



# City of Lawrence

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CITY COMMISSION

MAYOR  
MIKE AMYX

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

October 7, 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. Proclaimed the month of October, 2014 as Meet the Blind Month and October 15, 2014 as White Cane Safety Day.
2. Proclaimed the month of October, 2014 as Community Planning Month.
3. Proclaimed the month of October, 2014 as Sweet Potato Month.

**B. CONSENT AGENDA**

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

1. Approved City Commission meeting minutes of 07/08/14, 07/22/14, 08/05/14, 08/12/14, 08/19/14, 08/26/14, and 09/02/14.
2. Received minutes from the Horizon 2020 Steering Committee meeting of 09/08/14, the Sustainability advisory board meetings of 07/09/14 and 08/13/14, and the Community Development Advisory Committee minutes of 9/11/14.
3. **REMOVED FROM THE CONSENT AGENDA FOR A SEPARATE VOTE:** Approved claims to 274 vendors in the amount of \$6,611,775.45 and payroll from September 21, 2014 to October 4, 2014 in the amount of \$1,979,180.72.
4. Approved the Drinking Establishment Licenses as recommended by the City Clerk's Office for Baan Thai Restaurant, 741 Massachusetts; Mi Ranchito, 707 West 23<sup>rd</sup>; the Retail Liquor Licenses for 23<sup>rd</sup> Street Liquor, 945 East 23<sup>rd</sup>; Jensen Retail Liquor, 620 West 9<sup>th</sup>; and, The Wine Cellar, 2100 West 25<sup>th</sup>, Ste: A.



5. Approved reappointment of Carl Edwards to a Human Relations Commission position that would expire 09/30/17 as recommended by the Mayor.
6. Bid and purchase items:
  - a) Awarded the construction contract for Bid No. B1433 to Westland Construction, Inc. in the amount of \$396,889.00 and authorized the City Manager to execute the construction contract for Project No. UT1312 Bob Billings Parkway Waterline Replacement.
  - b) Authorized the Public Works Street Department and the Utilities Department to seek bids for a backhoe replacement lease through the City's bidding process.
  - c) Authorized the purchase of a one-half ton truck from Laird Noller Ford for the amount of \$22,481.00.
  - d) Approved a change order in the amount of \$21,014 to Preferred Lawn Services to extend the irrigation at Lawrence VenturePark.
  - e) Set a bid date of October 28, 2014 for the Master Street Tree Program.
7. Adopted the following ordinance on second and final reading:
  - a) Ordinance No. 9026, amending City Code Section 6-1711 Mobile Food Vendors to remove the time restriction for Mobile Food Vendors and the limit on the number of Vendors that can be located on properties where the City has approved a Site Plan establishing a location for a Mobile Food Vendor as a permanent or seasonal element of the site.
8. Approved rezoning, Z-14-00314, approximately .269 acres from RM12 (Multi-Dwelling Residential) District to RMO (Multi-Dwelling Residential-Office) District located at 1106 Rhode Island St. Submitted by Hernly Associates on behalf of the City of Lawrence, property owner of record. Adopted on first reading, Ordinance No. 9042, to rezone (Z-14-00314) approximately .269 acres from RM12 (Multi-Dwelling Residential) District to RMO (Multi-Dwelling Residential-Office) District, located at 1106 Rhode Island. (PC Item 5A; approved 10-0 on 9/22/14)
9. Approved a Special Use Permit, SUP-14-00326, for Rhody Delahunty Complex for the development of two detached dwelling structures on a single lot in an RM District as required by Section 20-402 of the Land Development Code. The property is located at 1106 Rhode Island. Submitted by Hernly Associates on behalf of the City of Lawrence, property owner of record. Adopted on first reading, Ordinance No. 9043, for Special Use Permit (SUP-14-00326) for Rhody Delahunty Complex, located at 1106 Rhode Island. (PC Item 5B; approved 10-0 on 9/22/14)
10. Approved a Special Use Permit, SUP-14-00262, for the Wakarusa Wastewater Treatment Plant, a Major Utility, located on approximately 531 acres at 2300 E 41<sup>st</sup> St. Submitted by City of Lawrence, property owner of record. Adopted on first reading, Ordinance No. 9044, for Special Use Permit (SUP-14-00262) for the Wakarusa Wastewater Treatment Plant, located at 2300 E 41<sup>st</sup> St. (PC Item 2; approved 9-0-1 on 9/22/14)

11. Authorized the City Manager to execute a Memorandum of Understanding for the 2014-15 Safe Winter Walkways program.
12. Authorized the Mayor to sign Releases of Mortgage for Madeline Mumford, 429 Indiana Street; Rebecca Stakes, 431 Elm Street; and Andrea Welborn and Robert B. Irving, Jr., 508 Louisiana Street.

Amyx pulled consent agenda item no. 3 regarding claims for a separate vote.

**Moved by Riordan, seconded Dever**, to approve non-Rock Chalk Park related claims to vendors in the amount of \$6,415,242.01 and payroll from September 21, 2014 to October 4, 2014 in the amount of \$1,979,180.72. Aye: Amyx, Dever, Farmer, Riordan and Schumm Nay: None. Motion carried unanimously.

**Moved by Schumm, seconded by Riordan**, to approve Rock Chalk Park related claims to 13 vendors in the amount of \$196,533.44. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried

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

David Corliss, City Manager, discussed the Bicycle Advisory committee ride to celebrate 9<sup>th</sup> St. bicycle lanes; the City Attorney made a presentation on KORA to Kansas Association for Court Management; and, the amendments to occupancy limits effective August 1, 2015.

**D. REGULAR AGENDA ITEMS:**

1. **Conducted public hearing to consider the vacation of a utility easement in the Langston Heights Addition as requested by property owner Bob Santee.**

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

Mayor Amyx opened the public hearing.

After receiving no public comment, **it was moved by Schumm, seconded by Dever**, to close the public hearing.

**It was moved by Schumm, seconded by Dever**, to consider the vacation of a utility easement in the Langston Heights Addition as requested by property owner Bob Santee.

**2. Considered approving Site Plan, SP-14-00379, for a use of right-of-way permit to use the adjacent sidewalk similar to a hospitality area for a non-food service related business, for Yantra located at 840 Massachusetts Street. Submitted by Hernly Associates for Ann Murphy, the property owner of record.**

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

Jason Peters stated my main thing is to make sure that everybody understood who we are, what we're about, and letting people know our intentions of using that space in a way where we are actually a part of the downtown experience. We have a deal that we've done with SeedCo Art Galleries where we actually have their art displayed in our space and as well as in our front window. The last two Final Friday's we participated and opened our doors to the public. We don't want to be a typical office that just throws some blinds on the window and closes itself off. We moved to downtown Lawrence for a reason. We love the experience. Our employees love spending money at local restaurants and retail spots downtown and we just like being a part of the whole deal.

Mayor Amyx called for public comment.

Dan Dannenberg stated I just have a question about who owns the sidewalk along Massachusetts Street.

Amyx stated its public property.

Dannenberg stated I haven't researched the City Codes, but if they get this approved and the food vendors have theirs approved, they have established permanent installations on the sidewalk. Do they pay anything for that space to the City if the City owns the sidewalk or do they just get to stake out there territory and have at it?

Amyx stated they get to stake it out. We grant the use of the right-of-way and that's what we're being asked to do.

Dannenberg stated you just grant the use of the right-of-way.

David Corliss, City Manager, stated they pay on a square footage basis. All sidewalk dining pays on a square footage basis. We lease it them and if they don't pay, they get kicked out.

Dannenberg asked how much is the lease.

Diane Trybom, Acting City Clerk, stated \$3.50 a square foot, per year.

Dannenberg stated if this is approved will they pay the same rate.

Corliss stated that would be our recommendation.

Dannenberg stated with the proliferation of these spaces that confiscate or deny the public use of the sidewalk we need to have strict enforcement of bicycles operating on the sidewalk and skateboarders. There's just too many of them that ride on the sidewalk and it's not safe.

Amyx stated in looking at the figures this comes out about 6 foot 8 inches from the building. Is that the width of this and is that the standard size?

Zollner stated we have different widths depending on where the location of the sidewalk dining enclosure is. The main thing is that they have to keep 6 feet of public space opened between the dining railing and the first obstruction whether that is a tree well or a change to brick pavers. The actual width of the sidewalk dining area varies a little bit, but this is within the range of widths that we have downtown.

Amyx stated would this be used as the smoking area?

Peters stated as far as we know you have to be at least 10 feet away so we would not use that as smoking area. There's only one person left in the office that smokes now because some of them have moved back to Topeka and we're bringing others here. We can make sure they smoke in the alley in the back if that's going to be an issue.

Schumm stated if this is approved, what right do we have to not approve another non-food license request? The question is the precedent.

Corliss stated that's a very good point. This is obviously the type of business we want to see in the community and downtown. You have complete control in regards to your ability to decide what uses you're going to allow in the right-of-way. This is not a zoning question where you have to follow a comprehensive plan or certain legal precedence for reasonableness or whether or not it's public welfare, those types of things. You can decide as a landlord/land owner whether or not you want to lease property to someone else, you obviously can discriminate for inappropriate purposes but if you say we only want this type of small entrepreneurial type of business to have this, but we don't want a retailer that might be tempted some time when nobody is looking to sell something out there. That's something you could make that judgment on, on a case by case basis. You have the ability in our opinion to decide on a case by case basis whether or not this type of use would be appropriate.

Schumm stated my understanding of licenses in the State of Kansas is that if you qualify, based on criteria, you're granted a license. It's not discretionary.

Corliss stated we're doing two things. We're doing a license, but we also own the property. In most cases where we give a license, we give a license to a drinking establishment and if you meet the qualifications, you get the license, but there's no requirement in the law for us to say we have to lease the property or sell the property to anyone or to anybody.

Schumm stated let's say the law firm from the north comes in next Tuesday and says: "That's a great idea and we would like to have 50 front feet for a place to drink coffee in the morning and read the newspaper." Are we under an obligation to grant that?

Corliss stated you're not under any legal obligation to do that. Someone might say why are treating somebody else differently, but I'm trying to speak on the legal issue and you're not under any legal obligation to do that.

Schumm stated that would be the question, why are we treating people different.

Corliss stated right and that would be a political question. I think it's a challenging issue, but it might be worth an experiment. You can tie it just to this business so that if this business

transferred to someone else, the license and the lease would not transfer to the next user as well.

Amyx stated but going back to the precedent part of this, when you look at this on a case by case basis if it meets all the requirements that we have, how do you say no.

Corliss stated I don't disagree that may be a challenging political issue as to whether or not you want to be in that situation. We don't have a lot of office uses on the first floor of downtown.

Dever stated it seems like we're granting it for a year. That's all they get and if a new Commission comes along, I don't think we're precluding them from changing. People what to enjoy downtown and we want to allow business to come downtown, spend money and I don't see a year-long permit being a long-term precedent, in my opinion, but I guess since Dave said it's not really a legal issue and there are no statutes or requirements that we have to follow and it's simply the will of the Commission.

Amyx stated and this is just going to be used by the employees of Yantra?

Peters said the intention of the space would also be to use it for any hospitality events we hold so for instance, on Final Friday's we would have the seating so that people who were coming through looking at the art, if they happen to be walking around and wanting a place to sit, they could. Last weekend, we also hosted an after hour's event for the Tech Start Up event and we probably could have housed another 5 to 10 people had we had some additional seating out there. Yes, it's primarily for us, but any of the events that we do where we're reaching out to the public and trying to extend ourselves to the community out there, we would also use it for that as well. I do have one question because you said one year, would that be one year from November 1<sup>st</sup> because I know that it goes from November 1<sup>st</sup> to November 1<sup>st</sup>, each year?

Schumm stated that's correct.

Riordan stated my concern with this was I'm worried about what this would do. On the other hand we have a situation where there are a lot of restaurants downtown that have the

ability to do this. I love having something other than a restaurant downtown. For us to do this on a one year basis as a trial for this particular business seems like a reasonable idea. I don't see where there's any harm with that and there might be some benefits where other businesses would come down and also enjoy this. It's not like they're going to have couches in the sidewalk area or things like that so we're not going to worry about it looking poorly. I think it would look very similar to what would happen if there was a restaurant where people would be enjoying people as they walk by. I don't think we'll increase remarkably the number of businesses that do this so for that reason, I think it's a reasonable idea.

Amyx stated my concern is that the next group that comes along and I look at them in their eye and tell them "No, you can't do it." That's the concern I have in setting that kind of precedence. I also had a concern about the smoking part.

**It was moved by Dever, seconded by Farmer,** to approve Site Plan, SP-14-00379, for a use of right-of-way permit to use the adjacent sidewalk similar to a hospitality area for a non-food service related business, for Yantra located at 840 Massachusetts Street. Aye: Dever, Farmer, and Riordan. Nay: Amyx and Schumm. Motion carried.

**3. Considered a request from RG Fiber for public right-of-way use and other matters for service within Lawrence.**

Mike Bosch, Co-founder and CEO of Reflective Group, stated this is the first time we really revealed a lot of our detailed plans of what we've had for the region and so I wanted to give some insight into who we are and what we're about. I love raising my family in small town, Baldwin City. The only challenge was there weren't any companies that would hire geeks like us so we decided to start our own software engineering firm, Reflective Group, 4 years ago. Since that time, we showed up in several publications and built ourselves websites, mobile apps, things of this nature and highlighted a few. We've accomplished quite a bit and I'm pretty proud of what my team has accomplished. We've showed up in the Wichita Business Journal and a lot of different news organizations on our products and all of our work. Some of the interesting ones

are on the front page of Yahoo News in April of 2013. We had a TV Crew from Al Jazeera show up in Baldwin City and film us. What I'm really excited about is sort of the entrepreneurial community in the region. One of them is the Edward Lowe Foundation and they have a great program called economic gardening. They start with the local companies and grow from within economic development strategy. We were selected as one of the recipients of this program in 2013. I'll be speaking at the League of Kansas Municipalities Annual Conference particularly on "Encouraging Entrepreneurship" and attracting that age group of 16 to 36 because what happened with Reflective Group is we literally started reversing the trend. Inadvertently, I became a sought after keynote speaker and I spoke with Network Kansas, Youth Entrepreneurship Challenge in the like. I'm most proud of being one of 12 Pipeline fellows. Pipeline Fellowship is an elite organization of high caliber entrepreneur power in the Midwest economy. In the end as Reflective Group grew, we ended up outgrowing the infrastructure in Baldwin City. The challenge of course is we were left with a choice to either stay small, abandon our hometown or build an eco-system that we needed to grow and that's exactly what we did. We created RG Fiber with this vision. What if we created something like Google Fiber a 21<sup>st</sup> Century communication infrastructure, but did it for these smaller communities that weren't big enough to catch the attention of larger providers, that's when we created RG Fiber. Some of the services we're looking at offering 100% fiber optic full gigabit connectivity, HGTV including some ultra HD available on Netflix we'll have a direct connection into Netflix's servers. Of course, high definition phone service via our own app "Ello Tello." In a nutshell, here's our plan, what we want to do and what's been approved with our investors is to go out and expand our initial launch into Lawrence to gigafiber this community. As we've had discussions with other business owners and many of you, we agreed to do this so we're looking at an initial pilot project in Lawrence some time in 2015. You can see on the map we're covering downtown, all of 6<sup>th</sup> Street Corridor, Wakarusa, Iowa, Clinton-23<sup>rd</sup> Street over to Venture Park in the East Business Hills Park. This should cover a lot of the businesses throughout the

community to drive the economic development. What we're asking is that we want to access to the right-of-way and easements, the same access that the current provider enjoy today. We want to be able to lease only 4 strands of the 96 fibers available that the City has at current market competitive rates. We want to include a request for some land at VenturePark for a future office/data center. Will just simply put this on the table it doesn't need to be decided tonight. We just don't want you to be surprised at a future request of land as we expand our presents in Lawrence so this one is not necessarily a deal breaker for us. The big ask for us is that we would ask that you level the playing field. We've done a lot of hard work of building a business plan that attracts the outside private capital investment necessary to take on a significant project like this. We've already got that investment on board and already spent some of that money injected into the community. What we're asking for is to keep Lawrence a great place where we can continue to attract outside capital investment where entrepreneurs such as Reflective Group and RG Fiber can thrive, can live and grow their business here in this community as well as raise their families here. When we look at leveling the playing field I want to be very clear and make the statement that we're asking you not to fund our competitor Wicked Fiber. We simply think that it's not fair for us to do the hard work to attract the investment, to build a business plan, to be vetted throughout the community of investors and entrepreneurial organizations to then go in and compete against a competitor who is supported and funded by the City. Over the last 9 years, Wicked has received about \$500,000 in subsidies in the form of lower than market rate pole attachments, fiber lease agreements, easements and the like. According to their two franchise fee payments in 2012, there annual revenue is only somewhere around \$200,000. They simply don't have the capability of pulling off a community wide infrastructure, building infrastructure is challenging and it needs to be over engineered and it needs to be thoroughly vetted. We've done that work. We have the private investment and we want to make sure Lawrence is a level playing field and that's what we're asking for tonight. I do have a letter I'd like to read if that's okay on behalf of one of our

investors. "Good evening Mayor and Commissioners please except my regrets for not being present for tonight's meeting. I hope you will accept this statement of support in my absence. I was the president and CEO of Schendel Pest Services when it sold to ServiceMaster in 2012. We had ten offices in 5 states and 14 million in annual revenue. I currently own and manage 8 office buildings with over 100,000 square foot and I'm the managing partner of Schendel Land and Lawnscape. I believe in the entrepreneurs behind RG Fiber and their business plan to bring gigabit services to Lawrence. We have the means to finance this internally if needed. I appreciate your leadership in ensuring that the City of Lawrence is a place that attracts outside private investment so that high performance entrepreneurial companies like RG Fiber can thrive."

Riordan stated when you bring this new fiber to those areas, the streets, is it going to go into the community itself at all or will it be limited just to those direct streets.

Bosch stated what we're looking at there is going within a few blocks of those streets we'll do a market research and a sign up preregistration campaign, very similar to what's happening right now in Baldwin City. As with any infrastructure project it's really critical for us to know where those customers are who want this type of service before we begin digging.

Schumm stated talk in terms of a timeline. You're suggesting you want to be a player in Lawrence. You've demonstrated that you got the financial wherewithal. You're information says you don't need a loan. You've got a map that says this is what you're going to do. Talk in terms of timeline.

Bosch stated construction on our Baldwin City project is already begun. We do have the current license agreement with the City of Lawrence that has right-of-way on a specific path to bring us additional capacity into our network operations center in Baldwin City. Once that network operation center is complete this winter, will be able to then provide service throughout Baldwin City and into Lawrence. What we're looking at is in a Q 1 or 2 timeframe as the winter is ending we're start kicking off a preregistration campaign to determine where the demand will

be and we do have some preliminary engineering designs drawn that obviously as any company would were going to allow customers to drive the finalization of that plan. We are looking at with the lease agreement on the table from the City, essentially where that middle mile that the City of Lawrence already has and we're going to be able to extend from that middle mile and build that final mile that's where you're seeing the 5 block radius of those streets. So I'm looking at service being able to be connected in Q 2 of 2015.

Schumm stated Q 2 is that starting with downtown and moving out.

Bosch stated we're going to look at this entire area and go where the demand goes. For example, if we don't get anyone to sign up along 6<sup>th</sup> Street, which I doubt, we obviously won't build out there, but we will make that our service area. Building that final connection is all well have to do.

Schumm stated and then from there you'll go into the residential areas.

Bosch stated absolutely.

Schumm stated when you would see the entire blue area build out if there is sufficient subscription of clients.

Bosch stated it will probably take the rest of 2015. We plan on burying all of the utilities which takes a little bit longer to do, but it will take the remainder of 2015 before we start looking into a second phase, but obviously that conversation and timeline would evolve with the conversation in the community.

Schumm stated part of that might be lit up prior to that.

Bosch stated absolutely. We should be able to turn customers on in early spring.

Schumm stated what you estimate the cost to be if you had to light up that whole entire blue diagram.

Bosch stated we've done a lot of market research so we know what prices people are paying. What we've done is we are offering full on gigabit which is 100 times faster than what you'll get depending on the provider you're looking at. Our price point for offering that is going

to be market competitive. Our price point is right at the same level as the current market price. It's just going to be a lot better service.

Schumm said my question is more, what is the investment you'll have to put forward in order to make that happen?

Bosch said the investment is going to be close to 7 million dollars.

Mayor Amyx called for public comment.

Chris Lowe, City Administrator for the City of Baldwin City, stated I'm here primarily to speak to three issues: 1) Our support of the Baldwin City Company also having a presence in Lawrence; 2) a concept of regionalism; and, 3) not supporting corporate welfare. Two years ago when RG Fiber came to Baldwin City, I was dragged kicking and screaming into the world of gigabit fiber and one of the things it does do, is open your eyes very quickly to the quality of life that can improve in your community and that's desperate for rural communities as Bosch described in his presentation to you in terms of keeping its youth and creating jobs that aren't in larger population centers. My whole fear was what's the ask going to be to Baldwin City if we're dragged into providing some sort of public/private partnership and gigabit fiber to our citizens. To the credit of RG Fiber they never once asked for a dime from the City of Baldwin and they are willing to put their money, not the public's to provide this service and that was most impressive to me. The Chanute City Manager said to me is the reason why cities get dragged into incentivizing fiber is the ROI in the private sector takes too long so they want the government to pitch in, close that margin and make that ROI more profitable for the private interest that may be involved. Again to the credit of RG Fiber, the City of Baldwin City in the last two and a half years of negotiating with the principles there has again never been asked for one penny of public subsidy. I think that's exciting and we fully support regionalization, anything that helps Lawrence, generally helps Baldwin City although Corliss and I might have disagreed with that sometime in the past, but we're certainly getting along much better. Both communities recognize the value on both sides, but with respect to what you do on your next agenda item, to

me you have an eminent leader in Corliss and he can better advise you on what you should and shouldn't. You all know that on what you should and shouldn't do for your community, so I don't mean to speak to you on that, but I support a group like this that comes wanting to do regionalization, tie your small town to our smaller town and create a service for all of our citizens.

Rex Shick, President and majority owner of K&W Underground, stated K&W is an Olathe based company, 39 years old. We install and maintain telecommunication systems, specifically fiber optics. Our customers are most all of the large telecommunications providers in the Kansas City Region. We also provide service to cities, municipalities, state governments for their own private networks. We've provided construction and maintenance services to the City of Lawrence on numerous projects over the last 5 years. I am here to support RG Fiber. Why am I here to support RG Fiber? I met Mike Bosch about 9 months ago and have been working with him ever since. I have committed to being investor in his RG Fiber Company. As you heard earlier we also have another investor that is committed financial support for RG Fiber. I wanted to come here to assure the City of Lawrence that we have the financial support and the expertise to build and operate a first class fiber optic network.

Franklin Syler, represented Wicked Broadband, stated the City has already proposed a free market solution for this, a competitively neutral solution to lease fiber. If Mr. Bosch wants to rent 20 miles of fiber, 4 fibers cost \$20,000 a year. It seems very reasonable. There's already a competitively neutral solution in place for him to participate in the market place. If he's not asking for land right now then it's an irrelevant issue. Mr. Bosch submitted to the Commission for its consideration slides which included 1 million cups Lawrence and the League of Kansas Municipalities. I have emails from the League of Kansas Municipalities and the Kauffman Foundation indicating the use of these logos was unauthorized. This is a trend with Mr. Bosch to produce vaporware. He's produced a slide deck, he has zero broadband customers, zero experience running a network. He does not have the technical capability or the technical

relationships. One of the things that he does not have but is required for routing, it's called an AS number which he could easily get. It doesn't take that much effort to develop the basics of a broadband network before you start serving customers and yet Mr. Bosch hasn't even been bothered to get to that point. The initial plan included a fiber run of its own. The use of the City's fiber was initially nixed due to security considerations. What happen to those security considerations? Why is it now that he needs access to City fiber, when he didn't before? There have been other significant changes in the proposal for the network. I don't have time to get into them in the 3 minutes I have. I initial plan also was that Mr. Bosch was going to run his own fiber and compensate the City by providing empty conduit. Fair enough, no compensation has been accounted for in this 8 slide presentation. I just like to point out that Wicked pays voluntary 5% of its revenue to the City in exchange for use of City right-of-ways and City poles. That's on top of what we pay for use of other City resources in our Franchise Agreement. I'd also like to point out that Mr. Bosch at one point represented to the City that the reason for delay was lead times on purchasing fiber. I have a proposal from a local vendor not someone that is just going to ship the stuff across the country to us. The total shows 96 count fiber is available on a lead time of 9 weeks. So the last time since Mr. Bosch has appeared before the City Commission, he certainly could have arranged to order some fiber, if that was really the holdup. Finally, I have concerns about the legitimacy of Mr. Bosch's entity. What entity are we actually dealing with? There is a Reflective Group LLC, previous groups that include Dawn Fiber LLC which was dissolved May of this year, there was another trade name going around with was Free State Broadband, but I'm unable to find any record of that with the Secretary of State's Office. I'm just curious who is involved with the company, how many customers are actually involved, and does he have anyone with any technical knowledge. As I've rightly pointed out Mr. Montgomery has been running a fiber network for 5 years plus and has been in business for more than 9 years. He has all the technical knowledge on how to build, not just fiber but

actually how to roll out internet service. It's much more complicated than just putting some glass in the ground and putting a laser through it.

Cindy Brockersterm stated she has known Mike Bosch since 2007 or 2008 and opened a business called iCafe, and during the 9 months of that time I invested a significant portion of my own money into that company, primarily to pay the salary. He did a lot of things that were out of compliance with the network that we were in, selling apple computers. Basically, putting my significant amount of money on the line that we were going to be closed down by the people above us and eventually had to be removed from management in that company. That put me in a very difficult position where I had to sacrifice a lot of my own income to hire more staff. He also refused to relinquish partnership shares and expected me to pay him for it. Since then, as Mr. Montgomery's Attorney has pointed out, he has been involved in a great deal of other companies. Bosch once described himself as a serial entrepreneur and it concerns me that the City of Lawrence would want to get into business with someone who may not be around tomorrow.

Schumm stated this is a bit of an unusual situation and I guess I would ask if the applicant has any rebuttal to the remarks that were made. I think that would be fair in this case because there are some statements made that maybe could be explained.

Bosch stated there are a lot of questions there and I'm not sure which ones to really address there seems to be flurry with regard to the League of Kansas Municipalities Logo, I did change that out and when I talked to them simply because I'm speaking at their conference this weekend. One Million Cups, I spoke with them and they told me to reference the website. I didn't think the entire website would look good on a slide deck. In terms of entrepreneurship those who have gone that road understand that it's a road paved with a lot of failure and I'm not going to pretend like I'm a perfect person and I'm also going to say that I've learned from a lot of mistakes, but I will say that I've grown from every one of them. I absolutely have difference of opinion as to what occurred around the iCafe dissolution and out of respect for that dissolution

agreement, I will continue to maintain my gag around that. The entity you're operating with is RG Fiber and to speak to our expertise, we have two data centers that we currently operate in Kansas City today that's where Reflective Group Production happened. In terms of security, again we've passed the FBI and KBI security standards. We do what's called penetration test for Regional Healthcare Networks that assess the cyber security health of an organization. In terms of the technical competence in an AS number, an AS number is filed under Reflective Group which is normal because that's our parent and main entity, not the subsidiary RG Fiber that we're discussing. All these questions do have a lot of answers to them and I think they're really reasonable answers in terms of technical competence, we do have some technical competence in running networks, but honestly all the experience we have pales in comparison to the experience that K&W Underground has and as a business entrepreneur you always find those subject matter experts that you can lean on because you'll never know 100% of everything in a business so I try to surround myself with the advisors through pipeline and with investors with a community of entrepreneurs that can lead me and guide me to make those decisions appropriately. If I've missed any questions that are still lingering, please highlight them and I'll do my best to address them.

Amyx stated I have a question that had to do with the City of Baldwin. Does the City of Baldwin have a fiber policy in place that would allow other companies to come in and do the same kind of work?

Bosch stated to my knowledge, they don't have a fiber policy. There's not another company interested from what I understand of investing the 2 million dollar infrastructure into Baldwin City.

Amyx stated do you have an exclusive right.

Bosch stated no, absolutely not. I don't think an exclusive right would be appropriate.

The City Commission received an update from RG Fiber for public right-of-way use and other matters for service within Lawrence.

**4. Received an update on discussions with Wicked Fiber regarding its Economic Development request.**

Diane Stoddard, Assistant City Manager, presented the staff report.

Josh Montgomery stated I'm the owner operator of Wicked Broadband. First of all I wanted to start by thanking City staff we've had several very productive meetings with them over the last several weeks. We've been able to hash out a lot of the issues related to this project and come to broad consensus on all of them effectively. We feel very comfortable with the language in the fiber lease agreement and we feel very comfortable discussing the loan guarantee and the rental fee waivers as an economic development issue. As you know we've taken that through the economic development process here at the City which has been a fairly extensive process and I was involved in multiple reviews by PIRC. I was involved by the KU Small Business Development Center an outside entity. Two separate reports from outside consultants had involved a separate report from an outside financial consultant and then multiple meetings here at City Hall with City staff. That process has resulted in what I think is a great document and a great agreement and I think that we've thoroughly hashed out all of the issues and have something in front of you today that can create a common carriage system or can create a competitive market here in Lawrence. I wanted to start out by pointing out that that's already happening. I came to you day one and said by doing this we're going to create competition in the market place and low and behold shortly after we announced the project the caps went away at the local incumbent cable provider. Recently, the incumbent cable provider who had recently represented that nobody wanted ultra-high speed service has announced that they were going to do 110 Meg service and a week later they doubled it to 200 Meg service. It kind of called in the question of the veracity of their original statement or creates a picture of a community that's increasingly thirsting for broadband. That competitive market can grow substantially in communities that have common carriage systems. There are multiple carriers providing service and in some of those communities you can buy gigabit service for \$20 a

month. You have a choice of 5 carriers and one of which can come in provide quality service and if you get mad at your carrier, you can fire him and go with somebody else. One of the things I wanted to point out was the incumbent telephone provider hasn't provided a proposal for increased speeds. The reason for that is that their infrastructures are not capable of it. I think they're eventually going to get to 500 megabits and they might be able to get to a gigabit on their existing copper, but 10 gigabits 100 gigabits, 1,000 gigabits, you know the petabyte service that will be coming down the line in 15 and 20 years their infrastructure flat will not carry it. What that means that in the future, without a fiber network, there will be exactly one choice of ultra-high speed internet service in our community and that's the incumbent cable provider. Out of everyone in the community we'll have one choice and they will have the community at their beacon call in terms of pricing, in terms of how they provide their service and in terms of their quality of service. This is the opportunity for the Commission to create a competitive system where competitive players play against each other to improve service and reduce cost for our community. One of the things that I actually called my attorney up on at a recent meeting, when you're talking to us there's the perception and I know it's portrayed this way that we're a business. In some ways we are a business, we take revenue and pay our bills and deploy service for the community, but that's really how we think of ourselves. We started this as a non-profit entity to provide and improve internet service in our community. We only converted into a for profit entity when it became clear that financing wasn't available for the non-profit model. We operate our network in a way that benefits our community. We're internet activist who happen to own an ISP. I think we've been 100% consistent through the last 9 years in sending that message to the community. Today I'm here to advocate for additional restrictions on the contract that we wanted to present to the city and there are 3 restrictions that I want to talk about. The first is 4(c) iii which sets the threshold for free service at 100% of the food assistance guidelines. We'd like to expand that to 140% because we feel it qualifies a lot more families, it's much more representative of where the poverty line actually is. The Brownback

Administration is extremely stingy in terms of defining poverty in our community. We think that poverty actually begins at a much higher income than the official state guidelines. So we'd like to expand that so more families are eligible for free service. The second thing I want to talk about is whole sale common carriage and I sent everybody, the Commission and all the leadership a book. The easiest way to describe that as a whole sale common carrier system is system where everybody had equal access to the network at a fair wholesale price, regardless of what entity it is. It means that we can create a system where if RG Fiber wants to provide service in the community, they pay a very low wholesale rate. They're able to provide whatever service they want to on top of that without making a multi-million dollar investment in our community. One of the things that benefit's our community is that it prevents the creation of another natural monopoly. It's very scary to me that our neighbor Baldwin, they are partnering with a fiber company that wants to exclusively own the system and that means as time progresses, the Commission in Baldwin is making the exact same mistake that landed us in this room today. The mistake that was made with the cable and the phone franchises back in the 1960's and then long before that was the Commission granted the cable company exclusive franchise agreements to their community. As a result, there this greatly unfair market here in Lawrence where the other providers have been provided a 3 decade head start on creating their network. It's very disingenuous to complain about an unfair playing field or unfair race when one set of racers would start in on the race and given 3 laps around the track before the next one even gets off the ground. What happened in the 1990's was these companies realized that they no longer needed an exclusive franchise. They could operate as a natural monopoly because they already controlled 100% of the market so at the federal level they deregulated it. They deregulated the prices, deregulated the market and they gradually over time have removed themselves from the requirement to share access to the DSL network and are gradually in AT&T's case becoming a wireless company and the cable companies case becoming a data company. As a result, communities that don't create a competitive market

place today are going to be left in the same situation 10 years from now that they are in today. One company can demand whatever they want, can make whatever service improvements they want on whatever schedule they want to make it and basically hold all the businesses and all of the households in the community hostage. By creating a competitive common carriage system, the City of Lawrence sets itself up for future success by creating a marketplace where we only install the infrastructure once and multiple carriers can access it and that means that carriers can compete on exactly 2 things, the quality of their customer service and the price. Wouldn't you love it if the cable company was competing for quality of service and price instead of we own all the infrastructure and you can take it or leave it which is the way that it is today. The common carriage proposal that we brought up solves that problem. The other thing that it solves is that it reduces the total amount of investment in the community and it reduces duplicate investment. One of the things that you saw on the map that RG Fiber brought up is that there proposing building a network in the exact same neighborhood that were proposing building a network in. If we were both making investments in that community we would now be building 2 fiber networks in downtown Lawrence while a half a mile to the west, nobody has access and that's the way this fiber network has developed in places where Google Fiber has installed fiber all of a sudden AT&T and the cable providers become very competitive and everyone else still gets what AT&T and the cable company want to provide. We can avoid that by creating a common carriage system that give everybody incentive to build a different neighborhood. If we build downtown, RG Fiber has an incentive to build the adjacent neighborhood or some other company or a new startup or anybody that wants to build it and then come to some kind of wholesale agreement so they can access our infrastructure. It prevents duplicate investment, prevents a situation where we have the "have" and have not's" and it encourages people to invest throughout our community. The other thing we want to highlight is that we're very suspicious of any operator that wants both public incentives and exclusivity. The combination of those 2 things in the past has resulted in disasters for consumers, poor customer service and

has been a very poor investment of public dollars and that's across the board in communities all over the United States. What we would propose that if somebody wants to pay their own way and use fiber, great, there's no common carriage requirements. If they want to build their own network in their own neighborhood with their own money no common carriage requirements. If however, a company wants to come in and receive subsidies from the City for building a system, the City has the right and actually in my mind the obligation to get the best deal for the taxpayers they can. That means requiring somebody whose accessing subsidies from the City to share access to that network with other provider at a pre-agreed upon wholesale price and give all comers equal access to that network. By doing that, we can encourage the next guy that's like me or in some ways like Bosch, the next entrepreneur who wants to build a system he doesn't have to go raise 5 million dollars. If he's got a new technology that can do 3D holographic basketball coverage and you can watch the players hop across your living room table, he can come in and the upfront investment was less than \$15,000, access the whole City of Lawrence and provide that service within the City. It removes barriers to entry which for people who want to own all this stuff, that's very scary because of course now you have to actually compete, but it's in the best interest of the community. The other thing that we wanted to bring up and would like to see included in the agreement is that if a company comes in and gets a subsidized loan or request a waiver of their rental fees as we have, that they would be required to pay 5% of their gross revenue to the City of Lawrence as a rental fee for use of the infrastructure that their connected to with the City. I want to highlight because the incumbents really kind of tried to confuse this and muddy the waters. That's a rental fee that is not the federal franchise fee that is regulated by the FCC. It's a rental fee and the City is getting a quid quo pro. The City owns fiber. The City is giving access to that fiber to the carrier. The City has full faith and credit. The City is either lending money or supporting a loan for that provider. The City has the ability to demand that that provider operate the network or provide a return on investment. One of the things that when you look at the City's franchise fees, over the last 5

years, you can see that there telephone franchise fees are continuously going down, every single year. As people move from traditional land lines to voice over IP and wireless services, but the same is starting to become true of the cable providers. The year that Sunflower Broadband was sold to Knology was the peak year for cable subscriptions in the United States. Ever since then, people have been cutting the cord and moving to online video. As that happens, the 7 million dollars in franchise fees the City gets and uses to support important programs within our community, are going to go to zero. The City's going to have to make that up either by increasing taxes, sales taxes and property taxes or cutting services. The agreement that we're working on with the municipal government creates a new revenue stream 5% of the broadband revenue and it creates a market place that's competitive for carriers to work in. One of the things that happens in business and as things change, companies pivot, they change their point of view, they change their approach to business. Right now, the incumbents are looking at our system as a threat and I think what they'll see once it's built, is that it is much more in Ma Bell's interest to partner up and provide service on local infrastructure so that they can actually compete because their existing technology won't allow them to, then it is for them to go ahead and build an all new system within the community. I think the same will eventually be true of the cable providers that they will see the light. When we've come in here in the past, we've said were going to provide free service for low income families, we do that every day. When we came here before we said we will provide free service for non-profits, we do that every day and we do that really well. We said we'd provide service to families and to rural areas, we do that. We said we would get to a gigabit service. There's a gigabit port at the base of this port and there's another place you can get gigabit service out on 6<sup>th</sup> Street, and 23<sup>rd</sup> Harper. We have customers here today that use our gigabit service where it's made a substantial difference to their business. We have lived up to everything that we've brought to the City and we've brought substantial investment to our community. My investors were bond trades and Leman, my investor's intellectual property companies on the west coast. We've

brought 1.75 million dollars in outside investment into our community and given the support of the City, the type of enthusiastic support that Baldwin is providing to Mr. Bosch, I'm confident that I can go back out into the Venture Capital (VC) world and bring additional money back to Lawrence. The only reason I'm not is because I don't feel as though I have the support and the full throated approval of the local City. In the past, my investors have been burnt by that. I'm asking you today to direct staff to work with us in a positive way which they absolutely have. Work out the last few details of this agreement and come back with a final agreement sometime mid-fall.

Schumm stated when you talked about your common carriage and that being available to all which promotes competition, who sets the rate on this system that you own?

Montgomery stated we've proposed a rate of \$25 per month for each drop in 2014 dollars index to the consumer pricing index. That means that a carrier can come in to our community and the minimum purchase is 100 drops. Somebody like Mr. Bosch can come into the community for \$2,500 a month, he could have 100 houses that he hooks up and he can charge \$99, \$150, or \$200, whatever the market will bear. In order to raise that price, beyond that, would require us to come to City Commission and get an approval from the City to make that happen. In order to take that price down which we would want to do, our goal is to build more internet in our community, we would have to do the same for all comers. Nobody can come to us and say "Hey, I'm going to buy 1,000 drops, but I want you to do it for \$20 a month." The concept of common carriage is everybody pays the same rate. When I started out if I had the opportunity to buy fiber connections to individual homes for \$25, I'd buy that all day long because in our case we compete on the quality of our customer service and the quality of our product and that's where I think the community should compete.

Schumm stated what guarantee can you assure me of that you can build a system in which you can wholesale that rate, at that price.

Montgomery stated we've been operating a system for 9 years. We know exactly what it cost to pull fiber into a building, we do it regularly. That's the price we need to meet to make this happen. Mr. Bosch had indicated that we're only doing \$200,000 a year which was actually true 3 years ago, but we more than doubled that in the last 24 months and we're continuing to grow every month, month to month. The one thing that you can say about us is that we're competent and I think there are customers coming out to speak to the City Commission last time we were here, really demonstrated exactly how competent we are and 3 of the Commissioners have experienced at either their businesses, their homes or their families homes, exactly how well we do business. The one thing I did want to talk about in terms of how the City guarantees it because City staff had brought it up, we want to make sure the City's not the cop that's responsible for policing the carriers. The way that the federal government has accomplished that for the power utilities is they created something called a course of action. The agreement with the City requires that we provide this service. If, for whatever reason, somebody approaches us and we don't, they have a cause of action to sue us directly and much the same way as when we go to Westar and we want to attach to a pole, if we have some disagreement over the price, I can sue Westar, but the City doesn't get drawn into that argument because Westar has a requirement to share that pole. By creating the common carriage requirement what the City is doing is creating a cause of action for the carriers to hash it out amongst themselves without drawing the City into the argument. We feel very strongly that that would work. Given the level of competition at the podium tonight, I think that I can speak for myself at least, I'd love to have a cause of action and so that puts us into a position where we can hash it out amongst ourselves and eventually be able to provide service at the agreed upon price. The district court makes that decision.

Schumm stated I don't disagree with anything you've said, you've provided good service, you've demonstrated you know how to run a system and you have investors that you've talked about. Obviously, you've made lots of investments in the community, but I can't get buy the fact

that if all of this is going this direction so well, why is it you need a \$300,000 loan guarantee from the City of Lawrence? It begs the question for me as to what's going on here.

Montgomery stated two things. One is that if you expect me to go and raise money and bring it back to Lawrence, I need to know that the City's on board and my investors need to know that the City's on board. I'm not going to demand the type of support that Baldwin has provide here today when we're out raising money, but that certainly is a demonstration of a community that is providing support for a local company and they can assure their able to succeed. Right now, based on the Freenet Kids Proposal we brought you in 2008, the City refused to review. I want to make sure everybody understands that. It's not that the City reviewed our proposal and found that they didn't want it, the City refused to read our proposal in 2008 when we were raising big money off the West Coast. My investors took that as an indication that the City wasn't interested and between that and the financial crisis, boom, you need to be profitable tomorrow is what we were told.

Schumm stated I wasn't here in 2008. What was your proposal at that time?

Montgomery stated to build the fiber network that the City's built anyway with private money and once again a loan guarantee from the City and private investment from outside companies. It's still published and everybody can go read it.

Schumm stated how much was the loan request at that time.

Montgomery stated we're going to do for a little bit over 5 million dollars to put network in. Since then, the City has actually made that investment in a lot of ways, installing fiber throughout the streets, but we're right now hashing out how to actually connect that to homes and businesses. So the worst case scenario, under the Freenet Kids Proposal was that the City would back the loan guarantee, we would for whatever reason not able to pay it, the City would own a fiber network, but it would be connected to houses, schools, businesses all over the community. We actually didn't consider the worst case scenario which is the City would pay to build a network and not actually connect anybody to it, which is actually what's happened over

the last 5 years. The answer to your 2<sup>nd</sup> question is collateral. When we go and build an apartment complex, house or buy a business, you have physical assets which the bank can use basically use as an insurance policy against their loan. The issue with fiber optic networks is that all that plastic under the street has zero value. The bank can't collect it and go liquidate it, the bank can't pull it out of the ground and you go to figure that if the banks collecting, the operator probably wasn't doing a very good job getting it connected to houses and generating revenue, Banks, especially since the financial crisis. Anybody who's done a home loan, this last year it's gotten a little easier, but the 4 years after the financial crisis, I thought they were going to open up my abdominal cavity with a surgical procedure in order to look inside to see if I'd be able to pay them back. Banks have been very stringent with collateral requirements and so what the City's effectively doing is provide the collateral for the note. Without collateral it's just not possible to make it go. The collateral is really the key issue. It's not the monthly service on that. I think our sales increased in the last 30 days, enough to cover the cost of that note. That's not the issue, the issue is collateral.

Mayor Amyx called for public comment.

Ralph Bauer, customer of Wicked Broadband, stated one thing that I haven't seen or heard discussed here is very relevant in terms of having a level playing field or common carriage requirements and that's at the level characteristics of the playing field be truly level. This becomes very important in the internet age. If you consider that, if I wanted to buy a pizza downtown and I took out my cell phone and searched for pizza and there were 3 sites that came up, 2 of the 3 sites didn't load, but then Pizza Hut loaded, I'd go to Pizza Hut. That is so easy to do if you're the proprietor of a broadband outfit. That is no longer a level playing field. Anytime that there is a large amount of money being collected into a pot, there are those who will find out how do we gain the system and how do we get 1% of that? This is not an out-of-the-box idea, this is already being done. Ask how much Netflix is paying, it's in the millions of dollars to Verizon to be able have equal access to their pipeline. Verizon didn't extensively threatened

Netflix to slow down their carriage, but Netflix decided to all of a sudden pay their money anyway. If you look at Verizon, Comcast, or AT&T they're very large players. All of these folks have a great opportunity to make a lot more money by collecting what are essentially extortion payments. I haven't seen any discussion of net neutrality being within the City's requirements for any of these proposals, but one of the reasons that I enjoy Wicked Broadband aside from their stellar service and their competitive prices is that on their website they support neutrality 100% and they try to encourage people to urge their government to keep their promises in that regard. I just want to bring that up and consider that the Council might want to direct their staff to put in a little bit of language into whatever regulations get crafted about net neutrality so that it truly is a level playing field for all the players.

Jeremy Rothe-Kushel stated I'm very happy to hear this conversation going on. Lawrence really could do a lot in the realm of really stepping boldly into the 21<sup>st</sup> Century. Not only does broadband access as too many people as possible, create the possibility for robust economics, literacy, these types of things, but it has to do with creating space and creating the rights that are protected under the 1<sup>st</sup> Amendment. In the olden days it was the town square people that their conversations that were vital. It's not a coincidence that the first amendment if the 1<sup>st</sup> amendment because the framers knew that access to free speech, to vital political speech was at the heart of a free and open society. Internet is not enough, but it's necessary. The best step forward, I believe, for the City of Lawrence would be to actually lead the way like a City like Chanute Kansas or Chattanooga Tennessee where it takes the digital reins and has a vision and says, just like the telephone was crucial to the 20<sup>th</sup> Century, electricity became crucial at the end of the 1800's and into the 1900's. The internet is the infrastructure for the 21<sup>st</sup> Century and beyond. Chanute Kansas is a lot smaller than Lawrence and it had a little bit more vision in their realm, from the 80's onward it was able to build out with no debt a fiber optic network broadband to a large amount to people and businesses that live in Chanute. It's not too late for Lawrence to do this and other than the City of Lawrence having a vision and then

contracting out to providers like Wicked or RG Fiber or the big guys too which would be the best. Chanute and Chattanooga has shown that these are some of the most profitable sectors of their municipal governments. They actually make profits on this rather than a heavy tax loads that we've seen from a lot of the projects that the City Commission seems to be pushing. This could really show that the City Commission wants to empower the City to provide for its own viability economically. I do think the City taking the reins and contracting out the building out of a Lawrence owned fiber network with this idea that Mr. Montgomery said of a whole sale common carriage system, would be the best. Alternative to that what I've heard is pretty good, it's the best second thing, a private contractor building out their own system with a little bit of backing from the City and it remains open to any future providers. I ask the City Commission to show its vision because we need it at this point.

Dustin Brown stated we recently opened a photography studio in North Lawrence. As part of opening that company, we also started and editing company where we actually edit photos from all over the country from photographers. As you can imagine that requires an extreme amount of bandwidth to move that kind of data around all over the country down to our studio, our editors edit it and push it all back up to our clients. Thankfully our service grew quite quickly and we were a WOW business customer at the time. We hit their top package very quickly and we started talking to them about faster options as to all the other providers in town. For us it came down to a matter of cost and quickness to complete the project. Everyone we looked at had no viable options for us. We were honestly at that point looking at can we lease a building in the Google "Fiberhood" and pay a courier at the end of every business day to drive to Kansas City to do our final transfers. So things were getting fairly desperate for us at that point. We contacted Wicked and that afternoon they were in our facility assessing our situation and it was probably less than 2 weeks later, we had the fiber installed in our studio and are able to grow any rate we can afford at this point with new customers. We've heard a lot about potential growth in our community but these guys are doing this now. This is a situation where we could

have stopped what we were doing, moved our business to Kansas City, but we were able to actually keep what we're doing here in Lawrence and grow what we're doing here in Lawrence because of the initiatives that Wicked put forth. I'm here to voice my support.

Greg Thompson, local Informational Technology professional, stated I just want to endorse the common carrier provisions that I saw in the draft. I was here for the last discussion on this and there was some concern about running out of fiber capacity by doing this. I think that's a non-issue because as technology grows, you can multiply the capacity of exiting fibers. It's a waste of resources that could be utilized today to grow the economy. If the City grew so much that the City needed to increase its fiber capacities that are kind of the problem you want to have because then you have the money to build out more fiber.

Earl Scheweppe stated I'm disappointed that the Lawrence Journal World has decided what we should do when I thought we were trying to learn what we should do. I didn't think we knew everything that we needed to know yet. I carry the trend of Republican times in my hometown when I was less than 12 years old. My father called it the daily disappointment, but stood side by side with the owner of the newspaper as scout leaders. I could promise ultra-speed fiber optics Citywide for free by Christmas, but I couldn't. I do have a plan that would be fair to Wicked Fiber, RG Fiber or others and allow us to move forward substantially in the next few months. I'm impatient. I was teaching about 35 years ago at the University and these days when we think we learned how to do something and we should be able to apply it, fairly soon, 35 years is a long time to wait and I'd like to live long enough to see it happen here. I believed that the City should be very helpful to RG Fiber in obtaining fiber in Baldwin and should give a little time to see how they are successful. As you all know, because I've expressed most of this before in a different format, that the City should be willing to invest some hard dollars to make this move quickly. I believed they should be willing to invest in the basic physical infrastructure on the east side of Massachusetts that is necessary to support the installation of fiber optics on that side of downtown and out to East Lawrence. This would include the following, secure

equipment space in the City's parking garage on New Hampshire, including air conditioning, back-up electrical power, and other necessities for the electronic equipment, routers, all the stuff that has to do to make the fiber work. We need to add conduit to each block and you have to have places to connect the fiber. We need to get this first level out into the neighborhoods. I believed the City should provide it and it eliminates the problem of who owns it. The city would own that and could make it available to competitive people to use. If properly designed, competition could be allowed and hopefully occur. I think the City should be willing to put some of their own dollars into this and move it forward which they could do very quickly would be more important in helping get money to operate than a simple guarantee of a loan.

Josh Strohm, owner of Reflective Group, alongside of Bosch and by extension, owner of RG Fiber which are subsidiary companies, stated some of the comments made by Wicked Fiber were a bit disingenuous. First of all they were grasping at straws in regards to some of the technical details regarding the AS number and our parent company has such a number. It's not really something that's needed right at this moment in our history we're still in the planning phase that's why we're here talking to you about our plans. I believe it's disingenuous and inappropriate to slander Mike Bosch's name as mentioned earlier with the type of information that was brought forward. I've been in a business relationship with Bosch for 3 years. He's a man of utmost character. It's hard to find other people that come to mind in that regard. Some of those comments belong in a Bar Room other than a distinguished place of business or a place such as this. RG Fiber has 9 years of experience and 39 years of investment experience and Bosch isn't going to be there just for the money, he's there for experience to guide and assist us along the way. In regard to other personnel, we have a person that has 10 years of data center experience and it's pretty important to run a data center when you have a high class fiber network and how that data flows in and out of that operation center. I personally had been involved in a team that operated data centers in a global infrastructure. RG Fiber has a reputation of quality customer service and I will be happy to give you references. We have

hundreds of clients of small businesses, City chambers and City governments. In regard to our Baldwin City deal it's not an exclusive deal that we have arranged with them. In regards to the plans and making mention that it would be limited in what we would be doing, the plans of the blue line, if you recall, is where we start. That's the lines where Lawrence has fiber underground. Obviously, that's where we would be patching into to start our network and from there, we very well have plans to branch out into residential as well as other business areas. In regards to having a 3 lap head start in the race, I'm not really sure what this is really referring to but I'll say I'd rather not Wicked Fiber have 3 laps ahead having incentives versus us bringing money to the table. Again, we have money behind us ready to invest. All we're asking for in this particular discussion is that we don't give unfair advantage to a competitor.

Hugh Carter, Lawrence Chamber of Commerce, stated I want to thank you for making high speed internet a priority. I know that all of you have spent countless hours in the last year in a half or so, trying to get your heads around this complex issue and the best way to move this community and staff forward. Just listening to the conversations and the amount of expertise you have in the subject matter compared to a year in half ago is more than I'm sure any of you ever cared to have to get a handle on, but it is important and I know how seriously you all are taking it. I just want you to know on behalf of the Chamber, we're very appreciative of that. I know I'm preaching to the choir when I say that high speed internet is essentially the infrastructure for business growth. In today's global economy access to high speed internet is quickly becoming as essential to individual and community economic growth as electricity and roads. It's no longer a luxury, but it's a necessity to remain competitive. It accelerates business development by providing new opportunities for innovation, expansion and e-commerce. In fact this morning, I spoke with Mike Scott with AT&T and he couldn't be here tonight because he is in Lenexa at a City Council meeting finalizing their agreement to bring their GigaPower produce to Lenexa. They've already also signed agreements with Overland Park and Shawnee and are in the works with several others. This is happening right next door to us and again, the

Chamber wants to applaud your efforts to this point and also encourage you to keep moving forward with a sense of urgency toward an agreement and some dates in the near future to actually make this a reality.

Schwepppe stated if you read the paper this morning, they are having a big to do in Baldwin tomorrow. The other thing is that I've made arrangements for a group of people to go to Wyandotte County to review the operation of Google Fiber over the last year and learn problems with it, successes and other things like that. Anyone who would like to go with me can get in touch with me and I have made the contact and they will take us around and show us what's going and tell us how they've been doing.

Amyx stated Bosch what are the incentive that you're receiving from the City of Baldwin.

Bosch stated nothing, no tax abatements, and no discounts on any services. In fact we're paying them. We've got an agreement to access the right-of-way just like the other provider do and very similar to our agreement with you, we're just saying give us permission to pay you and compete against the players that won't do anything for their community.

Amyx stated I thought I had understood somebody to say that you were receiving something for Baldwin and I just wanted to clear that up.

Bosch said no, you can see in the letter that Chris Lowe, City Administrator of Baldwin, clearly said not a dime.

The City Commission took a 10 minute break.

The City Commission reconvened at 8:50 pm

Amyx stated I do want to ask the Commission at this time, looking at item no. 6 on the agenda, which is to receive a presentation from the City Auditor regarding the Performance Audit of the 2014 sidewalk data. I would ask for a one week deferral of that item so we can spend more time on this item.

**Moved by Schumm, seconded by Farmer,** to defer the presentation from City Auditor regarding Performance Audit: 2014 Sidewalk Data. Motion carried unanimously.

Amyx stated I would ask the City Manager to have this item as the first regular agenda item next week.

Amyx stated it seemed to me that there are still a lot of questions, but going to possible next steps as outlined in the staff report, the talk about a fiber policy as a possible next step. It seems to me that it's pretty clear that you need to have a fiber policy in place in looking at both of these request or requests that haven't been brought forward. It seemed to me that a fiber policy being put into place that's not going to create monopolies. Is that the goal of the fiber policy as you envision.

Corliss stated one of the goals that we've had in trying to craft something was to make it non-exclusive so that we can achieve one clear objective which is to try and be in compliance with the federal law that requires us to be competitively neutral. If we were drafting a policy so that it didn't favor any particular entity or institution, but it said if you do these certain things, these are the things that the City will do and any entity can come in and if they do those things then the City will be required to perform and allow access to right-of-way, access to City fiber, access to the preferred list of vendors to do the splicing on City fiber, all of those types of things. That's what we were trying to do was to come up with something that anyone can use to be able to access our public right-of-way and the City owned fiber.

Amyx stated the discussion that happened about this common carriage. We're talking about public right-of-way, publicly owned fiber and it seems to me but when you set up a common carriage do you not create a single owner of that new fiber that's put into the ground whoever it may be.

Corliss stated one of the principles of law is that everything has an owner. We own the road. We own the right-of-way and in many cases either required or entered into agreements to allow people to use the right-of-way. In certain instances we have fiber in the ground in conduit. In other instances there will be fiber companies or broadband companies that would also have fiber. We're having difficulty in trying to make a solid recommendation on the common carriage

issue. We want to hear the discussion and the debate. I've heard people say that it is analogist to a pipeline and obviously pipelines have common carry rules. I think there's a lot of merit to Mr. Montgomery's Statements in regards to the fact that if you have duplicate hardware in the ground, that's a cost, in many cases, that's unnecessary and we're trying to keep it as low as cost as possible because that's going to be the greatest benefit to the community. I've also heard entities talk about how they want to own and control what's there so they can make sure that it's secure and be responsible for its maintenance and those types of things. I don't know that anybody on staff has got the foresight to be able to say what the future is going to bring in regards to this. We worked hard on all these issues and we really haven't come to a settled decision on the common carrier issue. I'm not saying we won't be able to maybe within a few weeks to try and give you a more solid recommendation. You certainly have the benefit of a lot of experts in the room that could help you on that. If it sounds like I'm not giving you a precise direction of the common carriage then you're right, I don't really know what to tell you other than to try and lay out the issues as we see them.

Amyx stated the possible next step is first, the adoption of fiber policy that's going to create whatever visions that we may have and then we need some direction whether or not there should be public incentives considered because I think at the last meeting there was a lot of discussion about public incentives with a number of communities and whether or not we believe that's necessary or what level of incentive if we believe it's necessary. I think that the adoption of this fiber policy is an absolute before you can proceed with doing anything else. It's the backbone of deciding how companies are going to access the fiber that we own.

Schumm stated that seems the first thing of many that needs to be done. Let me get back to this common carriage concept again because I've talked about that a little while ago. While we want to keep the playing field open to as many players as possible, if in the one proposal that RG Fiber says that they only need 4 strands, if we make 4 strands available to anyone up until we run out of capacity, is that not also a fair way of treating individuals who want

to participate in the system. I know you may have the situation where you would have redundant cables in the right-of-way. My guess is that once somebody goes in and fibers an neighborhood, they've got all the customers lined up and unless that person is a wholesale failure, that's kind of locked up and the next competitor is going to say, "I'm not going to go there because it's already done. I'll go over here where no one else is doing it." To a certain extent the redundancy or the crowding of your right-of-way more or less takes care of itself, the way I'm thinking about this. It seems like if you have the opportunity in this fiber policy to say whoever wants to lease up to whatever number strands it is from the city and we allow that happen that you then do allow for competition up to a certain level. I may be over simplifying this in terms of a technological kind of explanation and that's my shortcoming because I'm not up to speed as much as some of the high skilled technicians in the room, but I throw that out for a little discussion to see if there's other opinions or I'm looking at it incorrectly.

Farmer stated I would like to hear Mr. Montgomery's thought on it.

Montgomery stated the issue that we're dealing with is that these fiber systems, not the ones that are in the street, but the ones that go to the individual homes are a natural monopoly, in the same way that a rail line or an oil pipeline is a natural monopoly. If Mr. Bosch build in an a neighborhood there's no way I'm going to build a neighborhood on top of him, the expense and the competition make it impractical. A common carriage requirement that we've suggested for this contract isn't kicked in as the carrier is paying their own way. If RG Fiber wants to pay to lease those 4 fibers and the City set a rate and it's very reasonable, they pay and there is no common carriage requirement for them. They can do whatever they choose to do. It's only companies that access that fiber at a subsidized rate where the common carriage requirement kicks in. So we, since we've asked for a subsidy would be required and very importantly our future assigns would be required. If at any point in time I get hit by a car or deployed to somewhere where I end up not coming back, whoever takes the network over will be required to continue operating as a common carriage system, but it's only providers that seek a subsidy. If

RG Fiber doesn't want any subsidies and doesn't want any loans, they can do whatever they want to do. They can lease the fiber and hook up whatever they want to at the end of it and there are no requirements on them, it's only customers that are requesting a subsidy where that common carriage would kick in. The common carriage is a quid quo pro. The City is giving the fiber at subsidized rate and in return we want service for low income families, we want service for non-profit entities and you have to operate the resulting system as common carriage system. We're advocating for an additional requirement that only applies to us, not to carriers that want to pay their own way. If they want to pay their own way and their going to build it with private money, good on them, there's no requirement for them to share beyond what the FCC requires. We're advocating for a restriction where it only applied to us. One of the reasons I negotiate the way I do with the City where I sit on my side of the table and then I sit on sit on the other side of the table this is what the City should want. It's because I'm locking my future assigns, my future heirs into a behavior, should we sell this system or should it have new owners. This is required through their contractual agreements with the City of Lawrence. To me that's very important because it means if there's a new buyer at some point, they can't weasel out of their requirement. There is a hard and fast requirement. The other reason has to do with the way communities expand. I'm interested in Lawrence, but I'm interested in taking this idea to dozens or hundreds of other cities as a working concept that says if you do this, you can create a competitive market place within your community. In a way Lawrence is blazing a trail, setting an example, becoming a leader in this industry by focusing on how we do this fairly. I just want to reiterate the only people who would be required to common carry would be people who access the subsidy.

Schumm stated that's good to be reminded that that's pertinent to your position and not to RG Fiber who is approaching it a little differently. I was suggesting to the Commission by allowing for anyone to buy 4 or 8 pair of fiber cables, that you still allow for other people to enter the market. I like the competitive part of this and I want to keep this competitive. I really don't

want a monopoly. Some of the speakers tonight talked about how we've been locked into utility regulation in terms of monopoly for a number of years. In part, that's probably right and in the end we probably haven't advanced as fast and a far as we should have, so I'd like to think that we can keep this competitive as possible for as many people who want to play in the realm of what we're doing. I know Mike Dever you've worked on it a lot with the committee you're on, so I'd be interested in hearing your view point on this to.

Dever stated Schumm brings up a great point. There's this resource and we're willing to dole it out to whoever wants to come, but eventually that resources, unless you use technology to increase the capacity or the ability of that to be utilized at a higher rate more intensely. You know we have a limited supply of this thing we're willing to give for this fixed rate and it does create a competitive environment because there will only be so many people that will want to do it. As Montgomery pointed out if you're not going to receive a subsidy and you want to hook up to and build out a neighborhood, you're going to go and it's going to be a natural monopoly because somebody else is probably not going to want to go in and spend the money if somebody already else is in place. There may be people that would build over the top of it, but in conversations with Mike Bosch and others, he indicated that once somebody is in there, it's very difficult for somebody else to come in because the investment is required and there's no guarantee you'll get customers. The first one in, is going to get the first round of customer and eventually they'll increase their market share and be self-sustaining, but it's such a heavy investment from an infrastructure standpoint that it's unlikely somebody else would come in and run another line, but they could and might do it cheaper. They might do an above ground installation or do some other modified way to get to the houses in a less expensive way. We're going to run out of our main fiber line the City owns eventually. I don't think there will be a ton of competition in the neighborhoods from everything I read and from talking to others who want to do this for a living.

Schumm stated is it a good way to go to keep it available to as many people who want to participate.

Dever stated it's a resource and the City needs to leverage the resource to its fullest extent to the point we're not putting ourselves at a disadvantage if we want to use it, like if the City needed access or there is some future use that might be more important to the City than we would want to keep some in reserve. Obviously, we wouldn't want to utilize whatever fiber we have in place as soon as possible because as others have pointed out, technology is changing and that asset may be less valuable in the future.

Amyx stated did we need to make that determination on how much of that we need to retain at this time for the future.

Dever stated I think it's incumbent to find out from our staff right now, what makes sense to set aside for the City and Jim Wisdom, Information Technology Director, mentioned that before. He's brought up in many conversations over the last few years about what he thinks we need to keep, use, and what we'll need for the Investigations and Training Center (ITC) and for use of the City data moving back and forth with the University of Kansas. The University of Kansas might want access to some of this too. There's a variety of takers and I think we need to make sure we have what we need before we start divvying it up, but I think there's plenty of space right now, from what I've heard, that we can take on several companies to utilize the resource we put in the ground.

Schumm stated we're in uncharted territories. Sometimes Federal Commissions allot areas. The question I have in my mind is how you cut up the City and how you keep it competitive and how to get there.

Dever stated somebody else could come in and put fiber in as well as it was pointed out earlier. Originally, some of the proposals with Dawn Fiber originally came up to use some of their fiber and allowing him access to our right-of-way in a competitive fashion. If we use it up, there's still more room to pull more fiber.

Amyx stated are we under agreement that the first step is the fiber policy.

Dever stated it makes sense.

Schumm stated I think that's good, but I wouldn't want to pass it.

Amyx stated we need to give some direction if we're going to look at the suggestion that you have. We're going to make it available only after we find out from our staff what we need to retain as a set aside amount of fiber. I do like that idea because I don't want to give away something that we have now that we're obviously going to need in the future.

Dever stated Wisdom said that we have plenty to lease so we want to lease out the fibers.

Amyx stated we need to find that amount out as we're working on the policy that will come forward. We do have the request about the common carriage. Do we want to continue to look at that over the next several weeks as we're going through all of this? I think that we kind of have to as an important part of this. I would like to find out more about it. Here again, I still believe in a lot of ways that if it was me and I had this common carriage line, all I would be doing is selling the \$25 hookup every month and I wouldn't worry about the houses and businesses. Is that part of this deal?

Montgomery stated the goal in operating the fiber network market share is to hook up as many houses as you possibly can. It's in the advantages of the person who's wholesaling it. In the case of the City of Stockholm, in Sweden, it actually generates revenue off of their network or in our case we're offering to do that as a private carrier to have as many houses hooked up as possible. It's my goal to get as many retailers as possible on that network banging on doors, providing innovative services, to subscribe as many addresses as possible regardless of brand, because I want them all hooked up. If we could do it wholesale, let's do it wholesale, if we can do it retail, let's do it retail. The point in my mind is to get it built and get it subscribed and as always our goal is to make as much internet as possible to as many people as possible, at the lowest price possible. It's exactly opposite as a for profit provider.

Amyx stated do you have a problem with looking at the 4 strand idea or whatever for that comes in.

Montgomery stated I think that Commissioner Schumm's idea is already included in the document that under the document anybody can come and just pay and use it. The only way that the City adds additional restrictions is if a person asks for a subsidy and anybody can come and do that. In terms of the capacity of the line, one of the things that help me think about how this works is to think about real estate. In terms of financial accountability for the City, if the City went and built a skyscraper and only used 1% of the office space, the City would have a fiduciary responsibility to the citizens of Lawrence to make sure that the other 99% of that skyscraper got rented out to businesses may be given to non-profits, there's a variety of ways to use it, but the City wouldn't just let it sit empty. By having terms on the contract, the city had a mechanism for 5 or 10 years down the line recovering the use that fiber for the use of the public. In the case of a real estate project, the City would never let it sit empty. In my mind the City has the same fiduciary responsibility to its citizens with the fiber, not to put in 96 fibers, use 2, and let the other 94 remain unused. The City needs to use that either to generate economic activity in the form of other businesses or generate money in the case of if a private provider wants to lease it, direct revenue for the citizens, but in a real estate project you wouldn't let it sit empty and in a fiber project it's the same thing. The city has a fiduciary responsibility to put that to use.

Amyx stated goal one, fiber policy.

Dever stated I think so.

Riordan stated when I think of this you have a situation where we have a group that's coming in and would require City services that has a concept of sharing and requires 12 fibers. You have a group that comes in says we don't need to have city help and we need 4 fibers. When you think about that the question comes to mind, how you weight those two. What are the benefits and what are the negatives? We've heard several from the people that are talking tonight, but it would be nice if we could hear from the City staff about that if you think about, if 3

people want 4 fibers and most you could get with a common carrier would be 3 different carriers. He has 2 and there are 2 left and they each take 1, so  $3 \times 4$  is 12. The problem is that you have 3 different underground cables that are coming in to each house and you have the entire infrastructure that that requires which is 3 times the amount, but the city's not paying for it, the private companies are. It would be nice for me to hear from the staff whether they think the concept of a common carrier is beneficial to the citizens of Lawrence because the prices will be down, there's less infrastructure and less things going on. Does that mitigate the City's need to provide up to \$300,000 worth of guarantees and possibly more later on? I would be interested in hearing from the staff whether one concept really is superior to the other and giving us some guidance on that as part of the aspects that need to be discussed. In some ways you're talking about apples and oranges and some ways you're talking about doing the very same thing that we created before which is a monopoly. There are other ways to get this data through. I think WOW and AT&T has shown that they can do that, but not at the speed. Who will need that speed and who will not so for the citizens of Lawrence it would be nice if we had what you've talked about, which is an evaluation by the City staff, but I would like that to include to see if they can help us to weight that information and what's preferred, 3 different conduits coming into each house or a common carrier. What's the likelihood 3 other companies coming in and put in that. That's a tremendous amount of infrastructure to put in and we've had information that they can't get bankers to give them the go ahead to get loans for a large building just because the fact there is a slight decrease in the amount of subsidy from the City. The banking industry really does have a lot to do with what we're talking about here.

Amyx asked Bosch, would you talk to us about your feelings regarding the common carriage?

Bosch stated our largest concern with the common carriage is obviously and investment into a fiber network is really community wide. It's not as if you go build part of the neighborhood and then move your network on. When you make an investment it is a long play. The return on

the investment that we would have, should we decide to go ahead and launch and infuse the capital into building a gigabit network in Lawrence, would be a long-term play. The assurance that we're asking for and what I need to answer to my board is saying, we've recruited all of this private capital and were we going to invest several millions of dollars into Lawrence over the years, will we always have this level playing field or is the policy such that common carriage which is a fancy way of saying, a monopoly subsidized by the City of Lawrence, that's just not a market that allows us to receive the full reward of the risk that we're taking.

Dever stated explain to me why that would be a monopoly.

Bosch stated because they would own all of the fibers going to that house and then whatever my rate would be to that end consumer would be dictated upon the wholesale rate that I have no control over, it would be whoever that common carriage provider is. So they would have a monopoly on that. The other challenge that we have is not just on a pricing standpoint in a fairness or level playing field standpoint, but it's also from the prospective of quality of service. One of the constant gripes we have is when networks go down. We've heard that throughout our community in Baldwin and we've heard it from several business owners here in Lawrence as well. In a common carriage status, I simply have to say Mr. Dever, yes, the network is out, and the common carrier is working on it. I'm sorry we can't differentiate ourselves, even though I have the crew and I'm paying them to have that expertise, our hands are tied in terms of the quality of service to differentiate ourselves in the market.

Dever stated there's deregulation of the electricity business in many states and you get to pick who you've got. It's almost identical in my opinion in that power plants have brownout's there's lack of supply, there's a lack of quality service. All of those electric companies are competing under the same realm which is somebody else put the lines in and there simply selling you the electricity through the existing infrastructure. They don't get to put in new infrastructure and they utilized the infrastructure, compete and sell that product in many states under a very similar program. I hear what you're saying and I respect it and I have to defer to

your knowledge of how much impact of poor quality installation might have or just bottom line, lack of service that's available to your customers because that's catastrophic, given that they can switch in such an easy fashion. You're right, but there's ways to put in place protections to those service providers when outages occur that are beyond any control of the ISP that they would then be explained to the consumer and then the consumer can make that choice based on the facts which would be the line went down, it wasn't my connection, it wasn't my ISP, it wasn't my data house, it was the line. I know what you're saying and it sounds reasonable. I've talked to other people in other states where this has come about, not in the internet, but in other utilities which are basically a product that you buy and you pump through a line. In essence, the data is ultimately pumped through a line and you just use it. It's bi-directional and is the only difference.

Bosch said the challenge with any of the utility analogies that are used to describe the broadband market, is the dimensions of service. In other words, we have an aspect of speed ratio and data packets so it's the quality of that when you're providing power, the power is either "on" or "off", it's not a matter of how fast that electricity moves. There isn't another dimension to that service quality, the same thing with water and it's not as if I'd be looking for a higher pressure of water from somebody else. That's where the utility analogy really falls apart and where broadband needs to have those service differentiators. So we've done the work of doing that. We've worked very hard to bottle a business plan, recruited the private capital and I don't think we should be penalized for doing that.

Dever stated great ideas and great insight. An actual monopoly, let's just call it what it is, whoever is in the neighborhood first and you told me this yourself when we talked. It almost makes zero sense for somebody else to come in. In essence, the concept here is if we do this common carriage network which I don't really know how I feel about it so I really want your opinion on that and I think you gave it to me. It's really about reliability and lack of control, that's a problem for the ISP using the existing infrastructure.

Bosch stated the challenge is the inability to differentiate yourself in a market when you have the capability to do that.

Dever stated the thing is you go to the next level. If we say forget this common carriage network we're going to go with the alternative that doesn't require any investment by the City, come get it. We are in essences granting you a de facto monopoly in that somebody else is unlikely going to come in which I get because that's free market, but then you put that burden back on the customer in that if you don't provide, you don't have a choice. That's what I'm struggling with and maybe you can help me in, where to place that burden. Do you place that burden on the customer to be stuck with an inadequate service or maybe an unreliable service? The providers of the ISP are to hound and stay on the person who owns the hard connections and the network to get their stuff together so you can differentiate yourself different ways, either by price, by service or by how you package your product. There are other ways to differentiate yourself besides on and off. I wanted you to touch on that because I'm still struggling with why we should place the burden on the customers, the taxpayers instead of putting the burden on the person, in essence, is going to be benefitting the most from this transaction.

Bosch stated, I completely agree with you 100% that the burden should be on the private carrier 100% and that's why we continue to advocate for a level playing field. We've gone through the hard work of recruiting the private capital investment, we've taken on that burden and we've already paid that price. We've already done a lot of engineering for the plans that we proposed to you. While it does disincentives us, simply giving us the same right-of-way access that other providers enjoy today, we're asking for the same fiber leases at a market competitive rate more than what you're getting today. We're offering those things and as Hugh Carter had mentioned, there are examples where people do over bill. Google fiber has been overbilling and several fiber networks in Kansas City. You're seeing that AT&T is now promising gigabit. No doubt about it, it disincentives because it's a significant challenge to build in the infrastructure. The concern is when you go into a market and you dump several millions of

dollars into this investment, you have to have a long term play to that and so absolutely, I think the provider should bare that responsibility and I think we have. Unfortunately, the burden has to be all on the front end in making sure that we decide where we're going to go with service, including the private capital and we're not asking taxpayers to fund our operation. I don't think there is any burden on the taxpayers and that's our point.

Dever stated except if the service isn't quality then there is nothing you can do.

Bosch stated we would absolutely lose customers and we would fail.

Dever stated most of these neighbors aren't going to be over billed. I guess what I'm trying to figure out is what side do we err on, do we err on the side of capitalism and what I believe is a natural process which I believed 100% in or do we rely on trying to provide a neutrality that's going to actually empower the citizens of Lawrence.

Bosch stated I think you have neutrality with your middle mile network, much like we're asking you. We wouldn't be able to come to you with this plan, if we weren't able to lease those fibers. That plan I showed you, there would be no way we would be able to pull that off, if we didn't have that. I think the City is already provided a step up in advantage and we can go to market a lot quicker and a lot more cost effective and so we can take on a huge capital expense upfront and still be market competitive with pricing on a service produce that's 100 times better than what anybody's experiencing today.

Farmer stated I think that fiber policy is really a good idea. I heard several things in this conversation about whether or not to mandate common carriage, the franchise fees, the net neutrality, the cause of action. I agree with Dever 100% on where you put the burden. The bottom line is all this stuff, if I'm not mistaken connects to a hub in Kansas City, right? These fibers connect to the data center in Kansas City so if that goes down then you've got the same issue, irrespective of whether or not you've got a common carriage network or not.

Bosch stated not exactly. What happens in Kansas City is a carrier neutral hotel. There are several providers of both power and data available in that area and there are several

networks to access those and so you do have redundant loops to connect to the backbone of the internet. It happens all the time that lines go down, but if you build a robust redundant network, then your data just flows around that.

Farmer stated so it's not possible for that to go down and affect customers in Lawrence.

Bosch stated not in a wholesale fashion. If you only have one path, it depends on how well the network has been engineered. If the network that's been engineered is point to point, Lawrence to Kansas City, and that's not what we've designed, we've designed on that has a loop so if our loop gets cut, it does another route back into Kansas City. It's a matter of the engineering quality.

Farmer stated what I take from that is it sound like we need to make it a requirement of the network that we have coming into our community, regardless of who it's with, to contain kind of a failsafe for the end consumer. I think the common carriage network is a good thing for our community. I don't think it provides a City run monopoly any more than the monopoly that somebody would have being the first one in. I think there is a competitive advantage to collaboration and having skin in the game. What I'm disappointed about is this entire conversation tonight has not been about the technicalities of fiber and what is needed for the citizens of Lawrence, it seems to me it's been a pissing match between which people we like best and who we think can pull it off the best. That's really unfortunate because that's not doing anybody any good and so I think that both groups want some type of government assistance. You know your letter in September said you didn't want anything from us and tonight you want a building and land, but that's not a deal breaker, but then again neither is the \$300,000. I think it's disingenuous for us to say both sides don't want some type of assistance from the City just in very different ways. We kind of lost sight of the common ground that we kind of have in this conversation. It's really unfortunate because we've given tax abatements and tax incentives to hundreds of businesses over the years and with all due respect to Dever, I've never heard that Happy Tee Shirts say if you give Chris Piper at Grandstand a 12 year tax abatement then we're

going to have to close and pick up our toys and go home. Maybe this industry is different and I just don't get it because I'm stupid, but this competition that's been fostered is a really good thing for our community. For me, the conversation now moving forward needs to be about our policies since it's our fiber in figuring out the best way for us to make this the best deal for people in our community and it seems to me we're having to make a choice between businesses tonight and that's not really fair. I think our policy needs to dictate what we do with the taxpayer resources and it not necessarily being a loan, building, land, or office building with all the infrastructure and land cost that comes along with that, the taxpayer resources being what we already have ground and what's going to end up being the best deal for the citizens of Lawrence. What I don't want if we get completely racked over the coals every time there's an increase in franchise fees and now we're talking about buying utility poles from Westar. That's why we have to get this right because if we don't, 10 years from now this next Commission sitting up here is going to be saying, how we fix what that group really didn't take time to get right. I think we need to keep focused on the project, the program, not the people and not lose sight of the fact that both are asking for some type of government assistance and the real questions are common carriage, the franchise fees, and whose responsible. It seems to be that the best ideas are to say okay, if Wicked is going to do the fiber common carriage network and you want to tap into that paying \$25 per drop, in all fairness, maybe Wicked should too so that there is no competitive advantage there. We need to collaborate and have more conversations irrespective of the type of subsidy that folks ask for.

Bosch stated our question is what policy will the City of Lawrence be in an environment where we can attract private capital which we've already done, invested, and be able to compete in a free market on a level playing field. What we're asking for is a level playing field and a policy that allows us to do that. To create the entrepreneurial eco system that will drive economic development in a digital age.

Amyx stated if we're in a position where we offer a policy, similar to what Commissioner Schumm laid out, where we'll have the opportunity to lease 4 strands of the fiber that we have or whatever you need to do, the same available to Wicked or any other fiber company that's coming into town next. As Dever mentioned the first in is a monopoly in the neighborhood even though they could overbuild. What kind of effect on your ability to operate your business city wide is that \$300,000 loan guarantee going to have on your business?

Bosch stated if it's a one-time deal then I don't think it would have much of an effect, but the reality is over the last 9 years, they've received almost half a million dollars in subsidies of lower than market pole attachments, free power for the radios and the list goes on and on. Our concern is more of an on-going support and it continues to happen. What we're looking for is some sort of predictability that we can operate in the market. This particular proposal is brand new and I would have to defer to my board on that discussion.

Amyx stated everybody that goes in has the same ability to operate the business. This fiber is not going to establish a monopoly anyway. It is no secret that I didn't support the request that came from Wicked as part of the Public Incentive Review Committee. There may be a majority of this Commission or supermajority that favors a public incentive part of this deal, but what are their restrictions going to be on those particular businesses that request public assistance of some kind. You just need predictability, correct?

Bosch said absolutely. I need confidence that if we're going to take a 100% risk because we have developed a business plan that does not require public taxpaying dollars, my preference would be that we level the playing field and we say Wicked go out and raise the investment yourself. You have the same 4 fiber and you can do the same exact thing. I don't have any problems with that scenario. We've done the hard work in building a business plan that has attracted the investment without the requirement of public subsidy. We do think that would be penalizing an entrepreneur for putting in the hard work of breaking through the barriers of innovation and creating the innovation necessary in this industry that's very capital intensive.

There's a reason why you don't see a lot of startups. Most of the time you're pitching for capital, you're hearing about cloud based application that are asking for \$50 or \$100,000, but I'm asking for several millions of dollars in a specific locked in geography that your return on investment is going to be stretched over several years. It's a drastically different play and significantly harder to raise that kind of capital. The only reason candidly we've been able to do that is because we have a passion for small towns like Lawrence and so do our investors.

Schumm stated the question I was going to ask it sounds like you started to answer it somewhat. I was going to ask you what would be the recommendation in order to keep it competitive and you just said, you're fine with coming in with your money and 4 strands and anyone else can come in behind you or in front of you and start using those to hook up or light up customers.

Bosch stated as long as they're paying the same rate, they bring their own money to the table that's all we're asking for. We're asking for the same right-of-way and easement access that everyone else had currently.

Schumm stated the lack of any kind of exclusive deal either geographically or verbally doesn't distract you and your investors from coming to Lawrence. In other words, you're not asking for any kind of geographical guarantee.

Bosch stated absolutely not. I'm not asking for protected territory. I'm not asking for exclusivity, the 96 strands that we had on our presentation came from Mr. Wisdom's presentation which was based on what the City needs today and what the City's projected requirements are for fiber it said we have 96 fibers available in these lands unaccounted for. We have no plans for them. I have no problems saying, hey, if you want to lease here's a pair of fibers, here's what it cost for those pair of fibers, go at it and bring your money to the table and if you have the wherewithal to build a business plan and go get private capital, there's certainly private capital available throughout the region. We just picked up our second investor last week and continue to get inquiries from investment. It's not difficult if you're well vetted by the region,

and we've gone through that process. I don't think we should be penalized for doing the hard work of creating a business plan that is free from public subsidy.

Montgomery stated there's a big difference between building a business plan and building a business. They're two completely separate things. When I was out raising money and I raised millions of dollars to bring to Lawrence for this project, I also had a really nice slide deck and a business plan and like every business plan it had nice annual growth year after year. The state invested \$100,000 in our project through K-Tech. That went through a rigorous, diligence process with the State. You brought up that this is a competition between providers. There's only one provider in this conversation and that's us. We actually provide internet service and we've been doing it for a long time. There's somebody who wishes to build a network and has a business plan that's yet unproven, has no track record of providing service and wants to own and operate everything for his own best interest. I've been in this business long enough to understand that the way to be successful is to collaborate. The way to be successful going forward is to have some kind of a common network. The proposal that Corliss has brought to the table has different tiers that allow subsidy for one company and not for another and have requirements for one company and not for another. It could be very successful going forward. I feel like we've been through this enormous process over the last two years. The only reason we're even talking about leasing fiber to a startup company with no experience is because we've been advocating year after year to making that happen. My concern is as we go forward, that somebody with no experience in this industry is telling you I'm going to be successful with this, that, and the other thing. I'm here to tell you as a guy who runs a network day in and day out, there's not a single network anywhere in the United States that is overbuilding with fiber that's not subsidized in some way. Anybody that tells you they can come in and do it with only their own cash, with no subsidies, come in and compete head to head with heavy duty players and be successful long-term doesn't have enough information about the project. One thing I did want to highlight is that Kansas City has 143 megabits per second.

Lawrence is number 24 and there are 23 cities in front of us including metropolises like Haysville and Dodge City. When you scroll down to the internet service providers in the state, Google Fiber is number 1 and they have 5 stars from their customers and these are independent ratings from the customer. Comcast is currently beating us because they've got a bunch of gigabit that their putting in Kansas City. Out of all those companies, some of which are substantially better funded than we are, we're number 3 in the State in terms of the download speeds that we're providing for our customers and out of the top 10 ISP's only our company and Google Fiber have 5 star ratings from their customers. The other thing I'd like to point out is that nowhere on this list are the Reflective Group, Free State Broadband, and RG Fiber. There's only one provider here having this discussion and I feel like as we've been through this process, Mr. Bosch had the opportunity to pitch his project at the Request for Information. He's had an opportunity to apply for PIRC incentives. He's had every opportunity as this has been a very open process and for him to glom on at the last possible minutes with a proposal that's unfunded and untested as business plan.

Amyx stated are we ready to consider that policy the way it's written right now.

Corliss stated we can consider it when you tell us to.

Amyx said we'll look at it over the next several weeks and we'll make sure we're ready to vote on the policy that's here and then we can consider the final consideration of Montgomery's proposal, the first part of November. I think it's important that we have the policy in place first and then we consider the incentive package that's being requested.

Dever stated RG Fiber has a pretty straight forward request.

Amyx stated will do that at the same time, but by then will have our policy in place. Everybody is going to know what they can buy into or lease into.

Farmer stated the thing that excited me was to hear Bosch say that a \$300,000 loan guarantee would not cause him to not want to do anything in Lawrence, if it were a one-time thing. The things I'm interested in are whether or not we mandate common carriage, the

franchise fees and if we're going to mandate those from people who receive public subsidy or not if that's just going to be a specific thing for people who get public subsidy then that neutrality and cause of action and will we require the common carriage network providers to pay the drop fee in addition to those that they leased that fiber too. I'd be curious to hear your thoughts on those.

Amyx stated I just want to make sure that we understand that on this fiber policy it has to be even all the way across. Anybody coming in is going to be able to buy at a certain rate or lease at a certain rate and all those requirements are the same. We're going to keep what we need to have and we're going to make available to these vendors this fiber that's available. I just want to make sure that part and that lease of this fiber policy is clear and that there is no creation of any type of monopoly. If there is going to be a public incentive part of either the fiber policy or a separate policy because of that, I think that we need to have that clear too so that somebody like Mr. Bosch who is not going to require a subsidy to operate his business and he needs to understand that going into this thing, what is the advantage for your business over his business. One, you establish a policy that's going to make sure that everybody gets the same deal going in and then two, the public incentive policy part of this thing so that everybody understands that if you get some kind of incentive, what are the requirements for those incentives. We need to have that discussion too because they're two different things.

Schumm stated if you go the common carriage route then what the language is in the common carriage agreement or the definition of it that provides for service and within reliability and service within a timeframe that is acceptable to the public. Because as it was pointed out here tonight, the person that's hooking it up in front of the guys house to the house, he doesn't have much to say about what's going on beyond that front sidewalk. If you're going to grant the common carriage agreement to a company, mainly Wicked, then what are the regulations that govern service so that person who is buying the 100 drops at a time, can guarantee the

customer that there's going to be sufficient service there and that's a touch subject and it's going to be very difficult to define that, but it's something that almost had to be thought about.

Amyx asked does that needs to be part of the fiber policy.

Dever stated probably so.

Schumm stated you can determine in terms of state-of-the-art standards in the industry of service. There's got to be some parameters somewhere and some benchmarks on how they grade these different companies.

Amyx stated we need to give direction to staff to start putting together this fiber policy and come back in such a way as to making sure it's not creating a monopoly anywhere and take all other considerations by the Commission and to make sure anybody that's in the business of doing this can come forward and whatever deal they can buy in under the rules established. Then we can add the discussion of the public incentive part, whether or not the common carriage thing is going to happen and then we consider Montgomery and Bosch's request after we establish this. I'm convinced that we have to have this policy in place.

Riordan stated I think so too. The only other aspect that I would add is price is a big thing with this because if the speeds the same what would keep somebody from increasing the price of those other two fibers high enough that you're in a non-competitive situation if you have a shared fiber.

Dever stated there was a fee that he proposed that's tied to the CPI and it's a formula that's fair and the rest of it is an access cost and they can charge whatever they want to provide the ISP.

Corliss stated we'll put both these items back on a future agenda as you determine.

The Commission directed staff to draft a Fiber Policy and place it on a future agenda for consideration.

5. **Considered an appeal from City staff and Director of Lawrence Public Library decision to administratively revise the site plan (SP-12-81-11) for the Lawrence**

**Public Library/Vermont Street Garage, 707 Vermont St, to add/relocate certain bike racks. Work with senior center**

Mary Miller, Planner, presented the staff report.

Amyx stated what is the final total of the bicycle parking spaces between the garage and the overhang area?

Miller stated it will be 50 on the library property and then I'm not sure how many would be added to the meters. I don't think they've moved forward with that based on the fact that we're going to have the appeal, but Public Works determines how many will be placed on the meters.

Farmer stated isn't those 2 per hoop, 58 in total.

David Corliss, City Manager, said the hoops on the meters can only take 1 bike, correct?

Scott McCullough, Planning and Development Services Director said no, those meters use 2 bikes, 1 on each side. We haven't landed on an exact number for that, at this point.

Amyx stated you made the request to become before the Commission.

Mayor Amyx called for public comment.

Aaron Paden stated I currently serve on the Lawrence/Douglas County Bicycle Advisory Committee. We just submitted a letter that's included in the agenda packet and I wanted to reiterate some of the concerns and recommendations. I also wanted to say, just because I just happened to notice, I have a lot of pictures of the bicycle rack next to the library that are always full. The only day that I had been there and they hadn't been completely full was 3 minutes before opening and I was standing in line with other people to get in and there were 3 bikes there at that time, but I also just noticed that in the greeting garden, a picture of someone parked there, a 3 wheel recumbent and I didn't know if that was a disabled person or what, but I just noticed in my pictures someone is actually parked in the reading garden, right next to where those bike racks should be. The first several weeks I noticed that every time I was there they were at capacity. Also I noticed the size of the garage indicated the garage was for bicycle

parking and vehicle parking. Bicycle parking is a cost effective way to provide parking if people are biking downtown, it's great to encourage this to reduce the number of parking garages needed in the long-term as bicycle parking takes far less space than vehicle parking, less infrastructure investment and up keep. In order to live up to the bicycle parking advertised in the parking garage, I think it's important to note that the recommendations by the Bicycle Advisory Committee and what we recommended was installing all bicycle parking spaces originally proposed in the site plan and an additional 5 racks or 10 spaces to existing parking in front of the library, 5 racks on under the overhang on Kentucky Street for staff covered parking which was promised. These additions will help prevent bicyclist to railings along the yard between the library and the parking garage and to keep people from taking bicycles into the lobby of the library which I guess has been occurring and I know that one of the Bicycle Advisory Committee people had been doing this when it's been raining, and has brought their bicycle into the lobby so it seems like providing more parking where it's appropriate would improve that. I think these are the recommendations to keep from overloading the current bicycle parking that's there.

Schumm stated we're currently at 58 spaces and what are you suggesting?

Paden stated the information I got I think was maybe a little bit different than what you provided, but the 5 racks next to the door and their saying to move those 5 racks to where the 5 racks are now so there would be 10 racks. We're recommending keeping the 5 racks that are there and recommending an additional 5 racks.

Schumm stated does a rack park 10 bicycles?

Paden stated 5 racks parks 10 bicycles.

Schumm stated 2 bikes per rack.

Paden stated right. We're recommending keeping those 5 racks next to the door and there are a couple of reasons. As far as accessibility there are people who are disabled who actually ride 3 wheel bikes and it's a nice place for bike racks for that and also for children. We discussed that it was an iffy place, but most of what we discussed with the Bicycle Advisory

Committee was adding the 5 racks that were recommended, but actually adding 5 more racks. There are 5 racks in front of the parking garage and we're saying add 5 more there and keep the 5 that are next to the front door.

Riordan stated when you're saying adding these, could you tell me how many bicycle parking spots that you're recommending.

Paden stated 10 parking spots.

Schumm stated you go from 58 to 68 parking spots.

Paden stated however we did discuss, although we liked the hoop ideas and we would like to see those added, that there was only one side that people locked their bikes to because the other side is too close to the curb. I think people would lock them there, but that's what they tend to notice, the other members of the Bicycle Advisory Committee (BAC).

Farmer stated each circle is 10 bikes because we're talking about adding 5 racks.

Corliss stated 5 racks gave you 10 bikes.

McCullough stated essentially the BAC accepted all of the changes, but added back in 5 racks at the entry way. They liked the idea of the new racks for the staff public parking, new racks on the Vermont Street side of the garage.

Farmer stated each circle is 5 racks.

McCullough stated yes.

Farmer stated so technically we have 25 racks plus the hoops.

McCullough stated yes.

Schumm stated 58 spots.

Farmer stated right, but we're talking about racks versus spots and 5 racks being 10 bikes didn't make sense when there are 5 circles up there. I thought that each circle held 2 bikes. That's why I'm confused. Alright, I'm good.

Paden stated we also recommended at some point that bicycle racks be added in the garage. The racks have been full.

Amyx stated the racks in the front and one of the reasons for moving those is because that is where the handicapped entrance is.

McCullough stated that is one of the reasons sighted. It's really moving those and adding 10 spaces under the canopy of the library and then adding the parking meter hoops. Essentially we get more spaces with this plan, but not in front of the entry way.

John Thornberg stated some of the recommendations in trying to understand this were a little bit puzzling and my experience is there not always entirely well informed. For example, they recommended the addition of 5 bike racks to the library for staff. By providing that parking for staff, we're changing the original plan from providing staff parking in the basement of the garage and moving them outside. I talked to one of the BAC members yesterday and they didn't know that. That's excellent planning to provide staff parking for public employees and it couldn't be a better policy. I've had candid talks with the library and the reason for that is this, because the overall program has moved bike parking away from the library clear over to the parking garage and disappointed some people to then provide bike parking for the staff in the basement of the library seems inappropriate. So they're fearful of criticism so they've taken away the option of having staff provided for on the inside which is excellent planning and out of fear, back tracked on that. That's an example that in some ways the BAC is not informed. The big problem here is Kentucky Street bike parking is not getting used. We've had candid conversations and the library director knows it's not being used and he doesn't understand why. The reason is bicycle security. The most important reason and the reason I ask you not to endorse these recommendations was because they would enhance a fundamental critical flaw of the existing plan. He showed pictures of the library bicycle parking area. Because those spots on Kentucky Street are non-functional they're not getting used. The ten spaces near the door which I don't recommend being installed are not there so you have a total of 30 provided spaces only 20 of them are not being used so it creates an overload on the only 10 spaces that are here and because they've never been adequate, you're getting these recommendations.

Here's what's actually happening. When kids come and find these spaces are full they turn and pick out poles, but they look over to the Senior Center and there has always been a rack at the Senior Center and is perpendicular to these racks. It looks inviting and it is. If they're on their BMX's they'll do this on their bike. They'll go down over one curb into the on-coming lane up and over the island down into the exiting lane and to the bike rack. Their original destination was never the parking garage, it is the library and they become pedestrian and they go back across those two lanes all the way to the library. They do their thing at the library and guess what? They reverse the whole process so four times you have crossing busy lanes. The cardinal rule in providing public bike parking is do not design in conflict between cars and bicycles. The City wants to double bike parking, but it's not going to solve that problem. When this whole thing was in flux, how might do you plan on maximum conflict between bikes and cars. If you add 10 more spaces, what's going to happen is that you're going to have more of the same because sharing those 10 spaces are with motorcycles, mopeds and scooters. They pull in there between these racks which by the way are primitive poorly functioning racks and there ancient history. They give the poorest possible performance because they don't secure bikes in their place. The bikes are spread out all over.

Amyx stated where you are suggesting that we put these bike racks.

Thornberg stated I'm suggesting you abandon this entirely. Get the kids away from the traffic. Stop with the predictable violation of the most cardinal principle is to get the kids away from there. If you want a suggestion, you're going to need two bike racks, modern bike racks that will do the job well and only cost a few bucks. Not everybody is going to be happy with this, but let them decide where their least disappointed to have them and maybe semi permanent so they can be moved. The long term fix is a thing called a bike station. It's concentrated, highly efficient storage in a very small area. There are communities that have solved this problem.

Schumm stated to forget the dollars.

Amyx stated no, we've got a maximum top end on this thing.

Corliss stated that's what you told me.

Thornberg stated the idea is very efficient storage, very small space.

Dever stated let's talk about bike racks, that's what we're here for.

Amyx stated under the original site plan of the library, how many total bicycles was anticipated.

McCullough stated there were 34 required by our code and 40 provided.

Amyx stated now we're up to 58. The bicycle parking that was mentioned to staff, where was that intended to be?

McCullough stated that was not necessarily provided. The closest racks are probably on the Kentucky side. The new bike racks for the staff are outside of the building and are under the canopy. As I understand it, the public is permitted to park there, but more than likely given the hours that staff comes and goes, they'll be available to staff first.

Amyx stated John you're trying to tell us that we need to better place the racks that we have because of the public safety and the kids that are going through the entrance and exit going to the Senior Center.

Thornberg stated there's going to be an accident and is entirely predictable. You need to get the kids out of there and leave those bike racks for the mopeds and motorcycles. At the very least get that rack out of the way and put up a barrier wall so the kids won't get over there. I recommend taking a better choice. Would you like to know why they don't use those Kentucky Street bike racks?

Amyx stated briefly.

Thornberg stated I've had 5 bicycles stolen.

Amyx stated we have a site plan that originally was to contain 34 spaces for bicycle. We were up to 58 on the new plan. McCullough, the feeling about the safety portion that Thornberg brought up, I obviously recognized that as being a problem.

McCullough stated the point is that they are probably in the preferred location if that is a concern because there on the correct side of the library entrance. We just have to recognize that bicyclist cross and this wouldn't be the first path they have to cross to get here to the destination. There crossing streets, there crossing driveways and all kinds of things. We agree that you don't want to exacerbate any kind of pedestrian vehicle connection or intersection and that's why they're located here in the first place.

Amyx stated I've got a lot of concern about the accessibility issue going to the library. I don't think I want to do anything to hamper that. I think there's a lot of work by that had been done by staff and a number of people to get as much bicycle parking as possible at the library and also still come within sight of all the dollars we're allowed to spend at the library. The only thing that does concern me is the safety issue. I wish Thornberg didn't guarantee that an accident was going to happen.

Schumm stated the one rack that's on the Senior Center property, can that be moved to a different location and then it no longer becomes and attractive nuisance.

Corliss stated you control that entire block.

Amyx stated we can move it to just about anywhere we want.

Corliss stated if we want to comply with the bike parking standards for the Senior Center building as well, my suggestion is we talk to them and see if we can't move that. I'm not so sure it's necessarily in the best shape anyway and we might be able to move it to a better location and maybe even improve that as well.

Amyx stated let's look at the Senior Center and move it to some other part of the sight and then the site plan that we have for the library and the bicycle parking.

Riordan stated I think simple solutions sometimes work better than difficult ones. The first thing that I'd recommend is to put sign on the Senior Service rack that says "for Senior Services, please do not park here" and see if solves the problem and if it doesn't then I would consider moving it. As far as people not using the racks on the back you can put a sign on the

ones that they typically use when their full that says “additional bicycles can be moved to this area” and just have sign or something very simple there and see what happens. If we’re given 60 and we only need 36 or 40 that should be sufficient. We can also monitor it and we can always add. One of the things I thought, when I looked at that building and looked at the north side and I saw grass underneath that overhang, I thought that’s nuts, you’re not going to get grass to grown on the north side underneath an overhang. Put rocks in there and put the bicycles in there. It has the ability to be safe, you have a large area and it’s not going to obstruct anything. I don’t think it will look bad, but that really is a place that I think you’re eventually going to have put rocks in there beside grass anyway. I don’t know if that would solve it or not. I worry about safety a lot, but I’m not particularly overly worried about safety issues in front of that because it’s well lit and well done.

Amyx stated my suggestion is that we approve the site plan, let’s work with the Senior Center whether it’s signage for a while. Let’s deal with the site plan that deals with bicycle parking.

**It was moved by Riordan, seconded by Dever**, to approve the revised bicycle parking for the Lawrence Public Library/ Vermont Street Garage, 707 Vermont Street; and, direct staff to work with the Senior Center on the bicycle parking. Motion carried unanimously.

**6. *Defer for one week. Received a presentation from City Auditor regarding Performance Audit: 2014 Sidewalk Data.***

**D. PUBLIC COMMENT:**

Someone made a policy recommendation in terms the fiber policy for the City that might be able to solve some of the discomfort that I understand around common carrier of a fiber. I think the City does this in terms of where there’s building going on conduit is laid down. One way to do that would be to extend that to any private entities that want to put fiber to the home and while the road is open that the City fund, mandate, or create some type of relationship where common conduit is laid so that there’s ability for fiber to be pulled very cheaply into the

future. All the fiber doesn't have to be pulled now. We don't know the nature of the evolution of fiber technology as we go now. The City is the most logical guardian of the people of Lawrence's interest in the broadband future. It makes sense to create a situation where there is equal access to these conduits. There's one addendum that I see as the optimal thing would be an increased situation of competition where you have the City actually setting up its own ISP and maybe pull its own fiber or two whenever there's a situation to do it to the home and then allow anybody else to enter into the market. That way you could set up a situation in terms of the internet market where you have public versus private competition.

Greg Thompson stated I just wanted to echo the common carrier as a very important aspect of what's being proposed. It extends what the City is doing all the way to the hub to allow carriers to come in and I think you've seen an interest in all the carriers wanting to have access to fiber that's already laid. The way the internet works is there are segments that are owned by other people and they rent their fibers from other people. I don't see that's any difference than common carrier. Once the fiber gets to the house, and it's available, I think you're going to find out people are going to buy it. If the common carrier provision is there, it's not as nice as having a complete monopoly to someone's house, but it's better than having to run a second fiber. The idea that it's going to encourage people to offer service is there and also incentivizes build out because the first person to the neighborhood is going get that common carrier monopoly and so you're going to have a race. You're going to have all these people that were no longer interested like perhaps WOW and AT&T now in a race to get that common carrier in there so they get that \$25 for every house. It's super important and it makes gives me the ability to choose who I want, not the City. As a customer, if I don't get the service I want, I can go to someone else and there's things called trace routes that let me see where my packets are going. If some service provider provides me a better path to where I want to go, that would be a quality of service that would differentiate them in addition to prices. Don't wipe away the common carrier aspect because it's important.

**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 10:35 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 28, 2014.**



Diane M. Trybom \_\_\_\_\_  
Diane M. Trybom City Clerk