



# City of Lawrence

CITY COMMISSION

**MAYOR**  
MICHAEL DEVER

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

DAVID L. CORLISS  
CITY MANAGER

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February 18, 2014

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**

**It was moved by Riordan, seconded by Farmer, to approve the consent agenda as below. Motion carried unanimously.**

1. Approved the City Commission meeting minutes from 01/14/14, 01/21/14, 01/28/14, and 02/05/14.
2. Approved claims to 173 vendors in the amount of \$3,423,281.54.
3. Approved licenses as recommended by the City Clerk's Office.

## **Drinking Establishment License**

	<b>Expiration Date</b>
Papa Keno's PKDL, LLC 1035 Massachusetts	February 20, 2014
Dempsey's Burger Pub Gaudreau Quinton Enterprises Inc. 623 Vermont	February 18, 2014
El Sol El Sol Lawrence LLC 1520 Wakarusa Dr., Ste: F	New License
Pachamamas Kenneth C. Baker II LLC 800 New Hampshire	February 20, 2014



4. Bid and purchase items:
  - a) Set a bid date of March 4, 2014 for the Comprehensive Rehabilitation Program Project at 1926 Vermont Street.
  - b) Awarded Bid #B1405, hourly tree trimming rate for the Parks & Recreation Department, to the low bidder, Custom Tree Care, Inc.
  - c) Approved the purchase of five (5) tipping bucket rain gauges, five (5) cellular modems/data loggers, and associated data delivery software from Teledyne Instruments in amount of \$25,471.
  - d) Rejected bids for the Comprehensive Rehabilitation Projects at 2112 Ohio Street and 1926 Vermont Street as both were in excess of program limits of \$25,000.
5. Adopted on second and final reading, Ordinance No. 8958, for the rezoning (Z-13-00479) of approximately .6 acre from RS7 (Single-Dwelling Residential) District & IG (General Industrial) District to OS (Open Space) District. (PC Item 1; approved 9-0 on 1/27/14)
6. Adopted Resolution No. 7058 , setting a public hearing date of April 8, 2014, to review the condition of the fire damaged structure located at 1321 Tennessee Street.
7. Approved an application to the Westar Energy Solar Project Grant for a 30kW Solar PV Systems at the Prairie Park Nature Center.
8. Received a report on 2013 Weatherization Program.
9. Authorized the Mayor to sign a Release of Mortgage for Cecil R. Pearson and Richard D. McMillin, 311 Lincoln Street.

**C. CITY MANAGER'S REPORT:**

David Corliss, City Manager, presented the report.

**D. REGULAR AGENDA ITEMS:**

1. **Considered approving Site Plan, SP-13-00525, for Struct/Restruct Design Studio a Construction Sales and Services and Manufacturing and Production, Limited use on approximately 1.8 acres at 1146 Haskell Avenue. Submitted by Landplan Engineering, PA for BK Rental, LLC, property owner of record. (City Commission approval of site plans for standard and major development projects required as a condition of rezoning, Zoning Ordinance No. 8936.)**

Mary Miller, Planner, presented the staff report.

Schumm said he was glad that staff held this item over from last week to this week to try and get some agreements on the noise because the last operation at that location was truly a nuisance to the neighborhood. He said they had already rezoned the property and this was a site plan. He asked if the agreements that they placed on the site plan would carry forward to other owners of the property if the property transferred or did they have to go through the entire process again.

Miller said, if the new use was still a construction sales and service use, the site plan would remain the same and those would be notes added to the site plan and didn't matter who owned that property. She said with new ownership they would still apply.

Eric Jay, Struct/Restruct, said the livelihood of their business was based around design and woodworking and most of their projects started with material that they harvest in either log form or reclaimed material form. A lot of what they did was to mill material for their projects. He and his partner felt that it would be restrictive for a certain number of days a month or a lot fewer hours than they were proposing because it handicapped their business in many ways and wouldn't be able to fulfill orders from people or complete project for people. He said they tried their best to meet with the neighborhood association and came to a mutual agreement which they thought they had last week on hours of operation and restrictions and felt good about that and was being presented in the requested action.

Matt Jones, Struct/Restruct, said one of the things that was nice about what they had done in the past was that their current shop was at 920 Delaware and had really been able to have a large impact on that neighborhood that was positive. He said they had a large impact on that neighborhood that was positive and operated in that neighborhood while doing a lot of work that they thought made it an appealing place. He said they were fully aware of the relationship between their business and the community. It was maintenance of housing type of thing although they did it with spontaneity and creativity. He said that spontaneity was something that they used and needed access to and couldn't pin point when they needed things. He said the

noise they created was over estimated in this situation. He said they knew they had a direct link to the community that they were working in and appreciated that relationship, as well as their employees, who lived in and around the same neighborhoods. He said their current location was a great example of what impact they could have in a neighborhood.

Schumm asked if they were okay with the compromise on hours that were presented.

Jones said yes.

Mayor Dever called for public comment.

Andrea Repinsky, President of Brookcreek Neighborhood Association, said they only made minor changes to the original site plan basically to restrict the hours and to move the activity to the north side of the building. Upon further discussion, they sent a follow-up email to Miller, which was why she followed-up with Struct/Restruct, to ask about restricting the days of operation of the heavy equipment. She said they ended up making that request because, as happy as they were to communicate with Struct/Restruct and the City, they still left that meeting on Friday feeling a little vulnerable. And, the way that the site plan was written and the uses that were required, it would be possible to end up with a situation similar to what they had with the type of noise. But, they didn't expect to have that with Struct/Restruct. She said one thing that was much different was that it would be easier to talk to Struct/Restruct if there were any problems. She said they were excited about Struct/Restruct business plan, in general, but were hoping that they might have come to the table with additional assurance that would make them feel more comfortable with what would go on in the future. She said, again, they were still feeling a little vulnerable but still liked their project and didn't want to be obstructive. She said they were hoping there would be more protections that could be offered to the neighborhood.

Michael Almon said they had been generally happy with this entire process from starting years ago to this point and were looking forward to coming to a win/win situation for everybody. He asked the City Commission, under the general notes of the site plan, to keep in mind that the owner was Bo Killough. He said whatever they decided tonight was potentially his right. He

said he understood that the closing would be soon but you never know because that was future and there were also future potential owners. He said when all of them considered extensively the zoning, they completely went through a whole list of uses that could happen under construction/sales and services in the IL zoning designation. It was a very well thought out, thorough process except for one consideration. Under that particular zoning, there was a potential for equipment use that was very unclear, at that time, and it only came to light that one of those pieces of equipment would be a saw mill. When they discussed the zoning back then the zoning was granted for that use and the devil in the details were to be worked out late, i.e. tonight, with the implications on that use and what could happen at that location. What was discussed, back then, was that they needed the industrial zoning because they were going to be manufacturing furniture which sounded good. He said his image of furniture was putting legs on tables, sanding, finishing and putting drawers in. He said he didn't feel that the full extent of what that meant was ever portrayed. And, only accidentally learned recently, through being in a small community, that it was going to include a saw mill to manufacture the raw materials to make the furniture and was very different from making furniture. In making furniture, you take components off the shelf, assemble and finish those components. Struct/Restruct was actually fabricating the raw materials into the furniture materials. To his way of thinking, that was a very different animal of manufacturing then what was allowed under construction/sales and services. None of this was ever revealed in any of the discussion with their neighborhood and any discussions from what he knew with staff because when he heard about this, and asked Miller, she seemed not to be aware of their intent to have a saw mill. He said he was very concerned about that because it was a piece of equipment that was open ended and they didn't know what the implications of that equipment were. He said he indicated that when he commented at the Planning Commission. Section 20-1101 allowed the City Commission to impose stricter restrictions and that could be outright prohibition, time constraints, or location or sight constraints. He said Miller had proposed location constraints and was only 100 feet north of the

street. He said he would suggest that as a manufacturing use that they shouldn't be allowed on this site. He said there wasn't a saw mill on their current site and functioned perfectly fine and met their orders at a remote site. He said they could fulfill their business just as easily. He said he suggested that the City Commission prohibit it entirely or limit to certain days of the month. Beyond that, the type 3 buffer zone was only 15 feet, but type 3 buffer zones could be up to 25 feet and that should be a consideration for noise as well.

Richard Heckler said overall the project was wonderful and liked it much better than what was taking place. However, he would share the concerns that Repinski and Almon had brought to the City Commission's attention. He said he had seen a lot of Struct/Restruct's work and thought it was awesome but a saw mill could make a lot of noise and create a lot of dust.

Jay said the location of the saw mill would be 300 feet from 12<sup>th</sup> Street with the type 3 buffer zone between that. He said, as he read through a series of emails, he started to do a little research for a saw mill compared to some other standard issues that went along with everyday activities and the saw mill was about 85 decibels and a lawn mower was 110 decibels. He said basically they're being asked to restrict something that landscaping businesses did every day for 8 hours a day and make a living doing that. He said it was a valid argument and a child screaming was about 110 decibels. He said what they were asking was quite restrictive and if they were worried about how loud the saw mill was, it could be looked up on youtube. He said you could be within 20 feet and have a conversation with someone. He said it was not as loud as they were making it out to be.

Schumm asked about the location of the saw mill.

Jay said the location would be 300 feet from 12<sup>th</sup> Streets and, not to mention, the extremely dense buffer yard that they would need to create and there was a building between 12<sup>th</sup> Street and the saw mill as well. He said it wasn't going to be that noisy and cars driving by in their neighborhood would be noisier than the saw mill.

Schumm asked if the saw mill was outside.

Jay said it was portable and wouldn't be a permanent fixture in the yard and they could put it in their shop when it was not in use because they would be taking it to certain locations as well.

Schumm asked if there was a pad at that site to put the saw mill on.

Jay said no, it was on a hydraulic jack that had feet. Unfortunately, the image they had in their head was a big production line type machine, but it was a 16 to 20 foot trailer that was basically an oversized ban saw. It had a 13 to 22 horse power motor that didn't produce a whole lot of energy.

Amyx asked, regarding the addition of Item f in the staff memo which indicated that the General outdoor equipment shall be limited in location to north of the north wall of the principle building, if the location that Jay pointed out earlier was quite a ways from the north wall.

Scott McCullough, Planning and Development Services Director, said as they spoke last Friday with the applicant and the neighborhood representatives, they started thinking about different ways to mitigate the noise issue. He said they discussed the differences in equipment type, such as a skid loader, that needed to get around the entire property. While it could create some noise, it shouldn't be limited, necessarily, to north of that north building line but some of the equipment had potential to be noisier. He said staff tried to make a distinction between general outdoor equipment and the heavier use equipment. Letting the general equipment being anywhere outside, given the restrictions and hours of operation, and the heavier use equipment being both limited in hours of operation and a further distance away from the residences.

Dever asked if the Commission had any concerns or questions about the proposed changes agreed upon by Brookcreek Neighborhood Association, some of the other neighbors and the applicant.

Schumm said they had a discussion about continuation of the multi-use path or the sidewalk or some such situation to the east.

Miller said there were two discussions going on and the one that applied to this was the continuous sidewalk along 12th Street. When the property to the east platted and developed with residences, it would be extended along 12<sup>th</sup> Street. The multi-use path was a connection from the path and the park land and that was being worked out with the City Parks and Recreation Department and was not a part of this project. They were going to donate some land to the City to make it possible for, perhaps, an extension of a shared-use path but the only pathway they were looking at was that sidewalk along 12<sup>th</sup> Street.

Schumm asked Miller to show the multi-use pathways.

Miller showed where those pathways were located on a map.

Amyx asked if Jay was going to close subject to final approval of the plan.

Jay said yes. It was actually going to happen last week but there was a minor glitch for the title work to be completed.

Riordan said the Commission should pay heed to any questions or concerns the public had. In this particular case, being a woodworker, he had a good understanding of noise that came from that band saw. The place that was next to where he lived had a skill saw and a router that probably made about the same amount of noise but it was much different in the fact that the timber, and the quality of that, was much different than a band saw. The type of sound that a band saw did was, really, much different and was not as irritating and didn't carry such a lower pitch. He said there was some reality that the neighbors had concerns but didn't think a saw, in this particular situation, was going to create a noise that would be unpleasant and would cause significant problems. He said it was good for them to voice their concerns but at the same time the applicant had done a good job of discussing the situation, both with the amount of sound. He said he had a band saw and it was really not an offensive thing. In this particular case, staff, the applicant and the neighbors had come together and created a good situation. Nothing was perfect but this was adequate and one that protected the citizens but, at the same time, allowed them to be business friendly and let someone do something good in restructuring

and using timber. He said, in this particular case, they were on good stand to allow this to occur.

Amyx said he wanted to thank the neighborhood, applicant and staff for the multiple hours put in to this site plan. He said it was kind of hard to make a site perfect but the noise would be different. He said he believed this plan was something he could support with the addition of the conditions that had been placed on the site plan.

**Moved by Amyx, seconded by Riordan**, approving site plan (SP-13-00525), for Struct/Restruct Design Studio a *Construction Sales and Services and Manufacturing and Production, Limited* use on approximately 1.8 acres at 1146 Haskell Avenue. Motion carried unanimously.

Mayor Dever excused himself from the meeting at 7:16 pm

Vice Mayor Amyx proceeded with the City Commission meeting.

2. **Considered authorizing distribution of Joint City/University of Kansas Request for Proposals for consulting services to evaluate the feasibility of a conference center.**

David Corliss, City Manager, presented the staff report.

Riordan said this RFP was straight forward and was something the City needed to look into and that was all they were doing. He said they could always decide not to continue later but they needed to go forward at this point.

Vice Mayor Amyx called for public comment.

After receiving no public comment, Amyx said it was reasonable, at this point, to distribute the RFP. He said he appreciated Corliss' comment about the public safety facility because that facility was important.

Riordan said his biggest concern was location because the University might have a completely different weighted system than the City but could, at the same time, be ironed out and recognized.

Schumm said he agreed with Riordan, but that was probably some of the information the City would receive with the research that the consultant would do. He said it was time to take a look at a conference center. He said the tourist industry was the best, cleanest, rechargeable industry they could find, getting into the conference business, because it was new people, new faces and new heads on beds every week. He said those people would come to this town charged up and want to shop, do things and spend money generating sales tax.

**Moved by Schumm, seconded by Riordan,** authorizing distribution of Joint City/University of Kansas Request for Proposals for consulting services to evaluate the feasibility of a conference center. Motion carried unanimously.

**E. PUBLIC COMMENT:**

Les Blevins said what he wanted to propose had global implications but, to start with, he would project the City of Lawrence something on the order of one million dollars per year. He said it would be mostly through reduced disposal fees but there were other aspects of that, too. He said the City of Lawrence could, and should, support a demonstration of the alternative and renewable energy technology that he had evented, designed, patented and developed for addressing some of the cities in the nation unmet needs. And, to enable the clean energy economy to take root across the nation and put Lawrence on the map of that. He spoke to the City Manager and the City Manager suggested that he appear at the City Commission meeting to make this project proposal in person. This came after a decade, since Mayor Hack was seated as Mayor. They knew the City Commission members did not have enough information on exactly what his proposal entailed to make an informed decision, in a short-term way. If he made such a proposal to the City Commission they would be unsure, unable, and unwilling to make a decision on the proposal, based only on what his beliefs were, without substantial input from a well-qualified consultant engineering firm or research university. He said he was essentially requesting that the City further consider retaining counsel of some sort to advise the City on what his proposal might produce over time. He said biofuels would play an important

role in America's clean energy portfolio. Those projects would allow them to decrease their dependents on foreign oil, support the growth of biofuels industry and create jobs at home, quoted by Energy Secretary Steven Chu. He said he had a letter on the City's position that was signed by the Mayor and Vice Mayor.

Mayor Amyx said he would like for Blevins to write down exactly what the City Commission could consider and get a copy to him and the City Manager. He said he would meet with Mayor Dever about a time to appropriately place this item on the agenda so that he could get an answer from the City Commission, one way or another.

Blevins said he had an issue with that timeline.

Amyx said that was how it was done.

Blevins said he did not know how to articulate this item, exactly, as the Vice Mayor wanted to see it. And, it was something they needed to discuss and sort out. The importance of this issue went beyond. And, he didn't cause global warming on his own and wasn't proposing to fix it on his own, but enable him to do that in conjunction with the City and what they could bring forth. There were oodles of information out there. He said one of his documents stated why a 4 degrees centigrade warmer world must be avoided and that was what he has proposed to put Lawrence on the tract to enabling. He said this was something that exceeds slavery which Lawrence was instrumental in ending. He said slavery was a national issue and global warming was an international issue. He said he would do his best, what the Vice Mayor requested, but not to expect it to be the end all letter. He asked the Vice Mayor to state his request again.

Amyx said Blevins was asking the City Commission to consider a proposal. He said the City Commission needed to know exactly what the proposal was.

Blevins said to retain some sort of counsel, consultant, Research University, engineering firm or whatever they chose to look at what he was proposing.

Amyx asked if Blevins was asking the City to invest the money.

Blevins said he didn't think it had to cost money because the City had engineers and KU had qualified people to do some assessment and advise the City. He said how much that would cost he didn't know, but might be talking about \$3,000 or \$30,000, depending on the scope.

Amyx asked Blevins to send a letter making a specific request and the City Commission would consider that item.

Corliss said to bring the letter to the City Manager's Office and his office would communicate with the Commissioners.

**F. FUTURE AGENDA ITEMS:**

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

**G: COMMISSION ITEMS:**

None

**H: CALENDAR:**

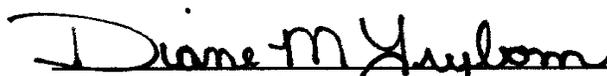
David Corliss, City Manager, reviewed calendar items.

**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 Farmer**, to adjourn at 7:40 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON FEBRUARY 25, 2014.**

  
Diane M. Trybom (City Clerk)