the next round of budgeting next year they could try and plant a seed to think about some dedicated funding for those kinds of things.

Moved by Schumm, seconded by Farmer, to close the public hearing. Motion carried unanimously.

Dever said the first item was to consider adopting on first reading, Ordinance 8886 which was approving and appropriating the 2013 City of Lawrence Operating and Capital Improvement Budget.

Schumm said he believed that they should look at, in the next budget year, considering some additional funds for bicycling downtown.

Dever said it would take a serious influx of cash and the Commission needed to have a serious discussion about that.

Riordan said he also concurred looking at some additional funding for bicycling, but couldn't do that at this time. He appreciated the comments because he biked about 60 miles a

week. He said this item could not be addressed tonight because they set a maximum rate for the mill levy. He said they had people that bicycled to work and would like to encourage that practice. He said most people bicycle to work for exercise, but he also would like to create a city where they encouraged people to ride to work and other places and not just for exercise.

Amyx said he wanted to thank staff for the amount of work on the budget. He said he also wanted to thank the number of citizens that were involved. He said the Commission would be looking at the bicycle issue in the future.

Moved by Schumm, seconded by Riordan, to adopt on first reading, Ordinance No. 8886, approving and appropriating the 2013 City of Lawrence Operating and Capital Improvement Budget. Motion carried unanimously.

Moved by Schumm, seconded by Amyx, to adopt on first reading, Ordinance No. 8887, attesting to the increase in property taxes levied for 2014. Motion carried unanimously.

Amyx said he had asked the City Manager about the costs of water through the different customer classes. The price that jumped out was the price per thousand at \$4.51 per thousand gallons for residential and multi-family at \$3.33 per thousand gallons. He said there was quite a bit of discrepancy and asked for clarification. It seemed when looking at the vast amount of multi-family residential, that they were in the process of developing or approved in the City, he wanted to make sure the difference in the cost per thousand was a real number and why those costs weren't more equal. He asked Corliss to explain that those costs were closer than what he was seeing.

Corliss said that was correct because you have to look at the total bill package, it was not only the volume rate, but also the service charge. The multi-family had a service charge, occupied or not, which equated to a full rate package that made them equivalent, if not, maybe contributing a little bit more than residential. He said staff thought it fully captured their cost and maybe then some.

Amyx said it seemed like it was hard to understand this and asked if there was a way it could be written in the ordinance to make it clearer so that people could actually see that there wasn't a difference between the \$3.33 cents and the \$4.51.

Corliss said it wouldn't be so much in the ordinance because the ordinance amended certain sections of the City's code. He said what staff could do was to use this memo to show everyone those dollar amounts.

Amyx said it appeared that someone that lived in a multi-family unit was not paying \$3.33 per thousand gallons and it was the same with residential. There were all those other add-ons. He said the city needed to be clear in what people were paying for so they could understand.

Corliss said staff could work to amplify more on what staff provided Amyx.

Amyx said it looked like at a \$1.20 cents difference per thousand gallons that as someone that owned as single-family residential property, why was he paying more than a multi-family.

Corliss said one of the other things to look at was that the City based their rates on the cost of service. He said the cost of service different for a multi-family than it was for a residence, largely in part because of that actual geographic issue, but also the fact that residents irrigate more on a per user basis than a multi-family would which drove the peak demand in some of those costs.

Ed Mullins, Finance Director, said the rate model the City used took into account a lot of parameters and one of the major parameters was the characteristics of each user group that was why they had residential, multi-family, industrial, and commercial and the reason those were segregated was because each one of those classes used water differently. He explained the factors for each water classification. He said the City was using the standards that were developed by the AWWA (American Water Works Association) to try and deliver those costs. If

the City varied too much from the AWWA then basically the City wasn't basing those rates anymore on costs of service and it became a little bit more difficult to defend those rates.

Dever asked if the City needed to defend those rates.

Mullins said the City hadn't had the need to defend the rates, but in case the City did, they wanted to make sure they were on solid ground.

Amyx asked if the cost of the water was the same.

Mike Lawless, Assistant Director of Operations for Utilities, said the way the City developed those costs was a base cost that was shared by all classes and then they had the demand factor or peak loading factor. He said there was a unit cost established for the peak loading factor. He said when staff went through the model they looked at how each customer class peaked the system in the peak hour compared to how water was used on an average day. He said they did that for each customer class and establish how much of that peak unit that they needed to contribute to and all those get added up for base costs and the peaking costs were fixed cost for reading meters, to provide fire protection and all those get added together to determine that rate and it was a blend of the volume charge as well as that fixed monthly fee. In the end what they were trying to do was establish what were the costs associated with each customer class to provide those customers service and how did they allocate that cost between volume and the fixed fee to make sure that they covered the costs that the City incurred because of those customers.

Amyx said he wanted to make sure the consumer was paying for what they were using. It seemed that if he was a resident in a multi-family or a resident in a single-family residential property. He added those two amounts together and divided by two and it was \$3.94 per thousand.

Schumm said there was more capital structure behind the single family dwelling class than they did behind each multi-family. He said Westar Energy did the same thing.

Lawless said if wanting to stay true to the cost of service then the rates that were provided in the ordinance were true to the cost of service that the City had to supply to each of those customer classes. If staff started deviating from those true costs then they get on shakier ground in terms of being able to defend how staff came up with those rates and how they allocated those cost.

Mullins said particularly if looking at industrial class which were some of the larger water users, their volume charges were less than other users and part of that was because if looking at what their volume charges were, those charges were very little because the industrial class would use that same amount every month with very little variance. He said you could build up on that and divide the plant that you've constructed to serve that customer over that entire 12 month period of time. He said with the residential customer, all of a sudden instead of 25 million gallons day usage, it was at 45 million gallons because those residential customers were irrigating lawns during those hot summer months which was only a 3 month period of time. He the plant capacity needed to build up twice the plant capacity to deal with that one customer class for one-third of the year. As a result, more cost had to be allocated to the residential customer.

Dever said some utilities would allow customers to deviate from those fluctuations, for example natural gas. He said if the customer were allowed to interrupt their supply they would get a lower rate because the natural gas company didn't have to build the infrastructure up to supply that customer. He said it would be the same thing if a customer decided not to irrigate or put a peak demand like this then perhaps staff could talk about changing those rates, but to be fair water customers expect and demand that water and the city needed to be able to provide that water to the customer on a consistent basis. He said that was what the water customer was paying for which was the luxury of being able to turn on that tap and use 3 times as much water as they normally did for 3 months.

Amyx said when he looked at the way the ordinance was written, he saw a difference in the amount he was paying. He said if someone asked a question, he wanted to be able to understand and give that person an answer. He said it seemed there would be a better way to draft an understandable ordinance for the City's water customers.

Corliss said sometimes the City Code wasn't the best way to help explain something because it took certain numbers and certain requirements. He said staff could find a better way for an explanation in a memo. He said staff had spent a lot of time on the rate study pursuant to the City Commission's earlier direction. He said the City now owned its own rate model that Black & Veatch developed and it was a sophisticated tool which attempted to make sure everything was correctly calibrated. He said from a legal standpoint, the City had contractual relationships with 10% of the City's wholesale water customers.

Amyx said at the time the City was making adjustments to water and sewer rates, those were the times to ask questions about the prices. The projects that were going to be built because of the increases with this particular rate model those were things that were important for the next quarter of the century. Again, he wanted to make sure that he could explain water rates.

Moved by Riordan, seconded by Schumm, to adopt on first reading, Ordinance No. 8883, establishing water and sanitary sewer service rates, effective November 15, 2013,

Moved by Schumm, seconded by Amyx, to approve the wholesale water rates, effective November 15, 2013.

E. PUBLIC COMMENT: None

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

H: CALENDAR:

David Corliss, City Manager, reviewed calendar items

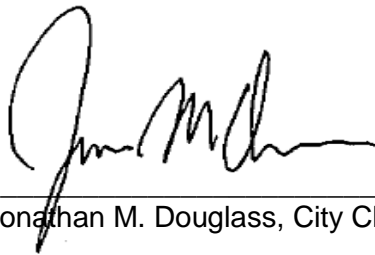
Moved by Schumm, seconded by Amyx, to cancel the November 12, December 24 and December 31, 2013 City Commission meetings. Motion carried unanimously.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Farmer, seconded by Schumm, to adjourn at 9:08 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON AUGUST 6, 2013.

A handwritten signature in black ink, appearing to read 'Jonathan M. Douglass', is written over a horizontal line.

Jonathan M. Douglass, City Clerk