



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

COMMISSIONERS
JEREMY FARMER
DR. TERRY RIORDAN
ROBERT J. SCHUMM
MICHAEL DEVER

September 9, 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 Amyx presiding and members Dever, Farmer, Riordan and Schumm present.

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. None.

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

B. CONSENT AGENDA

1. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved all claims to 166 vendors in the amount of \$4,035,848.32 and payroll from August 24, 2014 to September 6, 2014 in the amount of \$1,994,574.06.
2. Approved the Drinking Establishment license for American Legion Dorsey Liberty Post No 14, 3408 West 6th St., as recommended by the City Clerk's office.
3. Approved appointment of Wayne Duncan to a Contractor Licensing Board, Mechanical Board representative, position as recommended by the Mayor.
4. Bid and purchase items:
 - a) Awarded bid for Bid No. B1448, Project No. PW1330, for the construction of a regional detention basin for Lawrence VenturePark, to R.D. Johnson Excavating Company, in the amount of \$649,919.50.
5. Approved rezoning, Z-14-00263, approximately 1.88 acres from IG (General Industrial) District to IL (Limited Industrial) District located at 720 E 9th St. Submitted by Flint Hills Development Group on behalf of 720 LLC, property owner of record. Adopted on first reading, Ordinance No. 9036, to rezone (Z-14-00263) approximately 1.88 acres from IG (General Industrial) District to IL (Limited Industrial) District located at 720 E 9th St. (PC Item 2; approved 10-0 on 8/25/14)
6. Authorized staff to submit grant applications to the Kansas Airport Improvement Program for the reconstruction of Taxiway C and the west apron at the Lawrence Municipal Airport.



7. Approved a street event permit for the KU Band Day Parade event to close various streets downtown on Saturday September 20, 2014 from a time yet to be determined.
8. Approved the City of Lawrence Investment Policy for 2014 and adopted Resolution No. 7089, authorizing the Assistant Finance Director and Assistant City Manager to access the City of Lawrence MIP account.
9. Approved as a "sign of community interest", a request from Pilot Club of Lawrence to place a temporary directional sign at the northwest corner of 23rd Street and Harper Street, from September 19, 2014 to September 20, 2014.
10. Authorized Mayor to sign a Subordination Agreement for 1715 Bullene.

Amyx pulled consent agenda item no. 1 regarding claims for a separate vote.

Moved by Dever, seconded Riordan, to approve non-Rock Chalk Park related claims to 163 vendors in the amount of \$4,009,751.25 and payroll from August 24, 2014 to September 6, 2014 in the amount of \$1,994,574.06. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Moved by Schumm, seconded by Farmer, to approve Rock Chalk Park related claims to 3 vendors in the amount of \$26,097.07. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report regarding City Employee's son receives scholarship from the International Code Council; Lawrence Utilities Department recognized with 3 awards at State conference; and Rental Licensing and Inspection Outreach Update.

Corliss stated that we just found out this afternoon regarding the 900 Block of New Hampshire. We're working with the contractor who is going to do a cut in the street that will require us to close the street on Thursday and it will then be reopened so it will be available for Art Center function on Saturday. The remainder of that street will be closed next week so that they can do the utility work and will then be opened in time for the football game on Saturday. It's a requirement of that use.

Amyx asked if Downtown Lawrence and East Lawrence have been notified as to this process.

Chuck Soules stated they were notified and we will make sure tomorrow that they don't have any conflict.

Amyx asked was the day to be reopened September 17th?

Soules stated it will move and will probably be Monday – Friday next week. It was only going to be September 17th but because they're not going to be able to do Friday, Saturday and Sunday this weekend, we will probably have to shift that a little bit.

Mayor Amyx asked Corliss to pass along special congratulations, and relay to his son Alex, that we are very proud of him receiving the scholarship.

D. REGULAR AGENDA ITEMS:

1. **Conduct note and bond sale. Review bids received and approve sale of bonds and notes to the lowest responsible bidder. Consider adopting Resolution No. 7090, authorizing the sale of \$13,745,000 in general obligation notes. Declare an emergency, and consider adopting on first and second readings, Ordinance No. 9038, and consider adopting Resolution No. 7091, authorizing the sale of \$26,965,000 in general obligation bonds, 2014 Series A, and consider adopting on first and second readings, Ordinance No. 9039, and consider adopting Resolution No. 7092, authorizing the sale of \$19,595,000 in general obligation bonds, 2014 Series B.**

Ed Mullins, Finance Director, presented the staff report.

Amyx asked one question that deals with Rock Chalk Park, and my particular vote on these matters, those were on both Series A and Series B bonds?

Mullins stated yes, Series B bond is entirely Rock Chalk and the Series A bond of the roughly 26 million there's about 3 million of that is Rock Chalk.

Amyx asked if there was a way to separate those bonds out without it being difficult.

Mullins stated it would be difficult.

David Corliss, City Manager, stated I don't want to delay these proceedings but I do want to spend just a minute to recognize Ed Mullins. Mullins has showed great stewardship for

this community over 22 years. I think this Commission and this community owes him a debt of gratitude.

Amyx stated Ed, a special thank-you from Lawrence City Commission and all the Commission's that you've had the opportunity to work with in the past with the professionalism you've always displayed in your job, in making sure we had the understanding and all the equipment we needed to make decisions.

Mullins stated it's been my pleasure and I appreciated every year I worked here.

Mayor Amyx called for public comment.

After receiving no public comment, Amyx stated there are a number of great projects included in the bonds and notes. These include everything from the projects at Venture Park, the Carnegie Roof Building, the parking garage benefit district downtown, and the library expansion etc. I support 99.5 percent of the projects but the consistency of my vote will remain intact. I do want to thank everybody for their role in the amount of work that's gone on, not only preparing these notes, but the amount of work being done throughout this community. I think it makes this great community even stronger.

The City Commission reviewed the bids for General Obligation Improvement Bonds, Series 2014-A, in the amount of \$26,965,000. The bids were:

Bidder	True Interest Cost (%)
Piper Jaffray	2.758005
Citigroup Global Markets Inc.	2.761502
Bank of America Merrill Lynch	2.777590
Jefferies LLC	2.792515
William Blair & Co LLC	2.844344
Janney Montgomery Scott LLC	2.855103
FirstSouthwest	2.859671
Robert W. Baird & Co., Inc.	2.864685
Hutchison, Shockey, Erley & Co.	2.901306

Moved by Farmer, seconded by Schumm, to award the bid to Piper Jaffray, for a True Interest Cost of 2.758005%. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None.
Motion carried unanimously.

The City Commission reviewed the bids for General Obligation Bonds, Series 2014-B, in the amount of \$19,595,000. The bids were:

Bidder	True Interest Cost (%)
Citigroup Global Markets Inc.	2.786505
Piper Jaffray	2.796600
Jefferies LLC	2.815655
Bank of America Merrill Lynch	2.831278
William Blair & Co., LLC	2.837380
Janney Montgomery Scott LLC	2.868791
FirstSouthwest	2.872514
Robert W. Baird & Co., Inc.	2.881015
Hutchinson, Shockey, Erley & Co.	2.908133

Moved by Farmer, seconded by Schumm, to award the bid to Citigroup Global Markets Inc., for a True Interest Cost of 2.786505%. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

The City Commission reviewed the bids for General Obligation Temporary Notes, Series 2014-III, in the amount of \$13,745,000. The bids were:

Bidder	Net Interest Cost (%)
Citigroup Global Markets Inc.	0.187213
Jefferies LLC	0.221967
BMO Capital Markets	0.321967
Oppenheimer	0.331

Moved by Farmer, seconded by Schumm, to award the bid to Citigroup Global Markets Inc., for a Net Interest Cost of 0.187231%. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Moved by Farmer, seconded by Schumm, adopting Resolution No. 7090, authorizing the sale of \$13,745,000 in general obligation notes; declaring an emergency, and adopting on first and second readings, Ordinance No. 9038; adopting Resolution No. 7091, authorizing the sale of \$26,965,000 in general obligation bonds, 2014 Series A; adopting on first and second readings, Ordinance No. 9039; and, adopting Resolution No. 7092, authorizing the sale of \$19,595,000 in general obligation bonds, 2014 Series B. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

Farmer stated I'll move that but I want to clarify, for everybody here, that when we declare an emergency it's not because we're out of money. It's because we have to adopt on first and second readings in one week.

Corliss stated correct. That just allows the marketers to sell the debt issuance.

2. **Consider approving extension request for Final Development Plan for Miracon Plaza Planned Commercial Development - Phase 1 [FDP-01-02-07] generally located at the northeast corner of Wakarusa Drive and Clinton Parkway. Submitted by Tim Herndon, for Timothy W. Schmidt of OFF-PISTE, Inc., property owner of record. The approved plan proposes construction of a two-story retail/office/bank building containing approximately 8,000 square feet and associated site improvements. The request proposes extension of the approval for this project for an additional 24 months. This item was deferred from 09/02/14.**

Dever stated I'm going to recuse myself from this regular agenda item.

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

Amyx stated Schumm met with the neighbors and staff.

Schumm stated they had a plan review which McCullough, Matt Bond, Stormwater Engineer, 2 home owners, the property owner and his representative, myself and Sandra Day, planner, attended. We went through this plan in great detail.

Matt Bond, Stormwater Engineer, stated as I understand it, the Commission requested what was actually going to happen with the project when it gets underway, to the adjoining property, between the property on the east side and then the residential properties to the east. With the proposal that we have, and what was approved, is a small swale on the northeast corner of the property that will be grated out right now and it ends up on a depressed area, that fills up with water and then it spills over into the channel. It's important to note that the developer on the property has agreed to help with localized drainage. All of the trees along the very east edge of the property are to remain and the only edges of vegetation that were going to be touched is with some localized grading along the west side of the channel, the outfall area

that would go underneath Clinton Parkway, a toll wall, and some riprap. So, for the most part, most of the trees on that side are going to remain intact.

Amyx asked last week, at the end of your meetings, was there pretty good understanding by the property owners that were adjacent?

Schumm stated I would say they were very well understood what was going on. I thought staff did an excellent job with the presentation.

Amyx asked are we comfortable with the language that is in the planned development and meets our intent?

Schumm stated I'll get into a little bit after public comment.

Mayor Amyx called for public comment.

After receiving no public comment, Schumm stated I think the two people with property understood exactly what was going on. I indicated at the beginning of the meeting that I was there because this Commission, for the most part, had not been a party to approving the original plan and it's been extended a couple times. They did raise some concern, and petition us, that we take a week and look at it, and make sure we understand what's going on. I'm completely satisfied that everything was followed correctly. I indicated, earlier in the meeting, that it wouldn't be up to them to find something that is an error, or something that has changed, so materially that it needs to be adjusted in some way to be in compliance with our codes and requirements we have for this development. There was nothing that turned up to be a miss. I feel very strongly that it's very well done and it should be approved as it is.

Riordan stated I'm pleased that it was delayed a week. This has been a place that I've looked at ever since I came back in 1983 and the only possibility is some type of commercial development. This has the least negative effect upon the neighbors, and the information was given, and people were pretty much pleased with the discussion and the final arrangements.

Schumm stated also when you go out there, that's a forest in that basin. It's just not a few trees providing a minimal amount of screening. It's just a real deep, almost, forest in there.

Even if a few trees come out on the west side, wherever they have to grade there's still going to be substantial screening there. And then they're going to add some additional trees for screening. I think it is well done and well thought out.

Amyx stated as someone who was involved with the original plan, I know that there was a lot of time that was spent by, not only, the developer, but the staff also, to make sure that as much of that vegetation was taken care of. But, at the same time, being able to do whatever work was necessary to make sure the water taken away and underneath Clinton Parkway and away it went.

Moved by Schumm, seconded by Riordan, to approve extension request for Final Development Plan for Miracon Plaza Planned Commercial Development - Phase 1 [FDP-01-02-07] generally located at the northeast corner of Wakarusa Drive and Clinton Parkway. Motion carried unanimously.

3. **Considered Wicked Fiber Economic Development request and receive recommendation from the Public Incentives Review Committee.**

Josh Montgomery, Wicked Fiber, presented the report.

Mayor Amyx called for public comment.

Megan Chichester stated I'm really interested in this technology being available. It's not currently in my area or offered there yet. I have been in the printing and technology industry for 23 years. One of the things that had been frustrating me is that I work in a corporate office and I also have to work at home. The problem is the files that I work on are huge and I cannot work on my files sometimes when I need to, when I'm at home, because of the service. I'm really looking forward to having that option in the future. What I've noticed with a lot of businesses and technology, is that a lot of people are shifting to cloud services. Instead of using on-site computer equipment they're kind of clearing out the closets, making room for more office space. They're kind of re-organizing the way they do business, it's not the way we used to do it, but we're doing paper work and having all these file cabinets. My company has basically scanned

everything into a cloud so we can retrieve things very easily, and we have thousands of people, and we're a global company, and it's really important that we have this fast internet service. If you think about how this could affect all the industries, there are people in the health care field who might have imagery that they need to send off somewhere. There are businesses that use it for applications to collect and analyze data, and those use robust applications that I can't run on my computer, colleges, schools and even home security. We've got to think of more than just what's happening now in technology but what's going to happen in the future. We have a lot of forward thinking people that are in Lawrence and have a lot of innovation that's happening. I don't want to be the people that are trying to run and catch up to this marathon. I want to be able to see us build and jump in and really take advantage of this opportunity so that we don't retreat in technology. Also, not just kids, but even older people, are getting into gaming and that requires this type of service. I encourage you to please support this because, as a resident, I would take full advantage of it.

Joshua Davis stated, if the initial plan went through, I think our neighborhood would have access to this. I just want to provide one example of a possible use case. When I moved to Lawrence in 2005, I moved here because of the really high quality of life and I think it's an amazing place to live. I would say, as a knowledge worker, sometimes it's been difficult to find jobs that compensate adequately for what I do, and having reliable internet has allowed me to do that for my job, I work with some of the largest corporations around the U.S. doing marketing work for them and I can do it all from my residence because of internet. At times, I feel like that's a risk. One, because of competition, because there is a lack of competition, and I have to worry about, will I actually have internet because it's essential and I have to have it. Two, what I do over time is probably going to need better and better internet and what I do now could be done in even a better way with high speed internet. In both of those particular areas, I think it's important to support things like this and even if it's considered speculative, and I don't think it is, there's a clear path for it. Even if you don't take it, this is going to happen and I think our

economic development money was well spent supporting this because I think it has potential, long-term, to be something that's going to affect this generation and the next generation. There are going to be other knowledge workers who, just like me, bring in all their money from outside Lawrence from clients all over the world and spend in Lawrence. The other thing is anecdotal. I don't ever want to leave Lawrence but when I've talked to my wife I said, if we ever have to move to the suburbs, I will seriously consider going somewhere that had Google fiber because it's that big a part of my life. My life style is a big deal and having that internet is a differentiator.

Matthew Cannon stated I've been on wicked fiber services for a year now. I've always had good service and good customer service. The difference between all of the other internet service providers like AT&T, there's a huge difference especially in terms of upload speed and he gave an example. I fully supported this and I think it would benefit a lot in this community.

Eric Bloom stated, on this project, if Sprint or Verizon had asked me whether or not they would like a better reference for my service, I would laugh at them all the way off stage. I have personal connections with everyone at Wicked Fiber. Between my family, friends and organization, at least 150 people have been immensely benefitted by what Wicked Fiber has offered us. I see this as being a great benefit to our City. Every year, as kids move out of town, early 20's, who could live here the rest of their lives, they look somewhere else because they see it as an opportunity where they could have better jobs. Lawrence needs to have this internet so this is the bedrock for what makes job be here, people could go to KU, and stay here, and our City benefits.

Greg Thompson stated I'm an information technology professional and I first heard about this project a couple of years ago when I ran across Josh Montgomery working on a Makerspace project. And, from being familiar with that community and the technology, I really support this and I'm really excited about the presentation Montgomery gave. One topic that was overlooked was the bi-directional aspect of this. This isn't just better televisions, or a better way to download something, but a better way to push things back into the network. It gives you the

speed to actually produce content. There are a lot of creative minds here with good ideas. All of these other communities that are cropping up, that have these larger fiber networks, it gives us a pipeline to push content back into those instead of having to flee this area to go work in those areas. We can actually work right here and build industry, creating new content for all these little areas that cropping up. There's an advantage to being first. You start building a community, you build additional infrastructure on top of the roads and fiber that will really benefit us in the long run. I encourage the support of the project by the City.

Tanya Kulaga stated I'm a local real estate agent and I just want to say I'm in support of the project. I do have people contact me from other places, like Kansas City, that say they couldn't move to Lawrence because they don't have the service that they would need for the work that they do. I do think that will bring people here and I also think there are people that want to move to Kansas City for this sort of support. I'm not very technologically advanced, but my husband is. He gets the information about those things, and how advantageous it would be for people like him to move to Kansas City and have that access. It would be great to move those people here and have more people coming in and appreciating that service.

Debra Schmidt, WOW Broadband, stated I don't have any demo's, video's or speed test to show you, and I don't have any customer letters, but, I can assure you I could provide customer letters of support as well. I do appreciate all the people that are here talking for Wicked Broadband. It's certainly their right to do so, and their choice to do that. Why I'm hear is that WOW is against local government giving incentives, board loan guarantees, to private companies that then makes an un-level playing field. WOW competes with Comcast, AT&T and Time Warner. They invest their own money and they do that as the market bears them to do that. WOW welcomes viable competition. And it will develop its products as the market needs them and as customers demand more and more from their service providers. I wouldn't be doing my job if I wasn't here to protect WOW's interest in our community and also protect the interest of our 120 local employees. Therefore, this afternoon we submitted a letter and we

provided a letter last May 2013 and we strongly encourage the City to deny the funding request of Wicked because we feel it's bad local government policy and also it's a violation of some the Federal and State Statutes. I won't go into the State statutes because I believe the next speaker will mention and clarify that. Again, we believe in a free enterprise system and as the competition evolves, and provide different services or products, that's where we want to be as well. And, offer those same type of services in the same manner as the competitors.

Mike Scott, State President of AT&T of Kansas, stated. like WOW we oppose the proposal for various reasons. First and foremost, is the picking of winners and losers. We feel, like WOW does, that the role of government is to not pick winners and losers, and not even to impede an investment, and these proposals would do just that. The one million dollar guarantee is a lot of money and I doubt if these funds are budgeted. I think you have to look at it, at least in our opinion, as an expenditure. The cost benefit ratio doesn't take that into consideration but that's a definite possibility and one that should not be overlooked. AT&T is proud of our heritage here in the Cit. We've been in business for well over 100 years and we're proud of being a good corporate citizen as well. We take a lot of pride in our service and feel very good about the service that we do provide. Regarding the ordinances, the PIRC committee said that it should be an agreement and then they come back with two ordinances that direct them to work with City staff. If the ordinances are approved tonight, the agreement then would be approved according to the ordinances on consent agenda. It looks like a lot of work would be done behind the scenes, with City staff, in order to come up with a fair agreement, according to how the ordinances read right now, which says they would be approved on a future consent agenda. We think it's important to have an agreement, and have public discussion, as opposed to on the consent calendar that they were on. These ordinances would violate, in our opinion, State statute. The City has the authority over a right-of-way but it has to be in a non-competitive, neutral way, and can't be discriminatory. Obviously, AT&T, WOW and anybody else in the right-of-way will not be having these types of preferential treatment. Also, in the franchise waiver that

they've asked for as well, that's \$20,000 a year their customers don't have to pay because these are pass-through taxes. We charge our customer, which makes our rates go a little bit higher, so that would be another competitive advantage that Wicked would have and AT&T or WOW would not have at their disposal. According to State Statute, you have to be competitively neutral and you can't be discriminatory in the way that these ordinances would be setup tonight. If approved, as is, would definitely be counter to that.

James Dupont stated we should encourage competition and we should be encouraging competition in telephone and the internet market in Lawrence which is quite bad. I work at the BTBC (Bioscience & Technology Business Center) and the intranet was completely horrible. It was a disaster and businesses there were not well served at that location. I think the City should be doing something to create high speed internet for these business and technology centers that they are building. Second of all, in my opinion, the City should be building fiber and owning it. I support Montgomery's proposal but in the long run I think it would be great if the common carrier idea that he's built that would allow WOW and AT&T to use those fibers. If their building new fiber out, then they could use it. I think that's a great common playing ground. Now, I would like to bring up the topic of WOW which gets my blood boiling. We are a complete monopoly of WOW in Indian Hills. There's is no other intranet high speed provide, except WOW. AT&T does not provide service there and we're at the mercy of WOW. You want to bring international businesses and international students to Lawrence but WOW blocks 26 international countries to be phone called. They block in-coming and out-going countries which is against the IT recommendations. I've raised this issue with KCC and FCC and nothing has been done. I would encourage you to look into the issue of WOW blocking entire countries to be called. My wife is not able to talk to her grandparents, her grandfather died and they wanted to call us and we missed the funeral because WOW is blocking the phone calls. This would go away if there was more competition in Lawrence, when we can choose our own telephone company and our own internet company and not be locked into this monopoly. I'm a software

developer, would like to set up servers at my house, start businesses and it would be great to have high speed internet as well.

Mark Sump said he was a member of the RFI (Request for Information) committee. We reviewed the request for information and it was clear to me, from the beginning, that the Wicked proposal was the only one that made sense. The AT&T proposal basically said, "We'll get to it when we get to it, if we get to it, maybe." WOW didn't even provide a proposal. These are the two incumbents and they were negligent in their response to the request. Wicked has come in with, what I think is, a really good proposal and it's something we should do. This is a young entrepreneur who wants to create a business here in Lawrence. This is what we should be doing, it's what the City should be doing, and this is what we as a community should be striving for. Especially, when we looked at the RFI responses, this was the only one that made sense. Then it goes into the issue that I believe in, as a small business owner, that we do need to be encouraging entrepreneurship here. This is an opportunity for that, an opportunity that isn't going to cost any money. I truly believe this is a good thing to happen. As a small business owner, who has a technology company that requires a reasonable amount of internet speed, I couldn't run my business on the AT&T or the WOW networks. I happened to locate in a place where Wicked is available to me and I was able to continue my business. I have relocated, since then, specifically in a place where I knew I would have Wicked because I knew that I couldn't continue my business with what WOW or AT&T was giving me. If Wicked goes away, I don't know where I'm going because I can't stay here. I think a lot of people, a lot of business and a lot of entrepreneurs are going to be thinking about that because that's what the future is about.

Peter Karman stated my wife and I moved here to Lawrence from St. Paul Minnesota about a year ago so that my wife could start at the University. I had the good fortune to be the Senior Digital Architect at Minnesota Public Radio where I've been able to continue working by telecommuting from Lawrence. I'm desperate to become a Wicked customer and I can't be

because of where I live. I investigated, early on, when we moved here about the possibility of fiber when I saw that was an option. Having fiber to my house would make my job so much easier. I believe, wholeheartedly, in what several people have said here tonight that entrepreneurial investment, municipal partnerships, are really a way to make Lawrence an attractive place to be, particularly, as one of the major researchers in your City. That's got to be a win.

Franklin Siler, Attorney for Wicked Broadband, stated I would like to rebut a couple of points made by WOW and AT&T. First, is I drafted the legislation in such a way as to allow a partnership, going forward, to be arranging these agreements for splicing, franchise fee waivers, and so forth, to be done in a prospective manner because I didn't want to send in a 25 page document and I wanted to work with the City in order to draft those. None of the legislation before you actually pushes those agreements. It's just pushing the button to say, we want to work with the City to enact those changes, get things in order. Whether or not that goes on the consent agenda, is completely irrelevant. As far as competition goes, if you'd like to have competition, how about fiber tubes that anyone can rent to any address. If AT&T or WOW should desire to use the fiber network after it's in place, they're welcome to. That's what competition is for. Finally, I'd like to add that, anecdotally, Wicked's service is far better. There free service that you can get on Massachusetts Street is far better than what I can get at my house from the competition. I routinely work on Massachusetts Street on Wicked's public access points, which I don't pay for. It's a very nice service that they have. I'm personally and professionally invested in the continuity of their network, services and expansion of their services.

Ted Holdahl stated I moved to Lawrence 3 years ago from Kansas City, I retired as a Director of Engineering from Sprint and I love this City but I think it needs to have improvement to its internet service. I truly believe what Josh stated earlier. It will enable innovation and bring money to this City and it will encourage industry expansion. I question, why isn't AT&T or WOW

doing anything to improve their service? They haven't even given us a clue about the future and that's bad. I'm totally behind this project.

Carissa Hill stated I have bought, sell and rent virtual land for about 9 years now. What Montgomery said about holographic football games is not the future, it is the present. The question is access and upload speeds. When he had those pictorials of how many lines you would have to have for telegraphs, that's not an exaggeration, that's the truth. When he talked about having to build roads in order to put in a grocery store, that's the truth. I just wanted to say this isn't the future, this is the present and we're pushing people out of the community. The video gaming industry is a billion dollar industry. I've been doing this for 9 years now. This is actually part of the past for me. AT&T saying that its competition, it's not. They can partner. That's like saying the roads that you build is competition. The infrastructure is mostly already in place, it doesn't make sense. Anybody that's against this is not technological and doesn't understand.

Andy Brown, Executive Director of Headquarters Inc., stated we run a suicide prevention hotline for the National Suicide Prevention Lifeline. We use Wicked Broadband as our ISP. We currently had launched a chat service that we're looking to expand. We're also working with some of the State Departments to try to figure out ways to launch things like a statewide suicide prevention resource center, a statewide suicide prevention coalition and those things are going to require us to have a greater capability of uploading and downloading information. We're not talking about just serving Lawrence residences, it's a statewide thing that we're trying to do. Most of our contacts, with this community right now, boil down to our volunteers. We're no longer receiving City funding or county funding. We do receive some funding from the University of Kansas students. One of the things we're going to have to look at in the future is where we're going to locate Headquarters. If we're going to continue to keep that here, the jobs that go with that agency, there's 10 of us, we provide some rent, we're a WOW customer also. We get some phone service from them. What we really want to do is stay here and be a part of

this community. We've got almost a 50 year history. It would be sad to me if we need to relocate in order to continue to provide the kind of services that the State wants us to provide to the rest of the citizens of Kansas. I hope you guys vote in favor of this. I feel like it's a good proposal. Wicked has been generous to Headquarters over the years providing sponsorships for events, fundraising, contribute monthly to us and they also provide us with free internet service.

Ben Anhalt stated I've been a Lawrence resident for a little over a decade. I'm a software developer and basically my entire career has been involved with internet technology. As time moves forward, Lawrence really needs to keep pace with technology. I heard someone talking about a level playing field and to me that doesn't make any sense. It seems to me like the purpose of government is to provide for the public interest and our infrastructure should not be like a field for corporations to play on. If this is a viable plan, it seems like it should be considered.

Mark Aaron stated I moved to Lawrence about a year and a half ago from about 30 miles south. At that time I was paying for Dish TV just to get DSL internet to my house. One of the reasons why I moved to Lawrence is specifically the cable but there are a number of other reasons. Lawrence has a very high quality of life and I'm really happy to be here. I'm also an employee of the Federal Government. Today's business climate companies are running much cleaner and flatter and to do so you need to be faster. A benefit of my job is I get to work at home 2 days a week. I download imagery and access a number of databases throughout my day whether I'm at home or my office in Lenexa. Just moving up here to Lawrence and getting service from WOW as we move forward things will continue to get faster. I know there are about 33,000 residences in Lawrence and I'm just one of them. If we're talking about a million bucks and want to talk about competition. With a little help from the City let's create some partnerships and move forward.

Earl Schweppe stated I was teaching about fiber in 1979 at the University of Kansas as part of a course in digital communication. One of my students did a class project on fiber optics,

interviewed with General Dynamics, was hired by them to take over their big research facility that they created to study it, fiber optics and other communications for on-flight control of military aircraft. He just retired after 33 years of distinguished career in General Dynamics and is now running a weekly newspaper in Atwater Kansas, where he grew up. I've known about the fiber for a long time, taught it and have it. Montgomery asked if I would like to have fiber to my house which is right next to the water tower. A year ago Montgomery installed Google fiber to my house. I don't need it, I love it. I could live without it but I only got so much time left. It's a blessing to be able to ask for something and get it immediately. I have a little different perspective than the previous speakers but I also have a different solution for you to consider. The solution would not conflict with anything that Montgomery wants to do and would not conflict with AT&T and WOW. It would not conflict with Mike Bush in Baldwin. My concern is, we cannot go forward on 3-2 votes. The proposal is the work in downtown Lawrence for this project. Downtown Lawrence is a very compressed area. It's a historic area with buildings that have been there since before we've had telephones. There are all sorts of conflicting stuff in the ground. I believe that the City should take the bull by the horns and create the basic infrastructure to do what needs to be done in downtown Lawrence. There are things that have to be done before, and Montgomery would have to do these, but it would be much better if the City did them and left Montgomery only having to worry about the fiber and the electronics. The things that have to be done, you have to have conduit to pull the fiber. This has to be done in a way that you plan 50 years from now because you're going to have a lot more fiber than you think you are, and there needs to be room for it. So, you conduit throughout the downtown area, and the rest of the City later, but this is the proposal. We need to have a system of conduit that are available to anyone to pull fiber. The other thing that you have to have is space. Fiber is fiber but it has to be driven electronically with light, by computers, there has to be routers and systems to make that work.

Amyx stated I would ask you at this point if you can provide that information in writing.

Schweppe stated if you provide the right conduit system in downtown Lawrence, WOW and AT&T can tie into it. You're going to have to have serious space, it has to be hardened, air conditioning, back-up power and all sorts of basic infrastructure and it would be much better for the City to provide that and make it available to everyone.

Amyx stated thank you very much, provide us the information.

Brian Dennis stated I co-authored the report that you guys got from the KU Small Business Development Center along with my colleague. I also served on the RFI Committee to review. The information that we just went through, and in the course of putting together that report, and what they came across in the RFI, the Wicked proposal right now is the best thing we've got going for getting something moving immediately. I think that's where we are as a community. Looking at our peer cities across the country, we're desperately lagging behind. I think that putting some type of fiber program in place right now will help, at least, bring us to the same point as Cedar Rapids Iowa or Corvallis Washington, cities that are a lot like Lawrence in population and size. Our office has been pleased with the concept, and the idea, and we just really think it will be a great impetus for job growth in the community as well as small business development growth. Not just the type of fiber we'll be able to offer small business, but also the types of business that will grow out specifically because of this type of product.

Schumm asked, since Dennis helped author that research report to equip downtown Lawrence and East Lawrence with all the infrastructure that's needed to allow for service in that zone that was shown on the map earlier, what's the total cost of that?

Dennis stated that isn't necessarily what we were looking into. We were focused on the potential economic impact of a product like this. We weren't actually looking at the cost side of it. That was left to Montgomery and to you guys.

John Casey stated my family and I moved to Lawrence about 2 years ago from Gainesville, Florida. The thing that I immediately noticed, on returning from Gainesville, was that Gainesville has a thriving community. They have technology incubators sprinkled across the City

and all kinds of things like that. The thing I noticed like Lawrence, knowing that KU appears in scientific journals on a regular basis, probably weekly, and maybe more often than that, is there isn't a lot of that kind of vibe around town. You don't see a lot of the startup community in evidence. I'm starting to wonder if it has something to do with this stuff. I work for Red Hat doing software engineering as a remote worker. I don't think there is an office in Kansas, just a couple of other guys like me. Most of what I do is shuffling bites around in the order of gigabits in a day. I've got the biggest residential plan you can get from WOW which actually doesn't guarantee anything on the upstream as far as speed goes, it gives you a variable rate and you just hope for the best. It turns out its okay most of the time. When it gets warm outside and the lines that are hanging from the poles start to expand, all of a sudden the speed drops and I have to come out and fiddle with the lines and the speed will go back up again. The access that I have here to do my job is pitiful and it requires hours of extra time that stretch out into weeks of extra time to do my job that I wouldn't have spent if I had reasonable access to the internet. On the side, I've been looking into starting a small business and I've got two customers right now and its data oriented. I spent about \$600 on hardware to bring in a data center quality server, a big server, into my house. It turns out the bottleneck is actually the upload and download speed on the internet access that I have. I have terabytes of storage space and it takes me all night to transfer for my customers. This puts a very serious cramp on my ability to run a small business and, actually, it's to the point where I'm considering not really shuttering the whole thing. When I started learning how to be a software engineer, I was working in modem speeds and it was excruciating. I was downloading operating systems and software to help me learn how to program. Nowadays, we're in the world of big data.

Daniel Smith stated I wasn't planning on speaking but there was one point that everyone's missed. I agree we do need fiber, and everyone proved that fact, but I think the real issue is, what does the City end up doing if the loans defaulted on. Is the City ready to accept

that responsibility? Nobody has debated that and I think it's a real issue for the City. If they're going to guarantee a loan, what happens if the worst happens?

John Buttimer stated I've been in the service a long time, and many countries around the world, and because of that, one of the things I noticed, in America itself, we lack internet speed. Japan, Germany and Britain just smoke us when it comes down to our speeds and what's holding us back is corporations are holding a monopoly on it. By allowing Wicked fiber to come in, you're opening the gates for competition which will not only drive the prices down for your people and they can spend more money downtown, which allows more taxes to feed back in, but you raise the moral of people that are here. Right now, I get about 3 times my household speed off my phone. My internet provider is AT&T U-Verse. I get about 5 megs on my phone and get about 15 megs on my cell phone. So, what do I do? I stream most of my stuff off my phone. That shouldn't be what we're doing. We're paying for the internet so we don't have to do that. That way we don't have to worry about data caps. And with WOW coming in, they've at least the data caps, which is nice, but your speeds are variable. It's what they feel like you can get, at that time, and when the systems congested, it slows down. If you pay attention to what's going on in the outside world, you have Comcast that's going head to head with Netflix. They're trying to drive more money out of the businesses. A lot of people are starting to go to streaming. Our household, we don't use cable, we use Netflix, HULU, YouTube, stuff like that. By allowing Wicked to come in, you are letting us have more access to different forms of media without worrying about our speeds. You need to prepare for the future not for now.

The City Commission took a 10 minute break at 8:24 p.m.

The City Commission reconvened at 8:35 p.m.

Schumm stated the question that I asked the small business development center person is what would be the cost of the total infrastructure package for the area you've outlined for downtown and East Lawrence if it is built out to 100 percent.

Montgomery stated we're looking at \$1,000 per household. If you look at some of our original pictures of our infrastructure they show the equipment in the metal box outside of the house but we've been able to cut that down significantly to save cost. If you look at other projects around the country, for instance, Google Fiber in Kansas City, the estimates on that project per household is about \$690 but they had economies of scales that we probably won't reach. One thousand dollars is a pretty good estimate and that's been right around what it's cost us to install the sites we've installed to date.

Schumm asked that's all the electronics to push the information? It's the total package?

Montgomery stated primarily that is putting in underground conduit. That's the vast majority of the expense. The electronics represent less than \$150 in the cost. Electronics are very cheap, the fiber is very cheap, it's underground conduit and installing it that's very expensive. Most of that is labor which means most of that is going to flow to local jobs like people that dig trenches, lay fiber, and put in underground conduit in for a living.

Schumm asked, how much fiber has to be placed in conduit in the Downtown and East Lawrence area?

Montgomery stated we're planning on pulling 4 per site so will end up terminating something like 4500 or 5000 fibers in our pop. It's a very different way of doing it from the way the other carriers have approached it but we think it's the best long-term solution.

Schumm asked how many linear feet is that?

Montgomery stated a lot, hundreds of miles of fiber. The fiber comes in from 5 cents to 14 cents a foot. It's cheaper than phone lines and there's no copper and it's plastic. It's effectively petroleum.

Schumm asked how many feet of additional conduit are you going to have to install?

Montgomery stated miles and miles of conduit. We haven't done the detail engineering so I really don't have a good answer but the length of each street, plus 100 to 150 per house. It's a pretty big number. One of the things we've learned, overtime, is not to over engineer

things. The guys who have the shovels and the rakes know what they're doing and I trust them that they will do a good job.

Amyx asked, for the loan guaranteed portion of this, I assume this is a very small part of your business, and in the event that you would default on the loan, what would we be getting for our loan guarantee? What are we buying for a million dollars?

Montgomery stated we're in it to win.

Amyx stated I understand that but in any business there's always that possibility.

Montgomery stated what I'm saying is, if we go down, the whole thing would go down, and it won't just be the fiber portion. So, you get an operating business that's generating, right now, a half a million dollars a year, it might generate several million dollars a year by the time we're done with our fiber project, with customers at the end of it, and real revenues. We're a real business. Our primary constraint is capital constraint.

Schumm asked, if you're generating half a million dollars a year, why is it you need the city to guarantee a loan?

Montgomery stated the biggest issue that we have in raising capital is confidence. My confidence in putting on my monkey suit, and flying out to the west coast and raising the money, and the investor's confidence that the City of Lawrence is committed to making this successful. That's the primary reason we're asking for the loan guarantee. The other things it makes possible are the interest rate which goes from paying 6 percent on our SBA notes down to .85 percent, that's a big deal on a million bucks, and then the term of the note. The longest note that we can get right now, based on the fiber assets, is a collateral asset, which is 5 years. That means that all that capital has got to be returned in the first 5 years. If we have a City guarantee we can take that out to 10 years. I push for 15 years. It's a fixed asset and then very much the same way that a piece of real estate is a fixed asset, but from the banks perspective, they don't value it for collateral. When you go to the bank with a million dollar fiber project they don't want to say, here, there's fiber optic cable on the other end of it what are they going to do,

dig it up and melt it down. What they want is an asset that could be liquidated and so they want houses, they want gold, and they want cash. Unless you're able to access the public bond markets in the way that the big players are able to and the way the City is, it's just not possible to make that happen.

Schumm asked, what the rate is that you said would be available to you on a 10 year basis?

Montgomery stated I was quoting your bond council.

Schumm stated you wouldn't get that rate.

Montgomery stated no I wouldn't, but you could see the spread between us and that.

Schumm stated you're still going to be at a market rate of local interest rates for commercial loans in the 3 ½ to 4 ½ percent range.

Montgomery stated which is still less than we're getting now.

Schumm stated I'm quite sure you're not going to get in the 1 percent range.

Montgomery stated I'm sure you're right but that won't stop me from trying to push toward it.

Dever asked, Josh would you be willing to allow the City to review your financial statements so we can verify some of the financial liability and output?

Montgomery stated absolutely and the city already retained a consultant and did that about a year ago with an outside consultant.

Dever asked currently, to date?

Montgomery stated yes.

Dever asked, would you be able to give me an idea as to what the current value of the assets? What you have now on the network, as a network, if you were to default and, as you said, pull the plug on everything? What would be the substantial value of the assets you have right now and are they encumbered by others?

Montgomery stated we're carrying a half million on two local banks so they are already encumbered. It depends on the buyer. Its electronic components that slept to the top of utility poles, without customers at the end of it, it has very little value. With the customers at the end of it, and with the level of service that we've been able to bring to those customers, it could have substantial value. A common metric in the industry is 5 times earnings so that would be like 2.5 million dollars. It's worth a lot more to a strategic buyer than it is as spare parts. The goal for the internet service provider is to keep the lights on and to make sure we're getting the types of reviews from our customers that we're getting here today.

Dever stated one of the big issues out there is regarding the splicing of fiber and the impact of that cost of hiring a third party to splice and connect the middle mile to your last mile service and to your individual customers. I understand you're capable of doing so but there are security interests from others that are utilizing that fiber right now and they've spoken clearly about their desire to limit access to that. City staff has indicated and so has KU and other users of the fiber that they want to make sure there is a security risk there and they want to manage that risk. One of the pieces of this puzzle that you've presented to us includes coming up with a reasonable approach, and cost, to connecting to that fiber. I don't question your technical capabilities at all but I know some people feel comfortable with a 3rd party provider. Do you feel like that's something that is possible to negotiate? To allow a 3rd party to lower their rates and provide some sort of economy of scale if we're going to do something like this and still meet the needs of the other users of the fiber or is that a deal killer? If we don't allow you to splice, this isn't going to work.

Montgomery stated I'll never throw a deal killer out when we're trying to negotiate. We're willing to work with the City in anyway that's productive. My concern is, right now, there's only one vendor. That vendor can charge us whatever he wants to. He's actually partnered with Dawn Fiber, when it was Dawn Fiber, and is actually a member of that company. I'm paying my competitor to do the work with no price guarantees. And, we've had quality issues with that

vendor in the past. We'd be open if the City had an open bidding process and selected several vendors and got some price guarantees. We're fine with that but my concern was, right now I have a sole source vendor who can charge me whatever he wants and work on his own schedule. That's a serious problem for us. We've written the City a letter about 2 years ago where we had actually timed that vendor, and measured the work, and for a guy that's making \$12 an hour, he's making \$350 an hour in revenue. That's very disproportionate for something we can do in-house for \$20 or \$30 bucks. Another thing I'd throw out there is, maybe we can find a vendor that everybody can agree on. The City's recently had some folks that retired, that everybody trust, and maybe we can make something work there and make sure it's supervised. There is no deal killer and I'm more than happy to work with the City in anyway that's productive.

Schumm asked how many splices are we talking about?

Montgomery stated probably 8 per site so by the end of this project we're going to end up doing 9,600 splices. If we have a vendor that's charging us \$50 per splice, it's an issue when Brad can do it for 75 cents a splice. In terms of touching the City's fiber, that's a much smaller number. If we re-capitalize or work with the City on a loan guarantee maybe we can work something out there.

Schumm asked, right now you splice your own work except where it hooks into the City?

Montgomery stated yes.

Schumm asked the larger money you just quoted me, is going to be all new work that you're putting in? You're going to make those splices anyway?

Montgomery stated yes.

Schumm stated there's only going to be 50-100 splices to the middle mile.

Montgomery stated 50-100 or a couple of hundred. It's not in the budget for our customers right now.

Amyx stated in looking at the Small Business Development report that they did for PIRC, it talks about the evaluation process that they went through and a quote from the reporter stated: "It's our understanding that Wicked Broadband would be open to dialogue about various proposal elements and it was not intended to be an all or nothing proposal." I assume that that was of the request that you have before the City now. Is this all or nothing?

Montgomery stated no, we've actually already broken it up into 2 parts in our presentation. The two things we ask for is to immediately implement the regulatory changes and some of the other things that are no cost and then talk about the million dollar loan guarantees and a separate agreement to take place sometime later in the year. We're always open to negotiating and working with folks. The issue I'd like to bring up, however, is that we have now been pursuing this process for almost 2 years. Our original proposal to the City was here, take it, it's yours, run it for all these folks that believe it should be a municipal service. We kind of proceeded down this path for a long period of time. If we are going to negotiate, and I'm happy to negotiate, we'd like to do it in a fairly rapid timeframe and get some resolution quickly. Mike Gaughan when he was quoted as part of his PIRC recommendations said the clock's ticking and we don't need to be falling further behind getting high speed internet to the community. If we can get a reasonable timeframe, we're open to working with anyone including our friends at AT&T and our friends at WOW. Anybody that wants to work productively to advance the ball, we're good for it. However, folks who might try to encumber it, or slow it down, or stop it from happening, we're not interested in that.

Schumm stated maybe County Commissioner Gaughan would want to approach the County Commission to see if they would like to chip in too.

Montgomery stated it's my understanding that the fiber between the City and the County courthouse belongs to the County so we will be having that discussion.

Riordan stated there is a request for 12 fibers now and possibly 24 later on. Could you explain why the 12 now and possibly 24 later? What were the thoughts on that just so I understand?

Montgomery stated the incremental cost of increasing the amount in a cable is very low. If you're buying 96 count and you want to change that and switch it to a 108 count, it doesn't cost much per foot to make that change. In the places where the City already has fiber optic cable, they have limited capacity, it's already in the ground. So, we don't want to ask for too much. We want to ask for the smallest amount that's feasible in terms of security and in that case it's 12 fibers because you remember I showed you how it all worked and that the little buffer tube has 12 fibers in it so we just wanted 1 buffer tube. As the City installs fiber in other conduit that it owns around the City, what we'd ask is that they just add 24 to whatever the City needs. If the City's need is 96, we'd say make it 120. If that means that we have to chip in on that project some of the incremental cost, that's something we're willing to negotiate, but we prefer to have 24 counts in every case, but we understand in some cases the City only has 96, 12 count represents 16 or 17 percent of that total capacity. I don't want to ask for too much. There's always a possibility that another vendor comes in and wants to make use of that on the same basis and that's something that we would 100 percent support. That if there is another vendor in our community that's willing to pay 5 percent of their broadband revenue, and provide free service for non-profits and provide free service for local families, we would support those folks getting the same deal whether they're here or Baldwin city, whether they're incumbent or not. If they're not willing to make those concessions and willing to serve our community in that way, then they should pay their way.

Schumm asked the request for a 30 year lease for the middle mile, was that an exclusive lease and do you have exclusive use to that?

Montgomery stated if it's in production there's only room for one piece of electronics at the end of it but there's still a lot of unused capacity in all of those buffer tubes. If another

provider wanted to provide service on top of some of the other fiber, that would be something that could happen. The other thing that could happen is you can switch these fibers into something called course wave, or dense wave multiplexing, which is now we're getting really technical which allows 24 or 48 providers to work on one piece of fiber. If there becomes a need, the term is fiber exhaustion, meaning that you've used all the fiber that's in the ground, to implement some of those technologies. That's something we're willing to work with other folks on. Our goal is to provide as much bandwidth to the community as possible and to drive prices effectively to zero. The more players there are, the more competition there is, and the more bandwidth there is in the market, and the closer we are to achieving our initial goal, which we set out with in 2005, to make sure the internet is available to everyone, everywhere, regardless of income.

Dever asked Riordan submitted questions to staff, did you feel like you got the responses you needed?

Riordan stated in a short period of time, I think they were adequate.

Amyx asked Corliss to explain the fiber that runs between here and the courthouse and the fact that it's owned by the County and some by the City. What is the arrangement?

Corliss stated it's my understanding that it connects City Hall, Municipal Court, Judicial Law Enforcement Building and it might touch the City offices that we have in the New Hampshire garage as well. It's owned by the County and we have the right to use a portion of it.

Amyx stated we can't give away the County's interest for Wicked Broadband.

Corliss stated Montgomery mentioned that he would need to talk the County about the use of that facility.

Amyx stated one of the things I see is that we have a request that's before us, and I appreciate Montgomery's comments about that time is of the essence because this has gone on a long time. As we look at the use of the fiber that we have in the ground, and unused at this point, we've never given a direction about the City government's needs for the current existing

fiber or what our plan may be on allowing customers like Wicked and others to be able to use this. The question that Schumm just brought up about exclusive use, is that really what's happening here and does that deter us from being able to do any long-term planning that we have as a City organization?

Corliss said we've had direction on some items such as proceeding with some of our internal fiber uses. We've also done some independent research with a consultant that was done a year ago that gave us some direction on proceeding. One of the items was to send out a request for information proposals to use fiber and we have that. One of the practices we see in some communities that have fiber that has not been used, is that they then have arrangements where they lease the use of that public asset through some type of open competitive process. One concern is 30 years is a long time but I also know that Montgomery's proposal is talking about a substantial capital investment that probably needs to have some securities such as some ability to use some of those assets for a long period of time so you probably have to balance those. You've got a number of issues here. One of our issues has been what the City's goal is and certainly you heard a lot of people say that they like to have better internet services in the community.

Amyx stated we have an asset of this fiber and, under normal circumstance, before Montgomery's proposal came in, if we were to direct Corliss to come up with a plan because we think that it's important to start leasing this fiber, we would go through a normal bidding process where someone would come in and offer terms of a lease or whatever arrangement that is done. Correct?

Corliss stated I know that some communities do that where they send out a RFI, similar to what we've done a little bid. We've got this asset, here's the specifications, here's the usage policy, give us cost, give us terms and length and then you all look at that and make a decision about what's in the best interest to sell that asset or to lease that asset.

Amyx stated the committees come back after looking after everyone's responded and says, "This is a pretty good proposal."

Corliss stated that's right. The Wicked Broadband proposal has been reviewed by 2 different groups, PIRC and the RFI Committee, that looked at all the different proposals and provided responses back. They went beyond just what to use the City asset for. It was how to get the goal of better internet connection.

Dever stated part of the technological issue regarding how to move forward in Lawrence and your proposal has to do with the unique concept of common carriage network and the fact that there are others who could easily provide service to these neighborhoods in the event that a customer wanted to choose a different ISP for whatever reason. We talked about how this is vastly superior, from an infrastructure standpoint, but I received some push back from people that I've talked to on my own after I was part of the review process. The other providers don't want to rely on your infrastructure because it's inferior, they don't have any control over it necessarily. Whatever their comments have been, it's basically taking a ride on somebody else's fiber and hoping everything goes well and then you have the wherewithal to actually fix and repair physical problems with the connection. They have to rely on you, as a provider, to do so and as a small business and as someone relying on government assistance in this to help make this fly, they question your wherewithal to provide them with that infrastructure so they're not interested. The idea of providing a network is a great one but the question is if it can actually work in theory versus in reality. I guess I want to make sure you comment on that publically about the concept of the common carriers network. I think we all understand what it means but I think we need to address the question of reliability and your wherewithal to provide service, interruptions and 99.9 percent uptime.

Montgomery stated I understand that that is a legitimate concern. The two arguments I can make is that I've never lost a fiber customer, not one. Everybody we've hooked up with fiber is still a fiber customer. I'd argue that the letters of support that those people have brought

are pretty superior. He said just because we're a small business doesn't mean that we're inferior to a large company. We take a great deal of pride in our work. We do a solid job and in most cases when there's an outage, and service goes down, they will get a call from us saying your service is off-line is there something we can do to help you. As a small business you have certain advantages and certain disadvantages. One of the advantages is I get to have personal relationships with all the people that we serve and another advantage is your reaction time. At 2:30 am when the pagers go off and the generator needs to be setup, it's the owner of the business that gets in the van and goes and deals with it. One of the other things that I'd like to point out is that we're military, almost uniformly. I have a new one that's a firefighter instead of a soldier. The level of commitment that we all wanted in the armed services is the same commitment that we bring to the projects that we do here. That means we go up and do scary things, 200 foot tower climbs, working in lightning storms and we have a perfect safety record. We've never had an on the job injury and I think that our fiber customers would speak to the reaction time if there had been issues. The concept that if a wholesaler comes onto the system that we would be the sole source organization that would be the only ones to react in the event of an outage. That's not necessarily the case. There are a lot of opportunities when we're working with another wholesaler to define something called an SLA which is a Service Level Agreement where you're required to react within a certain period of time and you're required to provide a certain quality of service. I hope that that responds to your issue. I would argue that the quality of our work is in some ways a lot superior.

Amyx stated when PIRC dealt with this, I thought that we had asked for specific contracts or things for us to consider. I understand you want to work with City staff to prepare any kind of documents that would become available. I would like to ask the Commission, are you comfortable where we are right now to take some kind of action this evening?

Dever stated I was just going to comment.

Amyx stated one of the things you brought up was the splicing. I think that's something very important to talk about.

Dever stated we had a committee that got together and talked about whether or not the City should be involved in this and I just want to touch on that because I really haven't had a chance to comment publically about this since it's taken awhile for this to move forward and I want to make sure I thank all those members again for taking the time to evaluate the concepts, the RFI committee specifically. It was kind of an unusual situation, but what came out of it was a group of people who clearly understand the importance of technological advancements that we need in our community. It was overwhelmingly supportive of the city being involved with moving this forward. It's our responsibility to move this forward because the market has not moved quickly enough to allow us to become less competitive and brought wider gaps in some of the service quality in our community. I think the private providers and the large corporate providers have done a good job of trying to up their game. That has come at a national level but I still think the majority of the committee supported moving forward with some agreement with Wicked specifically as it relates to rolling out some sort of high speed internet service above and beyond the speeds that we're talking about today in the community. These are people that are technologically advanced and deal with internet, coding, all sorts of infrastructures, architectures out there on the internet and they believe that we are in a technological disadvantage and I want to make sure that's clear to everybody that that is what was discussed on several occasions and how we go about that as a Commission and as a City is a question that needs to be talked about today. That committee overwhelmingly felt that the responses we got from the other potential providers were inadequate and that they felt like it was important that we do something now as opposed to waiting for the market to move the needle on speed in our community. I wanted to make sure that was clear and if you didn't get that message on the memo, that's pretty much what they wanted. There are different levels of urgency there but overwhelmingly everyone felt like we needed to do something. There are some issues that had been brought up

today that I don't think we can have a "yes" or a "no" vote to answer your question now that I've commented on what the RFI committee had to say. I think Commissioner Farmer and Mike Scott set in on the PIRC meeting. I did not but I think there are some questions about whether or not it's our business to be involved in this process but there is no question that I believe, we as a City, need direct responses and somehow involved in moving this effort forward. I think Montgomery stated in his presentation my previous investigations indicated that without government assistance, at whatever level, none of these networks would exist, whether in the US or other countries throughout the world. The question I have is whether or not we have enough information to make that decision today. Meaning, do we know all we need to know about the financial arrangements? Do we know if we can live with the technological requirements of moving forward and are we comfortable with the financial wherewithal of Wicked Broadband? Not there past service, which is obviously excellent based on the feedback we received and as somebody that has utilized there service. The question is whether or not this can be done without the City being at risk financially. If we're willing to take that risk then we need to start drilling down to these exact details on the agreement and the exact details on what we can, and cannot, live with from a technological standpoint regarding connections, network security, and the exact financial condition of the company we would do business with today.

Amyx stated said those are good points and I think things that are extremely important. We not only need to ask ourselves, but ask the vendor in this case that's coming forward to ask for our participation, am I ready at this point? I think I still have a bunch of unanswered questions. One that jumps off the page is, when I look at the loan guarantee would be our budget responsibilities, and do we have those kinds of things? Even guaranteeing a loan, do we have to have the money in the bank? I was always under the impression that that was the responsibility that we may have. That's a question that I need staff to answer. I want to know the effects of waiving the first \$20,000 in franchise fees and what that kind of implication may

mean to other providers and what effect that would have on the City budget. We talked a second ago about an “all’ or “nothing’ kind of relationship. Montgomery said he was open to some type of negotiation. What’s extremely important to me is the fiber that we have and is it available only one time. I understand this common carrier and have other companies provide the service. Is this the only time to transfer the use of our fiber that’s in the ground, whether it be Wicked or whoever we may select to participate in it?

Schumm stated first of all the cost to put the fiber to a house is \$1,000 and the number that’s been quoted is going to be at \$90 a month so that’s going to return \$1,200 a year for a \$1,000 investment, granted there is overhead and labor. It seems like over 5 years there is going to be a pretty good recapture rate on the initial investment. The point that I’d like to make is how much money is Wicked going to borrow from the bank because for the bank just to give him a million dollars on a million dollar co-sign by the City, I think that’s ridiculous because the bank has to feel like they’re going to make some money back on this. I mean they’re going to make the interest rate but if the bank analyzes this work program, this business plan, they’re eventually saying they’re not going to get any money back because they want a hundred percent guarantee. My way of thinking is, if this is a viable plan, there is certainly a business plan that shows sufficient revenue for the future, then the bank ought to be able to take at least part of that risk. If a bank can’t take part of the risk, then it’s a bad deal and that’s the way I’m looking at it. I guess the question for Montgomery is what amount of money you’re going to borrow from the bank.

Montgomery stated the way this is structured is 1 million dollars on a 1 million dollar loan guarantee. The initial project that we brought was \$500,000 from the bank and a \$500,000 flat grant from the City and, in that case, the bank would have taken \$500,000 worth of risk. If there’s no participation, as a cash outlay, from the City, then that’s the guarantee that I imagine that they’re going to want. In terms of how we’re going to structure on-going finance, that’s a good question? That’s something we’re going to have to work through as this project goes

forward. It's something we don't want to put a huge amount of time and effort into if we're going to be rebuffed from the City, in terms of being able to partner and move forward. If that's going to be the case, we would rather just move on, find a buyer, and pursue other activities elsewhere. Our goal is to provide the best service that we can for the community.

Schumm stated I hope you understand my position. My position is, I represent the citizens of Lawrence, and their trust in me, that they have put to spend their money wisely. I'm trying to find out where there's a good balance and for us to guarantee a million dollar loan, says that the bank has no faith in the project because there's no risk on their part.

Siler said this is not voting on a loan guarantee. This is voting on coming to an arrangement by which it can be done. We don't know if it can be done legally. I don't know if there might be accessible funds in a reserve somewhere that might be suitable for back stopping such a guarantee. The point is the resolution doesn't pull the trigger on one guarantee. The resolution is, simply, for the City and Wicked to get together, see if we can work out a legal and effective way that this can be guaranteed. I certainly echo your concerns, and I understand them. I have reservations which is why I suggested that we draft the resolution in the way that we did. We're not pulling the trigger at this point, we're just saying let's get together to see if this is even possible. If this Commission isn't interested in that, I understand, but I just want it to be clear that the legislation that's proposed doesn't actually pull the trigger it's merely an agreement to agree.

Schumm stated it makes me feel like we're almost farther away of knowing the facts that we need to know than closer. Do you have a viable business plan?

Siler stated I believe it is a viable business plan.

Schumm asked is there a viable business plan with expected revenues and costs, all laid out over a multiple year period of time?

Montgomery stated yes. We have a 5 year business plan with all the projected sales and expenses. That's where the revenue from the City came from. We worked through that pretty

early on in the process because the City had hired a financial analysis to analyze our plan. We've been down that road with a consultant already once before. I know it's been a year or more since that consultant was paid to do that work but we're kind of circling back on ourselves.

Amyx stated we can either direct staff to work through these documents, go through the request that we have before us and tell Montgomery things that we might agree to, if we need more information because this is a big commitment so maybe ask for time.

Riordan stated this is very complex and this is something that we haven't done before. I think that it's pretty obvious to me that we need much better intranet access. I'm also very disappointed with the internet increases or the lack of internet possibilities from the two other companies that were here. There's so many questions tonight that there's no way I can vote in favor of this but I think it's an important concept. Mike Dever had brought up a number of good questions. One of the things he asked me, was I satisfied with all the answers and I pretty much was. The franchise fees, I still don't understand exactly what impact that has upon them, based on what we know. I don't know what responsibilities we really have as far as if this company goes under. Anytime you make a decision, you have to prepare for the worst case scenario and I think we would not be doing that tonight. We don't have any money set aside, we don't have an insurance policy, and we don't have anything set aside monetarily. There are some very good things about it but when you ask about the financial aspects of this, we don't know how solvent or good their company is. We know that they're providing good access to a lot of people because we had 17 or 19 for this and the only 3 we had against it, 2 were competing companies so there doing something right. The responsibilities that we have financially, I don't understand and I don't think they've been set forth tonight. I don't think I understand the franchise aspects of this and then the splicing was a very important part. How are people certified? Who does the certification and changes we might need to make in any situation which is to improve that and no company will come in if there's a sole provider that might or might not do a good job, might charge you a lot, and might charge you less, if there's

no competition there. There's lots of things that I think we haven't addressed and I think the best thing that I've seen tonight is that was an excellent presentation, and I thought it was extremely well done, but we don't have answers to questions that we absolutely need. If I had to vote on this tonight, I vote against it because I don't think we have information. I'd like to get more of that information so we can make a good decision. A delay to me would be reasonable at this point because we do need better internet service. The question is how best to do that. I don't think, as a protector of the City's and citizens taxes, that that would be something we should do tonight.

Schumm stated the questions I have and we've all talked around, is one, the 30 year lease. That's a very long time and I'm concerned that if we're going to go to staff with this, these are some responses I'd like back. One is a 30 year lease and second is what kind of policy can we come up with for splicing and what staff recommends for a splicing policy. There are some issues brought up about fairness of the cost to the vendors now and, at this point, can there be a competitive list that somebody could choose from 2 or 3 different vendors that are certified. One of the things that concerns me and we talked about this a while ago when we were talking about how much fiber to put into new conduit that we're going to build out on 19th Street, that's the fiber that is in the ground downtown. What is the potential for the City and County's use of that fiber in the future? In other words, are we going to lease something to somebody that we come back in 10 years and say "we shouldn't have done that, we need that stuff ourselves." What is our need for the future and if you're talking about 30 years then what are our needs for the next 30 years in terms of that additional fiber. The other question I have is I'm still concerned about the one million dollar guarantee and what risk is the bank whose going to make the loan and what risk are they taking for their opportunity to make a profit on this. It seems like what Montgomery just said, they were willing to take a half a million dollar risk before if we would give them a half million dollar grant, but obviously if you're a banker, I would love the fact that I'll make somebody a million dollar loan, the City with the deep pockets is going to pay

it off if there's any problem. It sounds like they were going to get a half million dollar loan before but someone is going to have to take a half million dollar worth of risk.

Riordan stated one other thing that I think there are questions about the other entities that are here. How does the county and KU come in and how do we coordinate with that because that's an unknown at this time, but this is a fiber network that includes them. How do we deal with that is another question and how do we resolve their needs, security needs and the other things that go on.

Farmer stated the question before us is that it seems like we always come to this position where we need more information. It never seems like we quite satisfy the need for what that is. I think in all fairness to being business friendly to Wicked Fiber, we talked about setting timelines, we did and it went to PIRC twice. I was going back through and reading the Springsted Report with financial analysis that was done back in 2013, late last year. Are we going to require somebody to do that again and how does that work with other economic development related things that we give out to other folks? Are we doing credit checks and going through everybody's finances. It's just not a consistent process which, I'm sensing, has less to do with whether or not we think this is a needed commodity and more to do with the face that we may or may not have confidence in, whether or not Montgomery and Wicked are the people and person to do that. I've not been given any reason to believe that he can't. The sense of all the emails we've been getting both positively and negatively. It comes down to that we really need to make a decision. I don't mean to sound disparaging but Montgomery and City staff don't get along. And, there hasn't been really productive conversations that have taken place between the two entities. I think, in all fairness, we owe it to him to do what's suggested, and direct staff to work with him to come up questions with the thought that whenever this gets put back on an agenda, it's the direction you guys want to go, that this doesn't happen again because this keeps happening and happening. It's not fair to Montgomery and not fair to us or the community. I think that this is a big investment and an unprecedented investment. It's one

of those things where if it works out we're going to look like geniuses, if it doesn't we're going to look like idiots. It's that way with every risk you take and we all believe in the product. Everybody in this room believes in this product. The only thing I can think of is the issue is whether or not we believe in the person. That is a very unfair thing to the entirety of this process in my opinion. I think we need to figure out what we want to do, and do it, and come up with the questions, direct staff to come up with it. We either need to agree to agree or we need to not. I appreciate that statement because that's really what's on the table. We're not making a decision on a million dollars tonight no matter how many emails we get to the contrary. So, do we want to agree to agree or do we not want to agree to agree? That is the question we need to answer and all fairness to Montgomery and his company, to us and to our community.

Montgomery stated who else is there. There are 3 choices to solving this problem. The City can do it themselves. I'm very supportive of that idea, the City putting in a common carrier system and selling wholesale, good idea. You can do it with me or you cannot do it with me. You issued an RFI. The responses to the RFI were not responsive. The City can do it, you can do it with me or you can do it not at all. That's your 3 choices.

Dever stated when I was weighing in on this issue before, when we'd been talking about it forever, I think Montgomery touched on it during his presentation, but I think it needs to be underscored. Montgomery just wants an answer, yes or no, but maybe is not working from a business standpoint. He has a business in place, we need to decide if we're willing to try to change the way that business operates if we want to participate. If we're not going to have the majority of people to do that, I think we need to be able to say that. It needs to be a short timeframe and it needs to be no more vacillating because frankly we have spent a lot of time and a lot of resources trying to figure out if we want this and we owe it to him as a small business owner and somebody that employs people and provides great service, the opportunity to either sell his business and walk away or participate in it and move forward. It's black and

white. He just needs an answer and if we can't come up with an answer then we have to find somebody that will.

Amyx stated I'm going to ask that each one of us get our questions in no later than next Tuesday or even earlier so that they can get answers. We need to have this back on our agenda in a couple of weeks so that we can give a "yes" or "no" answer as to where we are in the request from Wicked Broadband.

Farmer stated I'm not sure that having answers to our questions would help us come to a conclusion on whether or not we want to engage in a process to ask questions. We either need to move forward with this or not and as part of moving forward with this, if that's what you all want to do, at that point, that is us starting down the road of navigating through this process. If we don't want to do that, then that is completely irrelevant. The questions will only bring us back to the same place here. Again, we're not making any decisions on money tonight, contrary to what everybody thinks. All we're making a decision on is if we want to have Montgomery and Wicked Fiber, engage with our community and fiber for the home project. If we do, then we can go through the process and ask the questions, review the finances, draft agreements and all that stuff. If we don't, let's just have the courage to say no. I'm not trying to be a jerk here but that's what this boils down to.

Amyx stated so you don't want to give us the time to ask the questions.

Farmer stated the questions should be part of the process.

Amyx stated I'm not ready to commit. If you want me to come up with a decision, I've got to get some additional questions answered.

Farmer stated fair enough.

Amyx stated we do this every week and this is an important decision for this community. I understand that. We're going to take the time to make sure that we're getting answers to where we need to be.

Farmer stated alright.

Amyx stated it will be “yes” or “no” and we’ll go from there. Questions should be given to Corliss, Tuesday of next week or earlier and place it back on the agenda, two weeks from tonight.

Corliss stated that means a week from tomorrow you want another staff memo prepared to put on for September 23rd. Is that what you’re asking?

Amyx stated can that happen?

Corliss stated that I would like to meet with Montgomery in the next couple of days. I have ideas on some of these items that I think are worthy of exploration. What you want to do is see if that’s a yes that you want to put forth. When I look at some of these items, the franchise fee issue is a legal precedent issue which we might be able to find our way. He has paid franchise fees for internet service and he does not legally have to do that.

Dever stated nobody else does either.

Corliss stated franchise fees on video cable and telephone, that’s a competitively neutral issue. There may be an opportunity to work on that. We need to talk about the fiber that the proposal wants to use that we don’t own, 30 years is an issue most of the agreements that we see have some means of automatic renewal so that there’s a way to protect the capital. I think we have to talk a little bit about the additional fiber uses for everything the City is going to install in the future. What are we getting for that? This is essentially a pilot project for one location. I can understand that, but we’re talking about hopefully eventually providing throughout the community. The million dollar guarantee we’ve not done, but we’ve done a loan for the Community Shelter, that’s different. In this case what we’re doing is serving as a financial back stop. It obviously depends on the instrument and what all that means. You probably have to do something with your fund balance, but maybe not if you didn’t have to act on it. I’m trying to not put it on September 23rd, but if we could put it on the first meeting in October, pledge to meet with Montgomery over the next couple of days. You can then talk to him about whether or not trying to move toward coming up with something or not. I’m looking at these 6 bullet items and

we're trying to find a way to present something that might work. I need a little bit of time to do that and our calendars are little bit challenged over this next week. What I'm asking for is that October 7th date with the pledge that before we meet, Montgomery and I will find the time to get together and talk about coming up with a structure. You all still may not like it from the different policy issues that you've got, but I'm trying to find a way to get at that.

Montgomery stated I would be very comfortable with an October 7th date, provided that the Commission would commit to giving me a firm answer on this by November 11th, the first Tuesday after Election Day.

Dever stated one question about the legality of this type of financial arrangement also needs to be answered because I not only heard his attorney make that comment, I think I read we're not even sure how this would work and even if there is an ability for us to do so. None of this is going to happen unless we can legally do that. The Commissioners need to know whether or not it's even legal and if it's not legal than this is a moot point.

Corliss stated I think we can answer that to some extent this evening. It is legal to make a grant of public funds for a public benefit. If you all determine there is a public benefit you can to that. We have the issue of the Federal law that says we have to be competitively neutral as we step into the realm of the use of our right-of-ways. I don't know the answer. I don't think anybody does as far as if we give a grant of money there is a potential that the incumbent carrier that that's a violation of competitive neutrality, but they haven't done that. The Google work where there have been essentially waiver of fees and some other things as well. This is all very raw as far as where there had been discussions with Time Warner trying to do something in Kansas City, but nobody's stepped up to the plate and filed a lawsuit that says there's a violation of federal law that says you have to be competitively neutral when you're in that area. We read the letters and it's in the correspondence in regards to that. If you just say talk about guaranteeing the loan to a company, we would adopt an ordinance that would say we would do that. What I don't know and it's much of an accounting issue as anything, we then have to

encumber a million dollars somewhere in our system of unencumbered funds to say that million dollars is now encumbered. We have 13 million dollars in the general fund unencumbered. We've got twice that in the utility fund. I'm not so worried about that, the issue of whether or not it's prudent and that's what we're really trying to get information on. That's our general legal answer about that. I can't answer the competitive neutrality issue because I don't know how hard their going to shake it as far as the incumbents.

Amyx stated again, let's get our questions to Corliss and he and staff will meet with Montgomery, his folks and it will be placed on the October 7th Commission meeting with a decision for Wicked Broadband no later than November 11th.

Moved by Schumm, seconded by Riordan, to defer this item until October 7, 2014; and, direct staff to meet with Wicked Fiber regarding City Commission concerns. Motion carried unanimously.

D. PUBLIC COMMENT: None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS: None.

H: CALENDAR:

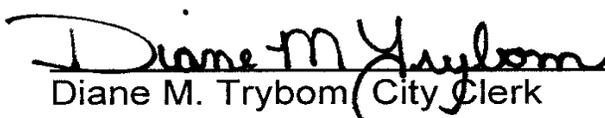
David Corliss, City Manager, reviewed calendar items.

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 Farmer, to adjourn at 9:48 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 14, 2014.


Diane M. Trybom (City Clerk)