



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL DEVER

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

October 1, 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: None

B. CONSENT AGENDA

Amyx asked that consent agenda item number 2, claims, be removed from the consent agenda for a separate vote.

It was moved by Schumm, seconded by Amyx, to approve the consent agenda as below, minus item number 2. Motion carried unanimously.

1. Received minutes from various boards and commissions:

Planning Commission meeting of 08/26/13
Building Code Board of Appeals meetings of 03/15/13 and 08/29/13

2. THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA FOR A SEPARATE VOTE. Approved claims to 187 vendors in the amount of \$26,577,022.90.

3. Approved the Drinking Establishment Licenses for Conroy's Pub, 3115 West 6th Ste: D; Tortas Jalisco, 534 Frontier Road; and, the Scrap Metal Dealer's Registration for Advantage Metals Recycling, 1545 North 3rd Street.

4. Accepted dedication of new utility easements for Minor Subdivision, MS-13-00341, Haskell Place No. 4, located at 2035 Barker Ave. Submitted by Grob Engineering Services, LLC, for Architectural Consulting Source, property owner of record.

5. Authorized the Mayor to execute an agreement with the Kansas Department of Transportation for the 9th Street and Kentucky Street Intersection Improvements, Project No. PW1303.

6. Authorized the City Manager to enter into an agreement with Douglas County, Kansas for the installation of a pole-mounted emergency siren located approximately 400' north



of the centerline of westbound K-10 Highway on the west side and within the right-of-way of East Hills Drive.

7. Approved the revised Title VI Program (2013-2015) and associated Policy Statement as required by the Federal Transportation Administration for the Lawrence Transit System.
8. Authorized the Mayor to sign a Subordination Agreement for Robyn Brecheisen (Robyn Savannah), 1504 E. 21st Terrace.
9. Approved appointments as recommended by the Mayor:

Board of Zoning Appeals/Sign Code Board of Appeals:

Appointed John Gascon (785.272.1301) to a term that expires 09/30/16. Reappointed Scott Kimzey (785.423.3145) and Sarah Fertig (913.486.8149) to additional terms that expire 09/30/16.

Community Development Advisor Committee:

Reappointed Patrick Wilbur (785.841.8801) and Alex Delaney (785.393.6224) to additional terms that expire 09/30/16.

Historic Resources Commission:

Appointed Aaron Bailey (785.393.6525) to a term that expires 03/01/15.

Hospital Board:

Appointed John Ross (785.865-0505) and John Bullock (785.843.0811) to terms that expire 09/30/17.

Human Relations Commission:

Appointed William Welch (313.982.2413) to a term that expires 09/30/15.

Lawrence Citizen Advisory Board:

Reappointed Robert Farha (785.550.4658) and Theresa Marcel Schwartz (785.368.8402) to additional terms that expire 03/01/16.

Sister Cities Advisory Board:

Appointed Tim Bateman (785.218.3802) and Carrie Lindsey (785.766.8561) to terms that expire 12/31/14.

Social Services Funding Advisory Board:

Reappointed Judy Bellome (785.760.7892), Donna Osness (785.842.4177), Erika Dvorske (785.843.6626), and Jeremy Fite (785.856.5365) to additional terms that expire 08/31/16.

Moved by Schumm, seconded by Amyx, to approve all non-Rock Chalk Park related claims to 185 vendors in the amount of \$26,115,697.08. Motion carried unanimously.

Moved by Schumm, seconded by Farmer, to approve Rock Chalk Park related claims to 2 vendors in the amount of \$461,325.82. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report.

Farmer said regarding the food systems workshop, he asked the City Commission to consider having City representatives on the Douglas County Food Policy Council to start talking about how to improve the community's food system and the conversation surrounding the food hub. He said Lawrence was on the cutting edge of being a leader and it would be good for this city to jump on the bandwagon with the great work the County had done to lead the way.

Dever asked how they finalized their desire to be more involved.

Schumm said they figured out that they were far behind on information only because they hadn't been integrated into the overall program. The program had been in place for over 3 years. He said he didn't know if they cited what the mechanism should be to ask for inclusion in that council. He suggested writing a letter to that council suggesting that a member of the City Commission be on board with that group.

Dever said staff would draft a letter asking that the City be a member of the food policy council.

Schumm said there were some amazing things going on with that food policy council and it was mind boggling some of the things that cities were doing.

D. REGULAR AGENDA ITEMS:

1. **Consider adopting on first reading, Ordinance No. 8862, authorizing the issuance of \$40 million in industrial revenue bonds for the Kansas Athletics portion of the Rock Chalk Park project.**

David Corliss, City Manager, introduced the item.

Gary Anderson, Gilmore and Bell, presented the agenda item.

Schumm said he wanted to make sure the public understood that while this was tax abatement and relief of sales tax for a private individual, it was no different than if K.U. was building it themselves because by statute, K.U. would be exempted from those particular taxes.

Anderson said correct. He said because of the interjection of Bliss Sports between the Endowment Association and Kansas Athletics, that triggered the taxability of the property and by the issuance of Industrial Revenue Bonds, Kansas Athletics was receiving the same benefit they would have if they built the facility themselves.

Schumm said if the Athletic Department was building this facility, it would be a moot point.

Anderson said exactly.

Riordan said Kansas Athletics would have 40 million dollars in bonds and would buy that back. He asked if there was any need for the City to certify that that money was actually being used on Rock Chalk Park. He said not that he was suspicious they would use the money for anything else, but asked if the governing body had any responsibilities and was there any risk that that money would be used for other purposes.

Anderson said the City had no responsibility. He said in connection with the draw request to the bond trustee which was BOKF, Bank of Oklahoma, would certify in connection with each draw that it was being used to pay for the project and the City had access to that information, but particularly the City wasn't involved in that process.

Riordan asked if the City had to certify in any way that the bond money that was being taken out wasn't being used for other projects.

Anderson said the City didn't need to do anything.

Schumm said it was Kansas Athletics own money.

Riordan said correct, but for the taxation issue. He said if someone used that money for another project, would that be of any benefit to Kansas Athletics.

Anderson said no, the bonds weren't a financing vehicle. They were for a vehicle to obtain property tax abatement and sales tax exemption. He said there would be no benefit to use the financing on another property.

Riordan said that was what he understood, but there were some people that were given the impression that that money was being used to come up with "x" amount on their own which might be difficult and where did that money come from. He said if Kansas Athletics used less than that amount of money, would they need to report back to the City Commission or was there some type of notification that when the project was done.

Anderson said when Kansas Athletics was complete with the project they would file a certificate of completion with the bond trustee. Again, the bonds were up to a maximum amount of 40 million dollars and because of the way tax abatement law worked in Kansas, 100% of the project needed to be financed with Industrial Revenue Bonds to get 100% abatement. He said bond council always recommended estimating high so there was cushion in case there was cost over runs. He said they might come in at 38.9 million or 32 million and that would be the amount that was actually funded through the bonds which should equal the total amount of the project cost on the K.U. side and not on the recreation side.

Riordan said that was what he understood, but wanted to make sure the public understood and it was in public record.

Amyx said in section 2 of the ordinance, he asked if the money for the payments passed through the hands of the City. He said the reason he asked was that he read through the 120 plus pages where it talked about the bonds shall be payable solely out of the rent, revenues, and receipts derived by the issuer from the project. He said it seemed that the City was the issuer of those bonds and that the payments would come through the City and to the bank in the end.

Anderson said that wasn't correct. He said under the terms of the trust indenture which was the agreement between the City and BOKF, the bond trustee, the City assigned all of its

rights under the lease except for rights of indemnification and rights to be insured to the bond trustee. All of the payments would be made directly by Bliss Sports as the tenant to the bond trustee and none of the money would flow through the City.

Amyx said at the PIRC (Public Incentive Review Committee) meeting there were discussions regarding the revenues that were to be derived from the rent of the project which was 1.3 million. He said he didn't need to look at that as being the sole amount of money that would cover the debt of the issuance.

Anderson said correct.

Amyx said any other monies that need to be made on those payments would come from the tenant.

Anderson said correct.

Anderson said Bliss Sports paid money as the tenant, that money was received by the trustee; the trustee then paid that money to Bliss Sports as the bond holder; and, wouldn't affect paying money to themselves.

Riordan asked if there would be no effect upon the City's bond rating.

Anderson said correct.

Dever said this was a vehicle for allowing this property to be built with a tax exempt status and for them to allow for an exemption for sales tax. He asked if that right would convey to a private entity in the event that KU Athletics decided to terminate the lease and the property was now available for a 3rd party whether it was for a for profit company or for Bliss Sports themselves. He asked if that tax exempt status be maintained because of the existence of those bonds.

Anderson said yes. He said Kansas Athletics had a 50 year lease on the project and would need to terminate that lease in order for there to be a non-exempt entity.

Mayor Dever called for public comment.

After receiving no public comment, Dever said Amyx brought up the fact that a lot of those documents had only been added to the agenda as of today to the public and they had requested those documents yesterday to review. He said Amyx thought it might be a good idea to postpone this action for a week so the public could digest this information.

Amyx said he appreciated the Mayor bringing up that matter because there was a lot of material to review. There was a similar situation under Mayor Schumm's term where a lot of documents were received within a short period of time, prior to the meeting. He said it was only fair to ask for a one week deferral unless there was a deadline. He said it would give the opportunity for the public to review and digest the material the City Commission received in the last 24 hours.

Schumm said the Commission had removed from consideration for one week an agreement which was the overarching framework of the entire program and was updated with very little time for the public to wrap their arms around. He said he had no one call and since there was no public comment, he didn't think there was anyone that wondered about this bond issuance, but he didn't know what the other Commissioners received in terms of inquiries. The fact was that they already did a preliminary approval a couple of months ago.

Corliss said the City Commission adopted a resolution of intent on industrial revenue bonds. He asked Anderson if there was any issue about the timing on this bond issuance. He said the City Commission wasn't adopting the ordinance on final reading, but this was the first reading.

Anderson said if it was the will of the City Commission to defer a week, he thought it wouldn't interrupt the flow of the timing of the transaction.

Amyx said he thought it was very appropriate to give the public the opportunity to see the same documents the City Commission had received from the last 24 hours. He said the public only had access to those documents the last 6 hours. He said it would be appropriate to defer this item for one week.

Riordan said it was unnecessary and it probably wouldn't be productive. However, this was a very controversial issue and one of the problems had been the concept of transparency in making sure people have information. He said for that reason, he thought Amyx was right to delay this item for one week to allow people to have a chance to look at the document, but he didn't think many people would. He said he hadn't received a call or heard anything controversial. In the essence of trying to be as transparent and open as possible, it was a reasonable request by Amyx.

Dever said he agreed.

Riordan said this item was to consider adopting an ordinance on first reading.

Dever said correct and the City Commission would consider adopting it again on first reading a week from today.

Moved by Schumm, seconded by Amyx, defer for one week consideration of Ordinance No. 8862, authorizing the issuance of \$40 million in industrial revenue bonds for the Kansas Athletics portion of the Rock Chalk Park project. Motion carried unanimously.

2. **Consider adopting on first reading Ordinance No. 8915, amending the Sign Code in Chapter V, Article 18, Section 1841.6, by adding Section 1841.6(D). The proposed amendment will allow changeable, digital display of gasoline and fuel product and numeric price information on ground/surface mounted (monument type) signs in Commercial or Industrial Districts, limited to not more than twenty-five percent (25%) of the total sign face area.**

Kurt Schroeder, Assistant Director, Planning and Development Services, presented the staff report.

Amyx said the Mayor had asked a question about whether this would be allowed to advertise only one particular grade of gas.

Dever said correct, it couldn't change from unleaded to mid-grade to premium and had to be a separate display for each category and had to maintain that display without flashing.

Schroeder said correct. It was indicated that that was usually what happened with a static board, non-digital with 3 or 4 different price products with the different prices placed in those windows. He said for the signs that they had seen, that 25% would more than cover that.

Riordan asked if it was just the prices that electronically lighted or was it the type of gasoline.

Schroeder said with this amendment, it could be both, but it was indicated that typically it was the price.

Mayor Dever called for public comment.

After receiving no public comment, Dever said this was not an exciting topic. He said it was illuminating, but not exciting.

Farmer said in reading through the minutes, the only piece of information that the dissenting Board of Appeals member stated was that it would be distracting to drivers and he felt for those folks that were getting out in the middle of winter or middle of summer. He said when he lived in Arkansas, as people were out changing sign, they would get stuff thrown at them as people were driving by. He said there was an element of public safety and Riordan talked about that subject all the time and how important that was. He said this was not going to be distracting and it would allow the folks that changed those signs to be safer in the event that would ever happen in this wonderful illuminating community.

Riordan said he felt that if one were to do a study, they would find that people would have a shorter period of time they look at the signs when their electronically illuminated and it would be safer.

Moved by Amyx, seconded by Riordan, to adopt on first reading, Ordinance No. 8915, amending the Sign Code in Chapter V, Article 18, Section 1841.6 by adding Section 1841.6(D). Motion carried unanimously.

3. **Consider adopting on first reading Ordinance No. 8916, amending the Permit Fee Schedule in Chapter V, Article 1, Section 176, by adding Note F. The proposed**

amendment will establish a uniform fee of \$65 for solar, thermal, and photovoltaic systems requiring no structural changes to the building.

Barry Walthall, Building Codes Administrator, presented the staff report.

Mayor Dever called for public comment.

Aron Cromwell said he wanted to thank City staff, City Commission, and the Building Code Board of Appeals for taking time to review this amendment. He said there was an unprecedented amount of support. Lawrence was on the cusp of developing a vibrant solar market. He said he had to work almost exclusively in Missouri with his company up until now and with this opportunity now their business could operate in Lawrence. He said he estimated that his business would see 10 new employees. He said it was an exciting time and with the City's help on the fees, it would help make solar more affordable.

Schumm said on larger homes where they would need significant number of panels, he asked what the building fee be without this change.

Cromwell said currently it could be around \$500. He said they would be going from \$500 to \$65 on residential, but commercial this could be even a higher amount.

Schumm said what staff would be inspecting was just the electrical connection, one element of the job and there wasn't a structural component involved.

Cromwell said he didn't believe there was a structural inspection that was completed, but they did submit plans that indicated how the connections were made. He said for commercial they would be looking at an engineering document stating it was structurally fine, on a residential, they didn't see problems in the industry. What they were really looking at was a connection between the inverter and the panel, almost like a hot tub. He said if installing a hot tub you might have a breaker and a disconnect switch. He said it was similar type inspection.

Moved by Amyx, seconded by Schumm, to adopt on first reading, Ordinance No. 8916, amending the Permit Fee Schedule in Chapter V, Article 1, Section 176 by adding Note F. Motion carried unanimously.

4. **Consider adopting Joint City Resolution No. 7045/County Resolution No. _____, establishing a steering committee to oversee and guide the review and updating of Horizon 2020, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County; and consider authorizing the Mayor to appoint steering committee members as noted in the resolution.**

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

Farmer asked what the thinking was behind no K.U. representation with the work K.U. was doing on their master plan. He asked if it would be helpful to have a representative from the University on this steering committee structure.

McCullough said it would certainly be part of the program to reach out to the universities in the City and it might be helpful to have University representatives on the steering committee itself, but it was going to be just as helpful to be very coordinated with the universities, like they were with the City on their master planning. He said he was not sure the City sat on the steering committee for K.U., but staff had gone to several meetings, been invited, had high coordination with their master planning efforts and the City would expect the same on the City's efforts.

Dever said the city could have ex officio and be a part of the steering committee meeting.

David Corliss, City Manager, said he sat on the committee and had a numerous staff representation on a number of the University's work groups. He said it was certainly a good suggestion to encourage their input and receive a special presentation from the university. He said presentations, primarily from some of their staff that was familiar with some their processes, would be very helpful.

Dever said after seeing the University's plans about a month ago, it was clear the City needed to coordinate with the University.

Mayor Dever called for public comment.

KT Walsh said she wanted to remind the City Commission again that we had three universities in Douglas County and if there was ex officio, all three of those universities needed to be brought into the process.

Dever said he started this process a while ago when the Commission started talking about goals. He said this goal was attainable and received feedback from the County about adding another at-large representative at the request of their appointment which had been done. He said their committee was at 10 and would like any feedback or comments on the resolution. He said he would also like to hear about any suggestions on who to appoint from the City. He said they had 3 exclusive appointments, but would also work with the County on at least one more appointment. He said he was going to ask Amyx to serve as the person in charge mainly because he would be around and in case it didn't get done. The goal was to take those comments, input, and information and move forward with the implementation of the plan. He said he thought Amyx would be Mayor at the time and would be helpful to have him involved in this process.

Amyx said he looked forward to the opportunity. He said one of the exciting issues was Horizon 2020 and being a living document and the amount of work that members of the public had already put into the framework of the document, it could only be made stronger for the community and the county. He said the city was fortunate to have a lot of work done. He said he and the Mayor had been in a voting position to approve any and all sector plans.

Dever said that was one of the reasons he thought was important to merge all of those things and learn from what they had before over the last 6 or 7 years and hopefully have the opportunity to improve the document, but not change it dramatically.

Amyx said he agreed and to format the document to be more consistent and user friendly should be the goal for everyone who served.

Riordan said any living document was like a living person that needed a checkup periodically and needed to be changed and re-evaluated as they aged. He said this was a good

opportunity to re-evaluate and create a document that was better than the current document, which was already a pretty good document.

Farmer said the planning process was initiated when he was 8 years old. He said his concern was that this plan had gotten to be so cumbersome and bulky, but he understood the reasons why a living document perhaps was preferable then going back to the drawing board and redoing. He said this community has grown significantly over the last 15 years and had many different people that it had 15 years ago with the only consistency being the lifetime representatives being Schumm and Amyx. He said at some point it would behoove the City Commission to have conversation about if they were doing Horizon 2040 in 2039 or 2035 and would they still have this document that they received community input on 1991 or at some point go back to the community and have a process that took a few years. He said that was important to interject into the conversation because that was one of the big things heard about Rock Chalk Park was the sales tax was back in 1994 and interesting enough the same folks that were trumpeting for a revote were the same folks that were trumpeting to keep Horizon 2020 the same. There was a contradiction of sorts, but to him it was a huge document that he wasn't sure that anybody understood its implications other than planning staff and City Manager's staff. He asked how they could come up with a good solid plan without having all of this extraneous information that everyone was trying to wrangle and understand. He said it would be good to keep in mind. He said he had an opportunity to visit with the Sustainability Advisory Board and he suggested placing a sustainability chapter and to include in this process. He said his concern was at what point was it going to be too big.

Dever said his intention was to have this committee examine just those things. The concept of amending the plan seemed like a good place to start. He said when this was completed, then they would know if a complete rebuild was needed or a checkup. He said the main reason for this committee was because some of the things Farmer had said already. He

said they would start with a review and see where it would lead to hopefully sooner than April 2015.

Moved by Riordan, seconded by Schumm, to adopt Joint City Resolution No. 7045/County Resolution No. _____, establishing a steering committee to oversee and guide the review and updating of *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County; and to authorize the Mayor to appoint steering committee members as noted in the resolution. Motion carried unanimously.

E. PUBLIC COMMENT: None.

F. FUTURE AGENDA ITEMS:

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

G. COMMISSION ITEMS: None.

H. CALENDAR:

David Corliss, City Manager, reviewed calendar items

I. CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Schumm, seconded by Riordan, to adjourn at 7:28 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 22, 2013.



Jonathan M. Douglass, City Clerk