



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

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

December 9, 2014

The Board of Commissioners of the City of Lawrence met in regular session at 4:00 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Dever, Farmer, Riordan and Schumm present.

A. STUDY SESSION: (4:00 – 6:00 p.m.)

1. City Commission Study Session with RG Fiber.

The City Commission reconvened at 6:35.

Commissioner Farmer arrived at 6:37.

B. RECOGNITION/PROCLAMATION/PRESENTATION:

1. Presentation from the Lawrence Police Foundation to the Lawrence Police Department of AED equipment.

C. CONSENT AGENDA

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

1. Received minutes from various boards and commissions:
Mental Health board meeting of 10/28/14
2. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 178 vendors in the amount of \$4,224,586.35 and longevity in the amount of \$424,531.90.
3. Approved licenses as recommended by the City Clerk's Office.

Retail Liquor

Cork & Barrel Downtown
McDowell Mountain LLC
901 Mississippi St.

Expiration

November 16, 2014



Taxicab License

Party on Wheels
Christopher Turner

December 31, 2014

Affordable Limousine Services Inc.
Larry Ojeleye

New License

Sidewalk Dining & Hospitality

Hot Box Cookies New License
732 Massachusetts St.

Sidewalk Dining & Hospitality Renewals

Ingredient 945-947 Massachusetts St.

Cereal Malt Beverage Renewals – Off Premise

(Pending Departmental Approvals)

| | |
|--------------------------|--------------------------------|
| Dillons No. 70 | 1015 West 23 rd St. |
| Dillons No. 68 | 3000 West 6 th St. |
| Dillons No. 19 | 4701 West 6 th St. |
| Dillons No. 98 | 1740 Massachusetts St. |
| Hy Vee No. 1 | 3504 Clinton Pkwy. |
| Hy Vee Gas No. 1 | 3900 West 24 th Pl |
| Hy Vee No. 2 | 4000 West 6 th St. |
| Hy Vee Gas | 4020 West 6 th St. |
| Lawrence Jellystone Park | 1473 Hwy 40 |
| Miller Mart | 2301 Wakarusa Dr. Suite A |
| QuikTrip No.167 | 1020 East 23 rd St. |
| Swansea | 1801 West 2 nd St. |
| Walmart Market No. 484 | 3300 Iowa St. |

Cereal Malt Beverage Renewals – On Premise

(Pending Departmental Approvals)

| | |
|------------------|-------------------------------|
| Biemers BBQ | 2120 West 9 th St. |
| Burgers by Biggs | 4801 Bauer Farm Dr. Suite A |
| PepperJax Grill | 919 Massachusetts St. |

4. Bid and purchase items:

- a) Awarded the bid for an interceptor trench at Lawrence VenturePark to King's Construction Co., Inc. for \$306,958.
- b) Awarded the bid for RCRA site remediation for Lawrence VenturePark to King's Construction Co., Inc., for \$363,631.
- c) Approved change orders 17 – 32 for Project No. PW1224 – Lawrence VenturePark infrastructure for \$106,379.69.
- d) Authorized the purchase of 13 IE 3000 switches and power transformers for the ITS Project Phase I from Vital Support utilizing the State of Kansas purchasing contract for \$18,642.

5. Adopted on first reading, Ordinance No. 9027, repealing Ordinance No. 8951, pertaining to the salary of the City Commissioners and Mayor.
6. Adopted on second and final reading, the following ordinances:
 - a) Ordinance No. 9049, authorizing the Codification of the ordinances of the City of Lawrence, Kansas.
 - b) Ordinance No. 9055, establishing a multi-way stop at Overland Drive and Queens Road.
 - c) Ordinance No. 9056, establishing yield signs on Laura Avenue and on Maple Lane at 13th Street.
7. Adopted Resolution No. 7100 - Revised 12/05/14, declaring the boundaries of the City of Lawrence, Douglas County, Kansas.
8. Accepted dedication of utility easements as shown on the Final Plat, PF-14-00190, of the Lawrence College Career Center and the Dwayne Peaslee Technical Training Center, located at the southeast corner of 29th Street and Haskell Avenue.
9. Approved the request from Cornerstone Plaza, LLC, to purchase one half acre of Lawrence VenturePark property, currently leased to Cornerstone Plaza, LLC, located north of 2004 E. 23rd Street and authorize the Mayor and City Clerk to execute the necessary documents to sell the property at \$1.19 per square foot for a total of \$25,894.40.

Amyx pulled consent agenda item no. 2 regarding claims for a separate vote.

Moved by Schumm, seconded Riordan, to approve non-Rock Chalk Park related claims to 172 vendors in the amount of \$3,134,020.78 and longevity in the amount of \$424,531.90. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Amyx asked David for an explanation for Rock Chalk Park claims.

David Corliss, City Manager, stated the major item follows through on the Commission discussion that you had on request for reimbursement on the economic development grant to RCP LLC who we had the contract with for the work out there. We've looked at all those soft costs that were part of your regular agenda where we had the discussion about the loan amount and the legal fees and those things. You have the recommended dollar amount. We received

the money from the assist foundation last week so that's in the City's checking account and we also have \$67,970 of City payment. We're retaining \$25,000 because RCP has to get some of the punch list items, primarily the storm water ponds and here in the winter it would need to be re-contoured as part of the finalization of that. They work well now; they just need to be finalized. That's the major punch list item that's remaining. We've posted all of the information that we've received from KU Endowment which owns RCP LLC in regards to their review of those expenses and had provided some analysis where we think the expenses are justified.

Amyx stated I know there's been a lot of discussion about the concrete and the cracking and that stuff. Do we have a plan that's in place that we believe that we're going to try and see if that's going to correct the problem?

Corliss stated correct Mayor that's as separate issue from this claim. We have notified the contractor that they've got to fix the foyer area and the mezzanine area in regards to the concrete surface. We've been out there and looked at a number of different options. This evening, after the facility closes, we're going to be trying a few things to see if they work and we're going to continue to work until we get it right. We've also separately, again separate contract, retained money from that contract as well, \$50,000 and we've also got the warranty requirements under the contract in regards to what the contractor needs to do and we have every belief the contract is going to follow through and get the surface appropriate. Commissioner Dever was involved in looking at that surface as well. We've got the architect that has indicated it's not appropriate and needs to be fixed. It's not structural, it's cosmetic, but it needs to be fixed, regardless and that's what's going to happen.

Amyx stated once we've exhausted that and if we can't come to any type of conclusion, what happens then?

Corliss stated we have contractual remedies to make the contractor fix it, if it gets to that point. We also could keep retainage. There are a number of different legal options that we have in regards to that, but again, the contractor has been consistent in following-through on the

issues that have to be fixed in any project. I know sometimes we don't like to make an analogy; we're still working on punch list items at the library so it's not uncommon for a large project where the contractor has to finish things and get them right and that's what is going to happen here.

Amyx stated I do understand Dave, in looking at other projects that we have in the community and the way things have happened, but sometimes, in a case like this where it is a big time project and there is a lot of exposure, one of the things that I thought might be important to look at if we can't correct it or we're just looking at this project as a whole, especially the concrete portion, would it be something that we could use our City Auditor to do a performance audit on the concrete portion.

Corliss stated absolutely.

Amyx stated it may be a third party set of eyes that would be different from our architects, staff and the Commission.

Corliss stated what we're trying to do obviously, is get it fixed. It would be fine to have someone else look at it as well, but it's probably going to be somebody that's familiar with making sure the right kind of floor surfaces are done appropriately. Michael Eglinski, City Auditor, would be like me, you'd need to probably get somebody else to help him look at that. In my case, I've got architects and other that are looking at options to see what we can do to have the contractor fix it. We've looked at all the different options, all of them are still on the table whether it's taking portions of it out or whether it's putting epoxy in, whether it's resurfacing portions of it, whether it's doing any number of different things to make sure that's it's done correctly.

Amyx stated before the meeting I was speaking with Commissioner Dever about the options that had been presented through the analysis that you've done and that's something we ought to look to see if that is the best option to correct it at this point. I put that out as something

to be considered, in the future, which is some type of performance audit, if necessary, on that particular portion of the project.

Corliss stated unless you all direct me, otherwise we're going to continue to look to the contractor to fix the problem.

Amyx stated absolutely.

Riordan stated the only thing that I would ask is that, if there is a solution at this time that appears to work, that if, 1, 2, 3 or further down the line, if we have further problems with this, that it would still be warranted at that time. The concrete although this is exact science because my next door neighbor, when I was in residency, was an engineer and he took concrete as an entire course so these things have been studied for a long time, but I'd like some type of guarantee after a year which I know we have the ability up to that time to request them to fix things, to extend that on a more permanent basis.

Corliss stated that's a good point Commissioner.

Moved by Dever, seconded by Riordan, to approve Rock Chalk Park related claims to 6 vendors in the amount of \$1,090,565.57. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

Amyx stated on Item No. 9 which is Cornerstone Plaza, LLC, to purchase one half acre of Lawrence VenturePark property, I want to thank Commissioner Schumm along with Dave in working with the owner of that property to come to an agreement on the sale of that lot to a very good company coming to town and having the ability to accommodate that project.

D. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report regarding Common Ground Program 2014 Results and 2015 Applications; New promo videos from Lawrence in Focus; Opening weekend of skate rink a success; October rental licensing and inspection report; and, a public meeting on the development of the Arts "Our Town" Grant.

Farmer stated great job to Scott McCullough, Planning Development Services Director, on the rental licensing information. Organizationally, we want to maybe make it a little more user friendly which is something we can talk about, but I'm just thrilled so much with the remediation rate and with the information that we're gathering about this and what the violations are. Anybody who had hesitance in supporting the previous rental registration program that we voted on earlier this year to take a look at this report and really understand its usefulness. We're licensing more and more and these particular units are going to be a lot safer because of this program. I just wanted to say "great job" and please pass that along to your staff that works in that department.

Riordan stated I went out to the Sports Pavilion on the west side. It was a fascinating and education thing watching people come in. You had people that were out of shape, people that were in great shape, old people, young people, children teenagers, but one particular story was a man who was 80 years of age and he comes out because of the fact that he's by himself and he said it's much better than sitting in my house where I can come out here and walk, talk and be with people. It's something that we ever imagined, that type of use for this place, but it was really quite incredible. The other thing is after that, we went by downtown and my eyes were struck by the fact the ice rink was full. We went and looked at it and it was like a Norman Rockwell painting because there was a group of about 16 people caroling and the kids were having fun. It was just a rather amazing situation to see all those people on the "ice" having a good time and the citizens of Lawrence benefitting by these two things.

E. REGULAR AGENDA ITEMS:

1. **Considered approving a Special Use Permit, SUP-14-00312, for a new 120' Verizon Wireless communications tower located at 1725 Bullene Ave. Submitted by PAMCORP LLC for Verizon Wireless LLC on behalf of Steven L. Eudaly, property owner of record. Consider adopting on first reading, Ordinance No. 9054, for a Special Use Permit (SUP-14-00312) for a new 120' Verizon Wireless communications tower located at 1725 Bullene Ave. (PC Item 2; approved 8-0 on 11/17/14) A valid protest petition has been received; therefore a super-majority vote (at least 4 out of 5 votes) is required for approval of the Special Use Permit.**

Sandra Day, Planner, requested the City Commission disclose ex parte communications.

Schumm stated I had several conversations with neighbors, half dozen emails and the general theme was, please, don't approve it and have them look somewhere else. I can be specific as to the names of people if you want me to, but they were just all the same type of comments.

Farmer stated I had a conversation with County Commissioner Nancy Thellman, talked to probably a dozen people in the neighborhood and gotten countless emails some of which I corresponded with and I can provide those if necessary or needed, most asking for us to deny this request.

Dever stated other than the emails that we're received, I have nothing to report.

Riordan stated I just had emails and had one conversation with Michael Almon after the last Commission meeting, specifically about his thoughts which were actually made public in the Planning Commission minutes.

Amyx stated I did have telephone conversations with Michael Almon and another phone conversation with Russell Livingston, and then I had numerous emails from individuals from the neighborhood.

Sandra Day, Planner, presented the staff report. One of the questions that came up was where existing communication towers in Lawrence are so this is a map of that. What I did notice late yesterday was that one of the towers that exist on Bob Billings Parkway at Hidden Valley Park is not in the data layer so I asked GIS staff to update that in terms of that communication tower.

Schumm stated that's just a pole at this point.

Day stated the one on Hidden Valley is a monopole. It's the same kind of tower that's proposed here. Day continued with her presentation.

Riordan stated what the certainty this will not fall within the projected fall zone and how do they determine that this did not affect property values.

Day stated what the applicant talked about the edge mirroring integrity of that tower, to my understanding from review of the literature and research, these types of towers very rarely fail so they would have to provide the necessary engineering documentation that it's going to collapse or fall, but I think they tend to bend more than to fall. As far as property values impact that's not an element that staff reviews, that's between the appraisers and the property owners. I've been told many times by appraisers, it's not an exact science as far as the value goes.

Riordan stated one of the criteria was that it didn't affect property values, wasn't it?

Day stated I don't think that's a criterion.

Randy Larkin, Senior City Attorney, presented the telecommunications act of 1996.

Amyx stated regarding the search ring map, is that something I should ask the applicant about.

Scott McCullough, Planning and Development Services Director, stated probably.

Riordan stated, item no. 3, whether the proposed use will cause substantial diminution in value or other property in the neighborhood in which it is to be located. I thought that was my question.

McCullough stated it was and that criterion does exist. There's been no study presented either way in terms of diminution in property values of surrounding neighborhoods. My personal experience with this in speaking with appraisers is that it does not diminish property values. They're integrated into neighborhoods; they're absorbed into the system and don't have much effect. There's been no study and it's been a bit inconclusive in terms of whether or not it would, could, or even what the history is in Lawrence of that situation.

Riordan stated my concern was the use of the word "mitigation." To mitigate means to make it less. That was not the question and I didn't think that the answer gave us any information.

Amyx stated just to get an idea on how high 120 feet is compared to the elevators to the south or even our tower at the fire station at the 1900 block of Haskell.

Day stated we did a rough estimate of the grain elevator to be about 118 feet. I don't have an idea of the water tower height.

Amyx stated I was thinking about the training tower.

McCullough stated the training tower is 4 to 5 stories so about 50 or 60 feet.

Scott Goble stated I'm representing Verizon Wireless (applicant) and Steve Eudaly (property owner).

Schumm stated what your profession is and are you an engineer.

Goble stated I'm an independent real estate contractor. I do site acquisition for all of the major carriers and in this case, Verizon. I would like to speak with you about our efforts to find a suitable location for Verizon and of course answer any questions. This overhead represents the original search area that was issued by Verizon's RF Engineering Team. The search area has boundaries on the north side that is East 13th Street and the east boundary is viewing the southeast 19th Street and US boundary, Kentucky Street. You can see the flag which was engineering's ideal location that's where they would like us to find them a site to build a 120 foot tall tower. When we started our search for suitable locations, we of course studied the City's development code very closely and met with staff. We determined that the most likely zoning districts to get a conditional use permit approved for a tower would be in the industrial zoned area. I want to assure you that we've always looked for existing structures that are co-locatable and will meet our height objectives. We did look at the grain elevator and speak with the owners of the grain elevator which if I recall correctly was a co-op. We didn't get too far along in negotiations with them because we asked our RF Engineering Group to run that location and analyze it for its usability. That grain elevator is south of 19th Street. Engineering ran that at 200 feet and we ran that as if we were going to build a new tower because the grain elevator is not tall enough for our use at that location. It's outside of the ring. Engineering came back as

said we need to have something inside this ring or it's not going to work our coverage objectives. Verizon has existing antenna's sites located around our search area. Not only are we trying to improve the existing coverage inside and near the outside boundaries of that search area by developing a new antenna site, we're also trying to hand-off capacity on overloaded sites that surrounds this particular search ring. Everywhere you see on this map a name such as Downtown Lawrence, Oread, Bullwinkles, and East Lawrence, those are existing Verizon antenna sites that we are trying to off-load. If we get too far north, south, east or west within our search area, we're diminishing our ability to hand-off capacity on those other existing Verizon antenna sites. Barker is what we would call this site if we were successful in building it on the proposed tower on Mr. Eudaly's property. We feel like it's the best location and the closest to the center of the search ring, the closest to the target that we felt like was worthy of bringing to you for consideration for approval because it is zoned industrial. I've been asked if we had looked at a County owned tower that was at the Law enforcement Center. I submitted a report to Sandy within the last day or two and I wanted to show you that we didn't originally consider it when we were doing a search because it's too far away. Although we didn't analyze this tower originally because it was obviously too far away, since the Planning Commission hearing, we did go ahead and have our engineering analyze it. This is a 199 foot monopole tower and everything between the very top of the tower and this location is occupied with antennas. There are tall Omni directional antennas mounted in these areas and that takes up space that we could not put antennas because it would cause conflict between the antennas. The tallest that we were able to determine we could go on this tower is approximately 120 feet. We ran the analysis at 120 feet and we came up with a map that shows the coverage. It does not adequately improve our coverage and that tower is, frankly, too close to downtown Lawrence.

Riordan stated can you explain to me why site no 2, the Salvation Army site, didn't work out.

Goble stated while we did talk to the owners and they expressed some possible interest in leasing us ground, it wasn't as close to the center of the search target. Mr. Eudaly's property worked better for us.

Riordan stated I noticed that where the mark was where the pole would go, it was on the south side which was further away. Is that where the information was?

Goble stated I don't know which mark no. 2 you are referring to.

Riordan stated on the simulation drawings.

Day stated are you talking about the photo simulations.

Riordan stated yes.

Day stated that was just where they took the photos from.

Goble state the photo simulation overview, those photo locations is where the photographer was standing shooting toward the tower. We did talk with the people that owned that property and looked at potentially trying to do something with a new tower there. Even though it is just right outside of the search area, our engineering team came back and they said Mr. Eudaly's property would work much better.

Riordan stated it's within the search area, right?

Goble stated no, it's actually right outside.

Amyx stated on the search ring map, that is not the service area, but that is just the most optimal location as to where the tower ought to be.

Goble stated we are tasked with finding antenna locations close to the center of that as possible to best meet Verizon's coverage.

Amyx stated what it would take to move that ring.

Goble stated this ring would not be able to be moved and accomplish what Verizon is trying to accomplish because as you can see in the previous slide, they already have existing antenna sites surrounding that search ring.

Riordan stated when I look at my map 1725 Bullene Avenue, the Salvation Army is definitely within the search circle and it's not outside of it. The northwest corner is 100 feet within 80 to 100 feet within the search circle.

Globe stated the map you're looking at may not have a search circle.

Riordan stated the map I'm looking at is different than the one that you have.

Globe stated on this map the Salvation Army, the northwest corner is shown within the circle. On the actual search area map, the official map that was generated by Radio Frequency Engineering, if you found that spot on this map you would notice it was right outside, but I'm not saying the Salvation Army didn't work, even though it might be on the edge just inside or just outside the search ring. It did not work as well as Mr. Eudaly's property. Mr. Eudaly's property met the development code requirements and that's why we brought Mr. Eudaly's property to the Planning Commission for consideration.

Amyx stated is the map that he just took down, different than the one the Planning Commission saw and has been forwarded to us.

Day stated it's the same map. The map that is up on the screen right now was one that we received yesterday or the day before.

Amyx stated that map is to scale to the yellow one that was just up there.

Day stated I have not made that determination.

Amyx stated as I see the search ring map on the yellow one it looks like the western maybe 15 or 20 percent of the Salvation Army property is within that search ring.

Riordan stated there are 2 search rings, but they're not consistent. Which one are we to believe?

Globe stated they're close. This is the map that came from Radio Frequency Engineering, this is a map that I put together using the loading map that's available on-line.

Amyx stated which one did the Planning Commission see?

Day stated the previous map.

Amyx stated that one show that about 15 to 20 percent of the Salvation Army property could be used to hold this particular tower.

Day stated we did discuss that property during resubmittal as a possible option. It does have residential zoning so the code prefers non-residential zoning to residential zoning.

Amyx stated so anything else that is outside this search ring would not be the objective of Verizon.

Globe stated no, I won't say that. I will say that Mr. Eudaly's property is the closest to the target, it meets the development code requirements and that's why we brought that to you. We had talked to other people in this industrial zoned area and several said they weren't interested in leasing ground for a tower on their property.

Amyx stated how about the old fire station that's just to the south of 19th Street.

Globe stated the only place we went south at 19th Street that I can recall was the grain elevator.

Amyx stated that's pretty far south. I think it's a good site, but that's not what we're considering tonight.

Globe stated to keep in mind we're trying to get as close to the center of the search area as possible. Mr. Eudaly's property makes the most sense for Verizon.

Amyx stated I understand and the one thing I see is that I want to make sure that the Planning Commission saw exactly what we're seeing tonight and I want to make sure you're trying to give coverage to everyone that lives in this area. It appears to be what the map is doing, but is there another site that hasn't been considered tonight that maybe meets those requirements outside that ring.

Dever stated there were many comments brought up in the emails we got from residents about asking about the grain elevator. I know you indicated clearly that it's outside of what the engineers indicated needed to be in a certain ring of area that would help off-load these calls and provide the service upgrades that Verizon is looking for, correct?

Globe stated correct.

Dever stated why they would continue to bring it up if it was made clear that that was not a suitable location. Did that come up at the Planning Commission meeting and did you make it clear?

Globe stated yes, we talked about the grain elevator at the Planning Commission meeting.

Dever stated one of the reviews by the engineers said it was not suitable from a structural standpoint.

Globe stated we wouldn't chose to put our antennas on the grain elevator for environmental reasons and because it's not tall enough. Going that far from the center of this search area we would have to go taller than 120 feet which is the grain elevators height. We did analyze at 200 feet, and it did not work for our coverage objectives.

Dever stated what's the environmental reason?

Globe stated grain elevators have their own set of concerns, asbestos in the building because they're so old, the dust, and ignition combustion issues and we would not like to go on there if we can avoid it.

Farmer stated that's quite ironic that we can take into consideration health and safety related risks putting something on a grain elevator, but not when it comes to putting something near citizen's homes. You just got to love the federal government. In the agenda review meeting yesterday, we were basically told that we had to have a legally defensible way of coming at this rather than making it about health and safety and thank you to whoever provided the health effects from cell phone tower radiation, but according to those FCC regulations we can't even take this into consideration. There was a district court case in Mexico that I found, the City of Santa Fe v. Komis and the supreme court of New Mexico awarded damages for the perceived decline in property value resulting from a source of stigma even with no objective evidence demonstrated that the perceived nuisance was unsafe and the market loss was not

proven by comparable sales data. The National Association of Realtors actually talks about the impact that these types of towers have on property values or the perceived impact or nuisance value that they have on property values. There is absolutely no way in the world, not only because I don't think there's been due diligence done on this with looking at other sites, but theirs is no way in the work that this is a good location for this tower. In relationship to having a supreme court in New Mexico case that if in fact a super majority of the Commission wished to deny this, we're protected. I just found that this afternoon so I haven't had chance to bounce it off Tony Wheeler, City Attorney, but I did read through the case and while not an attorney, I think I got the jest of it. I just wanted to get that out because I know a lot of folks are here to talk about it and from the way that it's sounding, I'm not sure that this is going to pass frankly.

Schumm stated you're proposed tower is 120 feet tall.

Globe stated that's correct.

Schumm stated I may show my ignorance of radio waves and towers etc..., but it seems to me like the higher you go the more coverage you get in a tower. That's why we see radio towers that transmit great distances on our AM/FM radio. Is that true with cell phones too?

Globe stated that is not true. There are a lot of different things needed to be taken into consideration such as communication with the other towers and the way the cellular network operates. There are frequency issues and every carrier has different height variable requirements based on the frequencies that they there licensed to utilize. Different heights affect different types of use of that cell tower whether it's a voice call or a data use. There's just not one rule that the higher you go the better.

Riordan stated what the probability is that this will fall within the enclosure area.

Globe stated it's 100%. We'll provide engineering data to back that up and I can also guarantee you 100% that if the towers were ever subjected to wind loads, strong enough to make the tower fail and collapse on itself, even if it were to collapse on the concrete foundation where the metal building would have been before it was blown away, that won't happen.

Amyx stated a long time ago we talked about these towers and if ice would form on them in the winter time. Is that still possible? In everything that you have been involved with have you had any problems with ice forming on these things.

Globe stated never. Ice will form on antennas on the tower, but by the time it melts enough to disengage from that overhead, it's soft and there's no danger of it being sharp or heavy enough to cause any damage.

Amyx stated you said one the reasons that you could consider things to the south of the search ring was because it gets too close to your East Lawrence site.

Globe stated and it's too far away from the two sites that we're trying to off-load to the north.

Amyx stated it's too close to the East Lawrence site. What does that mean? Is it going to have an effect on these things working?

Globe stated what it really affects, maybe I said it wrong, it not that it gets too close to those other sites, it gets too far away from the sites on the side of the search area.

Amyx stated the reason that I ask that is if it has an effect on the existing site in East Lawrence, did it have an effect like on our fire station that's pretty close to that site also.

Globe stated no, it won't have any effect on any other antenna sites that are being operated under different frequencies by other owners, fire station, AT&T, and Sprint.

Amyx stated only on you.

Globe stated only Verizon.

Amyx stated knowing that we have possible a site to the south and you can't tell me that we can't move that ring. I would like to have that considered on City owned property as a possibility because you have a tall structure there that it may blend into. I don't know. I have a concern about this site. The reasonableness of the timing of the application sounded open ended, but a decision has to be made. Is it a period of days or minutes?

Larkin stated it depends on the factors or circumstances of the case. Typically, it is 90 days depending on the circumstances and in some cases it's been extended out to 2 years, depending on whether the court thinks the City is dragging its feet.

Mayor Amyx called for public comment.

James Grauerholz stated I've been called out of retirement for the simple fact that this right next to the Burroughs Creek Park and Trail and I stand for William Burroughs and that legacy, that park, that trail, and the east side in general because I'm the Burroughs estate. I'm a 30 plus year resident of Brookcreek Neighborhood, about 3 blocks from this proposed site and I also care about Barker neighborhood because on Learnard Avenue, south of 19th Street in the Barker neighborhood is 1927 Learnard, the Zinn Burroughs house, the City's historic landmark and a non-profit project of the Burroughs estate and I want to underscore "non-profit." I have one point to make I remitted it writing and I'm really here as a courtesy to take your questions if you have them. I do have one little thing to add, but my point is simply, having seen everything that the public had seen and the Commission had seen, I don't understand why the grain elevator is unsatisfactory. Mr. Globle kindly mentioned that it was not tall enough, but it's actually taller than the monopole that they proposed at 1725 Bullene, right? It's a little bit out of the search ring, but the elevators are already tall enough. I can see where grain dust or even an explosion, but since I live next door, we haven't had one. I think that should be taken into consideration and I think we better get on the line right away to Sprint/Nextel to tell them to check all of their 8 and 10 units on top of the grain elevators and make sure their safe from grain dust. In summation, I don't feel that this case has been made. The burden of proof had not been met. I might add since their adding two places for future towers, you might want to know that those could rent for \$3,000 to \$5,000 a month. Of course we have them there so we don't have to build more and more towers, but there is a payback. The whole cherry on the whole Sunday is the permission to say that they can't co-locate or chose another site.

Nancy Hubble stated my husband and I built in the Habitat neighborhood, 909 LaSalle, well within the 200 foot radius of the cell tower although it is apparently against the Telecommunications Act of 1996 to discuss health information to deny a cell tower location. I can legally protest the following three things.

1. The loss of our property value which has been proven that property value is lost in other communities.
2. The incredible ugliness of having this grotesque tower in our back yard;
3. The irresponsibility of the City Planning Commission to approve this in opposition to the well thought out pre-planning of the Burroughs Creek Recreational corridor by a past City Commission in which we hope this City Commission will rectify.

As to health issue don't call the police to take me away, there are hundreds of scientist and public health officials worldwide who are against cell towers in residential areas. In many other countries, including China, the allowance for the amount of output from the cell tower is 3,000 to 5,000 times less than the US allows. There are many excellent studies showing the bad physical side effects of living in a radio frequency microwave tower area. For a good overview of some their studies, read the synopsis by Mount Shasta Bioregional Ecological Center. I don't know why the government made a law to stop people from using health issues to fight against cell towers. If it looks like a duck and quacks like a duck, no law is going to prevent us from calling it a duck. We look to you, who are here to protect and watch out for us. Sadly to say we hope you have a close look at this 120 foot duck that has long sharp teeth.

Jane Live stated I live down the block from where this is proposed to be built. I had some comments but first I want to say in response to some things I've learned today from the Planning Commission. If I didn't live on that block I would really think this is being built in an industrial area, even though you pointed out the residential environs, but I drive that street every day. The vacant lot you're talking about which is next to the proposed site abuts the first of 10 Tenants to Homeowners houses. That man who lives there is within 100 feet of that tower. I'm

within 300 feet of that tower. There is a petition of 20 households which went to the City Commission as a legal petition. I also have 59 other names I'd like to present and earlier this week another 100 names were given already, not from just the immediate neighborhood but our friends and people who care about our community. I've learned about the Burroughs Creek Corridor Plan which is my backyard and I watch the use that keeps growing all the time. In that corridor plan which I read and had trouble understanding all the language, what came to me was it said, this plan takes an industrial area and we want to move it into residential and commercial use in conjunction with this park use. Building this tower even though technically it is still zoned industrial, that whole plan was to move things out of industrial into our residential neighborhood. If you drive around these surrounding blocks, you will know that we're a neighborhood.

Martha Chapin, HOA President for The Woods, stated the appraisal institute, the largest global professional membership organization for appraisers throughout the world educated its members that a cell tower should, in fact, cause a decrease in home value. As one realtor put it, it's the kiss of death for real estate values. In our neighborhood, our current home values taken off the Douglas County tax records, are homes are valued with 37 home owners at \$5,816,050. Our homeowners pay a total of \$85,000 in annual taxes. What we learned in our research was from one of the top researchers in this area, were home values can be affected 10 to 25%. Our lowest least expensive house in The Wood is \$142,250. The least amount on 10% would be \$14,250 in home value loss. Our most expensive home in the development is \$166,700 at a 25% loss that's \$41,675 which would put most of our residents upside down in their mortgage and that's substantial. There is a much simpler solution though AT&T and Verizon offers microcell wireless self signal booster tower antennas. The Verizon Wireless Network Extender costs \$249.00 as of June 2013 you need to have a broadband internet connection providing at least one MBPS of bandwidth and placed near a window where you can sit it so it can acquire a GPS signal. The article on this device indicates some Verizon

customers have even been able to get an extender for free by complainer to Verizon customer service. However, when I went through our neighborhood to get at least 29 signatures on our protest petition, I did ask our residents who have Verizon, how is your service? They said they loved Verizon and no dropped calls so our area gets excellent service. I also have the Verizon maps which were in your packets from the internet that showed complete coverage in Kansas, complete coverage in Lawrence and complete coverage in our neighborhood. So we ask you again, The Woods, to vote no.

Josh Montgomery, owner and operator of Wicked Broadband in Lawrence Kansas, stated we have 8 tower sites in the community including the equipment on the Harvard Tower Site and the Law Enforcement Center, north of this site. I think the gentleman from Verizon may have been mistaken in that the second tier of LEC is not used so their analysis of that tower site, they did it at the wrong height. I spent a lot of time up there and it's definitely not being used. The second comment I wanted to make was it's probably not a huge deal to cover this area with a south sector off of LEC and a north sector of the grain elevator, you can split it and have half the coverage come from north and half from the south and Verizon could absolutely pull that off. Finally, if you have a common carriage fiber network, you would be able to back what is called a distributed antenna system in this neighborhood and it's similar to what NextG put in, in southwest Lawrence for Sprint and AT&T uses on the University of Kansas campus. That system uses a series of small antennas and installed on utility poles they're then connected to a fiber optic network and that follows the traffic back into a central location where it switched. It's working really well for Sprint in southwest Lawrence and it's working really well for AT&T and it would work in this neighborhood too, but of course you have to have the fiber in the ground.

Bonnie Uffman, Johnson Ave, stated it seems obvious to me is that this whole thing is based on a false premise of need. We are shown this ring and okay we need this here. I don't really accept that. I live in the middle of that ring. I'm a Verizon customer and I have no

problem with Verizon coverage. I have not run in to anyone else in my neighborhood that does. Saying we need it doesn't make it so. To me this proposal is so wrong on so many levels that it's really hard to know where to start. I feel so strongly about this that I committed time and energy to speak to neighbors and friends, gather 70 signatures personally against the proposal in this process. To me that is not a "not in my backyard" issue, it doesn't belong in anybody's backyard. I believe a tower of this magnitude would best be located outside of City limits. It definitely does not belong immediately adjacent to residences for adjacent Burroughs Creek Trail. Granting this SUP would be direct violation of the Burroughs Creek Corridor Plan which calls for less intensive commercial zoning in this area as many other people have mentioned. The tower would be a step in the opposite direction, intensifying industrial zoning. I don't understand the purpose of creating and agreeing on a plan if it can be so easily disregarded because that just does not make sense to me. A lot of time and effort went into that plan and it was agreed upon as I understand it. I'm concerned as are many about how this would affect property values. It just seems like a justice issue, just not fair to people who happen to live where this proposal comes off. I'm also extremely concerned about the well document health aspects of living in close proximity to these transmitters. To say we can't consider this is just bazar. In short, I hope that you will take a stand for the neighborhoods in opposition to this special use request. Somehow the words "special use" means you know there's opportunity to deny as well as there is the opportunity to accept. It's a special use, it's not a given that this has to be approved.

Russell Livingston stated the issue at hand here is whether or not to grant a code variance to the applicant, construct the cell tower above the height restriction set for this site. Bestowing this special privilege to the applicants is not zero sum events. What is given freely without compensation is taken from the surrounding property values and hence to respective owners. I'm here tonight to address the applicant claim that the industrial character of our neighborhood suits the proposed construction. This area has been zoned and platted as

residential and is primarily residential at this time. The removal of the rails from 1987 ended most of the industrial use in this area and began the transition to a neighborhood of moderately priced homes. The Villo Woods development of 37 homes gave the City several hundred feet of right-of-way to the rails and added several acres to the parks system, the footbridge of Parnell Park was built to connect the adjoining neighborhoods subsequently, and The Burroughs Creek Corridor Plan arose. On the east side of the trail, many in-fill lots directly adjacent to the proposed tower site have been used for low income housing as a part of the Tenants to Homeowners and Habitat for Humanity programs. The citizens in these homes would be adversely affected by the economic blight created by the proposed structure and the possible, life safety and negative health impacts. Once again, our lower income citizens are being forced into an unfavorable situation. Verizon claims the proposed site is the only site that suits their construction surely, we don't believe that a multi-national company so poorly managed, and that they lack a contingency plan. There are several other suitable locations within the proposed construction rings. I urge you to deny the special zoning needed in favor of the tower construction in the proposed location and protect the citizens of a lower social economic residential neighborhood. The Burroughs Creek Trail is one of the most beautiful, highly utilized green spaces in the interior of the City. As a property owner in the neighborhood who regularly utilizes this community asset, I am opposed to this industrial misuse.

Michael Almon stated I will explain how the microwave tower proposal violates the vision of our three neighborhoods of Barker, Brook Creek, and Villo Woods, and the Burroughs Creek Corridor Plan that grew from that vision. Most people don't realize the Burroughs Creek Corridor Plan has 2 major goals. The main goal is residential infill because this is a land use plan. The second goal, the trail, is to help transition from a defunct industrial-rail corridor to residential infill. This microwave tower would obstruct that transition. First some background. The Burroughs Creek Corridor from Ward St. to 19th St. was planned and platted as all residential lots. The southern half was rezoned to industrial zoning in the 1950's at the request

of Mr. Zimmerman, Morton, and Scott. They had a vision of a rail-served industrial corridor. That vision never flourished, and collapsed after 1988 when the rail line was abandoned. The parcels in this area are too small by today's industrial standards. Only commercial uses remain. Map 2-2 from the Plan shows only commercial uses in the area, such as plumbing supply, heating & air, auto repair, lawn service, storage units. There are no industrial uses as Planning Staff incorrectly claimed. Current industrial zoning is a throwback to a bygone era. The BCC Plan designates this area for elimination of industrial zoning. Reintroducing industrial uses like a microwave tower only perpetuates the industrial zoning. How does a land use plan make a smooth transition? Through zoning amortization. To quote the Burroughs Creek Corridor Plan:

“Industrial zoning should be modified to be consistent with the existing commercial uses.”

“Future development of industrially zoned areas should be scrutinized for residentially neighborhood compatibility.” 1725 Bullene should be rezoned CN2 “Neighborhood Commercial Center” Staff Report failed to mention any of this. Staff made only a one-sentence verbal comment to the Planning Commission. Planning Commission didn't consider this at all. There is a two-fold purpose of any land use plan: community goals and predictability. Less intensive land uses is the central goal in this area of the corridor. Now we need predictability to protect neighborhood investments – such as: the Salvation Army Family Residential Center, the Tenants to Homeowners project, the Woods on 19th Neighborhood, and new homes being built on La Salle St. Outdated industrial zoning should not be used as justification for a microwave tower immediately adjacent to residential zoning. Tenants to Homeowners is a perfect example of investments needing protection. Lawrence always trumpets affordable housing, workforce housing. The Tenants to Homeowners project is a public-private partnership. The City of Lawrence invested three lots and the La Salle St. right-of-way. Lawrence also invested about \$3 million in the Trail. A microwave tower would be an industrial wrench in the works. It would also blight the heart of the Burroughs Creek Trail. Please take these steps tonight:

- 1) Deny the Verizon SUP 14-00312.
- 2) Instruct Verizon to take due diligence, and do an engineering study to co-locate their antenna on a nearby structure as Code Section 20-529 requires.
- 3) Instruct City staff to initiate the rezoning of all IL, IG, and IBP industrial zoning in this area to CN2 commercial zoning classification.

Tina Holiday stated what I noticed when we had the chart that Verizon showed the green was commercial with very good coverage, a lot of yellow which is residential and good, and had some pink in vehicle fair coverage, and a tiny bit of blue which is poor outdoor coverage. The area that they're talking about is in yellow which is residential which is good already so I don't know why they have to do more and have green everywhere because they already have good coverage there. I also agree with not having an extra tower up there that is not needed and I think that more research needs to be done to look at some different areas.

Kerry Altenbernd stated I'm currently the Barker Neighborhood Association, but I'm not here speaking tonight for the Barker Neighborhood. We haven't actually taken an official position on that. What I've heard tonight, I think Verizon is saying it has a problem and it wants us to fix it for them by letting them do this. A problem that they come up with, a solution that's easy for them is to put this tire here. However, we've heard at least one alternate, splitting use and the north/south having part of it come from the grain elevator and the one by the judicial center and that's just one option. It seems if there really is an issue here they need to be a little more innovative in the solution because the fact that this tower would be an eyesore and a definite detriment to a number of neighborhoods in the City. I think you should send it back to them and say, if you want good coverage and you say that coverage isn't good enough in this area, come up with something that would solve your problem, but will also not make us live with something that is detrimental to Lawrence.

Sharon Vaughn stated in the plans that I looked at for this project they included a 12 foot chain link fence with two strands of barbwire at the top. Do the plans still include that?

Amyx stated yes.

Vaughn stated the reason I was asking that is because I looked at the Planning Departments buffering plan and it just had to do with some evergreen plantings. I was wondering how a barb wire 12 foot fence could possibly be buffered. I find it surprising that the only place is a residential neighborhood and they could possibly put that, but when I looked at all the charts, I saw that the only place they could put it is very close to the edge of their target. If it's that close to the edge of their target, a hundred feet over is the Salvation Army and I don't know, but maybe a hundred yards is the fire department. I was wondering what to do because I've read so many conflicting comments about this whole thing. I drove out there this afternoon and I drove around the area. It is hugely residential. It's true there is some left over industrial, but it's this big compared to the rest of the neighborhood. I also read something else that I really appreciated from Verizon that says they have needs and desires of the surrounding community and they want to be a good neighbor. I would just ask them to be a good neighbor now and to explore some of the alternatives that they might be able to find.

McCullough stated it's a 6 foot fence.

Vaughn stated there is an existing 6 foot fence, but I read in the engineering drawings it's 12 foot.

Amyx stated it's a 6 foot fence. He said on behalf of the City Commission I wanted to thank everybody for their emails and comments that we've received and all of it has been very helpful in helping to make the decision that we're about to make and staff, thank you for all of the information that you've provided and also the applicant. Looking at the number of things we've been asked to consider tonight in deciding whether or not this SUP should be granted, we have to look at the things that were presented to us by the City Attorney's Office, but at the same time, I believe it's important that we still represent our community. When we look at this particular area and look at the amount of residential zoned real estate that is in this area, I do not think this is compatible and is something that shouldn't be considered because again, it just does not fit the neighborhood. We've looked at this type of zoning request and in this case a

SUP on whether or not it's appropriate to be at this location. My particular feeling is because of the residential neighborhood, I question about the effect on property values. I cannot in good conscience vote in support of this knowing that there may be a negative effect on somebody's property value. Their most important possession is their homes. I cannot support their request.

Schumm stated I concur with that and in addition, it seems like the spirit of the plan is being challenged here. It just doesn't seem like the neighborhood plan in place and I know how much work goes into those plans that then to come in with an industrial style antenna is not compatible with the desire of how that plan was written. I just feel like there are probably other sites that would work better than how this works with the neighborhood. I think we need to direct Verizon to go look and find out what other possibilities there are. There are probably are other technological kinds of actions that can take place to accomplish what they're trying to do. I always say in our business, you're first deal is your best deal for you. If the customer takes it up then you've just scored a big victory, but I'm of the opinion that that's probably their best hand and they would like to have that approved by us. Also, as someone said they probably have a fall back plan or other solution, maybe a little bit more expensive, maybe not just exactly the way they like it, but I'd say they should go look and try and come back to us again. Obviously, from my comments, I'm not going to support the request tonight.

Riordan stated obviously, I have some concerns. I didn't agree with the information that we got from the Planning Commission when that was presented to them. It said that there would be no decrease in property values, but there wasn't any information to back that up. That would mean that number 1 and number 3 items would be "no" rather than "yes." I think there's a real possibility this could be at least located in the land that's vacant by the Salvation Army. It's still within the area that could be done. This is where the zoning is old zoning that just hasn't been changed and the one property for the Salvation Army has been changed, but that just goes to show you that sometimes the industrial area is not the best area for it. In general, it would be, but in this particular case I think most likely this has been changed so that the

Salvation Army could buy it and develop it at some time. I think that area to the northwest would be a reasonable area to do this and it would be much further away from other residential areas. It will still be in the neighborhood and within the zone so I'd at least want that to be looked at and other possibilities whether they'd be technological or whether they'd be physical structures. I would recommend this go back to the Planning Commission to re-evaluate based on those, plus the other comments that had been made by the other Commissioners.

Schumm stated when you say turn it back to the Planning Commission, with what instructions?

Riordan stated answering the questions that the City Commission had raised tonight. First, is the residential character; second, the fact that we don't have evidence that the property values are not decreased; third, we don't know that there aren't others areas that can be used; and, fourth, there are other technological possibilities that can be used.

Schumm stated the reason why I wanted to ask you is that it seems like it might be better just to deny the request and then come back with a new plan. Obviously, we're not in agreement with this site at all, I'm forecasting that we're not. If you go back to the Planning Commission with those points, you're liable to get the same back again at a later moment. It seems like we raised enough issues that it just needs to restart. I guess I need to ask staff about the ramification of that in terms of their ability to file another SUP. Are there any restrictions on that?

McCullough stated if it's a different location then that would be a new application. They could do that and there would be no time period on that situation.

Schumm stated any comments on our right denying it versus returning it to the Planning Commission.

McCullough stated I think if we're going to stick with this particular location, I wouldn't want to turn it back to the Planning Commission to move the application to this site to another site. I think that would require either withdraw or denial and then a new application to get the

process going again. If you wanted to look at specifics on this particular location then it may demand a remand to the Planning Commission to look at this particular site.

Amyx stated if we send it back to the Planning Commission, it's not like a zoning application where it comes back and the number of votes is different for approval or denial.

McCullough stated it would change the denial that required 4 votes to deny. The only reason it's required 4 votes to deny tonight is because that's contrary to the Planning Commission's recommendation. If it comes back, you can deny it with 3 votes. The other votes remain because of the Protest Petition.

Amyx stated I would strongly suggest that we look at item no. 4 which is to deny the request.

Schumm stated do we need to have findings of fact with the denial?

Amyx stated we'll ask the City Attorney's Office to prepare findings of fact that we can vote on at our next meeting.

Randy Larkin, Senior City Attorney, stated if it is denied we would request that we be directed to prepare findings of fact because that's one the requirement of the Telecommunications Act of 1996 that we put in writing and base it on substantial evidence.

Amyx stated you'll be able to get that by the comments we made?

Larkin stated yes.

Moved by Farmer, seconded by Schumm, to deny the request and direct staff to prepare the findings of fact for Special Use Permit (SUP-14-00312) for a new 120' Verizon Wireless communications tower, located at 1725 Bullene Avenue and consider adopting on first reading, Ordinance No. 9054. Motion carried unanimously.

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

The City Commission reconvened at 8:43 pm

2. **Considered authorizing staff to begin negotiations on a scope and fee with the design team of El Dorado Inc. for the 9th Street Corridor Project.**

Christina McClelland, Director of Arts and Culture, presented the staff report. She said they're bringing the recommendation to begin negotiating and that draft contract would come back to the City Commission for approval.

Amyx asked about the timeframe on when that will come back.

McClelland stated if the approval is granted tonight, I expect it would take us several weeks to negotiate that and with the holiday's coming up that could potentially set that back. My thought would be maybe early January.

Amyx stated David, do you have anything to add.

David Corliss, City Manager, stated no. If we get direction this evening we will begin that work and we'll obviously make sure you get any draft scope for everybody to get a chance to look at it and provide an opportunity for comment.

Amyx stated during this time of putting together the fee and scope of service there was a lot of talk during the East Lawrence meeting about communication and being able to make sure that communication is provided to the neighborhood and people have time to get involved. Have we settled those issues?

McClelland stated your right; we did receive a lot of feedback related to that. I know some of it is more related to how we can use our City channels to assist in communication as well as some of our project partners like Downtown Lawrence Inc. and the East Lawrence Neighborhood Association. We would certainly be working with them.

Diane Stoddard, Assistant City Manager, stated I think El Dorado might have some other ideas about communications.

Amyx stated do we need to give directions about our expectations and what would that look like as part of the scope.

Stoddard stated if there are any thoughts that you all have that you would like to share with staff. We've certainly received the message about communications, discussions and

meetings with the stakeholders. It is very important and would look to include that in the draft scope that we'd bring back to you.

McClelland stated when this returns to the City Commission, should it receive the approval tonight, there's certainly the opportunity for further comment from the public related to how we can better do that.

Mayor Amyx stated we will take that final action.

McClelland stated correct.

Mayor Amyx called for public comment.

Jackie Becker, Vice President of ELNA, stated in response to the well-attended community meeting on December 1st at New York School, the ELNA Board convened on Monday, December 8th to draft a document that clearly states our desired engagement with the East 9th Street Corridor Project. East Lawrence is a large diverse group of residents and businesses working tirelessly to find consensus in what it means to be a full partner in the 9th Street Corridor Project. We acknowledge the approval for the City to go into negotiations with El Dorado. ELNA fully intends to be a full partner in this project. We are currently continuing negotiating our full partnership agreement which begins with our statement of values. East Lawrence Neighborhood Association will complete the agreement by Monday, December 15th. We ask that the Commission consider this document in its negotiations concerning the scope and contract with the design firm and have it placed on the regular agenda for the December 16th City Commission meeting to discuss this document. Thank you for your careful consideration of this project and for allowing the East Lawrence Neighborhood Association the time to come to a consensus that supports our values as the 9th Street Corridor is a first of its kind project involving public art, a city street, and a lovingly concerned neighborhood.

Amyx do we have that document now?

Becker stated no. We're very close. We worked tirelessly many hours last night and about half way there and we're going to finish it up on Sunday and have everything to you by Monday. It's coming together and it's our way of saying let's move forward.

K.T. Walsh stated I'm speaking only for myself tonight. Thank you very much for giving us that week delay so we could discuss this at length, that was very helpful. I've been struck by the parallels of the East 9th Street Project and the 3 failed roadway projects attempted in East Lawrence, the Haskell Loop, the East Lawrence Parkway, and the K-10 Connection. When big money comes into the neighborhood and the guys of helping, some of us proceed with caution. I also take my dog almost daily to the south side of the river and bemused when I read the Brown's Plaque on the Marriott Hotel Walkway honoring former City Manager Buford Watson for building the Riverfront Mall and revitalizing the Riverfront. You can see why the mention of revitalizing causes stomachs to churn. On the actual area of the East 9th Street Project in the RFQ for the design and engineering team on page 7, it just grabs it as 6 blocks from the industrial district to downtown which is Delaware Street to New Hampshire Street, but on the attached map to the same RFQ it goes 7 blocks from Delaware to Massachusetts. In the full Art Place Grant it says the project area is 6 blocks on page 2 and page 7. I think some of the confusion about the actual area is in knowing where the actual western boundary of the East Lawrence Neighborhood is which is in the alley behind the Marriott and then it zigs over on the north to Rhode Island Street. I think there's confusion about the cultural district boundaries which include all of downtown and all of East Lawrence. I've heard many people conflate the cultural district area with the East 9th Street Project area, so they assume the East 9th Street Project includes downtown. If the 6th block area Delaware to New Hampshire is now being changed, it needs to be discussed by all involved, publically and openly. We must all agree it is either 6 blocks or 7 blocks knowing the ramifications. In the RFQ it also asks the firm who their proposed sub consultants will be and I'd like to know if the named consultants, placeholder on the grant, are a done deal. If El Dorado is hired would they be willing to look for some ethnic

and gender diversity in their consultants beyond just Canadians. Finally, I want to talk about the Art Place Grant Budget. When I saw all the blacked out names and dollar amounts, I assumed it was because they were just regular or yearly donors to the Arts Center who wanted to protect their policy, but after I noodled around on the internet for a while I realized that all the backed out names and amounts are specifically for the East 9th Street Project, including additional dollars behind the Art Place Grant and the 3 million plus that the City has committed. These are dollars from individuals, corporations and foundations, including some in-kind donations, grant administrative fees etc... We all need to see the figures in the names so we know how much the actual budget is, we don't need to know the Arts Center's salaries. We need to know who supports the project. It's the last step in transparency for all involved and a big step towards building trust. The number and names are from April in the grant so they need to be brought up to date and then continually updated as people contribute to the project.

Phil Collison stated I'm speaking tonight as owner of property along 9th Street. I look forward to participating in the design of this project and will be active to ensure there are a clear structure and a clear process for making decisions. That there will be a defined and known budget and that all the stakeholders and participants are defined in advance and that everything is being done in an open room and no deal are being made in the back room. This project is really about rebuilding infrastructure. We'll get a new street that had local art on it and on the surface that sounds like a wonderful goal, but is that the only goal. That is certainly the only goal of mine. In a live, work and play world, that fulfills the lube goal. The neighborhood is already achieving that goal in the live category. We want some infrastructure improvements. We don't want our taxes to go up and we want our quality of life. The live aspect is good right now, we are a vital neighborhood. There are other stakeholders in this project, what are their ultimate goals? Is it the play goal and the live, work and play world. How does that play goal impact the already good live world? The worst case it that taxes go up and quality of life goes down because our new street becomes an attractive nuisance. I want the project to find that right

balance between the live and play goals. The design process needs to incorporate checks and balances so that what comes into the neighborhood after the completion of this attractive nuisance continues to foster that quality of life. It needs to include a conservation overlay district that has a vision for increasing the quality of life for the residents of East Lawrence. The design process needs to include checks and balances for the future that prevent outside influences from swooping in and changing the overall character of the neighborhood. The design process must include the cultural attributes that have shaped my neighborhood since the City's founding. This street and its environs are a part of the original plat of the City and embrace that this is where the civil war began. This is the place where Exodusters were allowed to own property, where La Yarda brought in some of our earliest residents and where blue collar workers lived along-side shop owner and other merchants and business people and our neighbors who fought so hard to prevent our neighborhood from being destroyed in the 1970's by the Haskell Loop. These are the people that built this neighborhood and built this town. This project should demonstrate the connection between the old and the new. I believe that this project has been initiated with what is perceived to be the best interest of the neighborhood in mind. There are fears within the neighborhood that those best interests are not truly in the best interest of our residents. This project must recognize that and should address those fears from the very outset. The project cannot be considered successful if some residents are left out of the planning process because their concerns were not addressed or they were discounted. I see a project that truly embraces the diversity in lifestyles that encompass East Lawrence, embracing that becomes a part of the project intentionally and is part of the planning. It is in everyone's best interest to build the process and structure so that in 20 years, we can all look back on this project and say, "Yes, that was a well-run and well-built project that truly incorporated the best interest of the residents and full filled it's goals, let's make this project a success that we can all live with."

Amyx stated a lot of you know that part of my young life I grew up on the corner of 9th and Rhode Island Street and my grandparents lived in the 900 block of Rhode Island for a long time. There's been some things that are very positive for this community, especially in downtown that have happened, but I'm here to tell you as Commissioner and I know the gentlemen that I serve with will make sure the things that happen on 9th Street, you are all extremely involved and aware of every step of the process. I truly believe that Josh and his company is the right people to run this. I believed our goals are to have the best street in the world. We're about infrastructure. I truly believe in the conservation overlay district, as I said to many of you during the time of the meeting last Monday night. I do not want to touch your property. I want to build a street that's safe for all. I do want to make improvements in East Lawrence. I believe that is the best community that we have and it's one that this entire City was founded on and that is our goal and that's what this is about. Tonight we're going to prove, I hope, that direction to staff to work out a scope of services and fees with El Dorado to come up with that plan so we truly have something to talk about. We're going to be able to come forward and make a plan that we're all going to be happy with as Phil just mentioned. That should be our only goal in all this as something that we're truly proud of as a community when it's all said and done. That's what this is about and that's all it's about. I look forward to working with each and every one of you through this entire process. We're going to hold one another's hand from time to time, but we're going to get through this and we're going to come up with a project that we're all proud of and one that works for everybody, especially in East Lawrence.

Riordan stated I just wanted to congratulate East Lawrence, I went to the meeting and I think that was extremely well run. I thought the comments were very appropriate and I thought the attitude of the citizens was very beneficial for me to listen to and I think it was a great situation that we had. I think it was a wonderful meeting, probably one of the better ones that I've been to at any time. Second thing, if you read the project approach from El Dorado, I think you'll see a lot of the concepts that you want in that. When you look at both the citizen

participation model and the artist participation model, but particularly the first one, I think you'll see that.

Amyx stated as we get to the final details when it comes back to the Commission, I especially interested in making sure the communications and how that is to be handled between all of the stakeholders is taken into consideration and we have a clear map of what that looks like. If you need my assistance or other Commissioners assistance we're happy to be involved in that.

Moved by Schumm, seconded by Riordan, to authorize staff to begin negotiations on a scope and fee with the design team of El Dorado Inc. for the 9th Street Corridor Project. Motion carried unanimously.

3. **Received request from Hillcrest Foods, Inc., for 18 dedicated parking stalls along the east side of Massachusetts Street at 11th Street for an Uptown Market grocery store. Refer to staff for review.**

Bill Fleming, General Council Treanor Architects, presented the request. (*See request on the regular agenda*)

J.R. Lewis stated the reason why we're here is our community has come to us and asked for a grocery store downtown and we believe in our community. I've met with many people here already and we believe in it and we've tried to look at many different options within downtown and met a lot of resistance with outer locations and with this location we met a team of people that seemed to have a common goal with helping the community achieve something that everybody's asking for. We believed in the project and we believe in the team and as I've shared with some of you already here, it's a puzzle and it's going to take a community effort to solve that. One of the main pieces of the puzzle is the parking. Our main supplier is Associated Wholesale Grocers (AWG) and one of the prerequisites for building a store is a ratio of parking 5-1. Our current store is 5 or 6 to 1 at 23rd and Louisiana. Many questions have arisen about the 18 parking spots. I've heard 34 and 16 are new so we would be developing those with the group. The 18 out front is pertinent and that's what we're bringing to the table tonight.

Schumm stated when you say your ratio is 5-1, what does that mean?

Lewis stated parking spots per 1,000.

Schumm stated 5 parking spaces per 1,000 square feet.

Lewis stated we're looking at 110, based on the square footage.

Schumm stated how this store compares size wise to your store on 23rd Street.

Lewis stated it's about half the size.

Schumm stated how many parking spaces in the garage you are anticipating being for the grocery store.

Lewis stated ground level, I believe, is 59 on this plan.

Schumm stated so 59 plus the two different locations of surface lots.

Lewis stated yes.

Farmer stated I just want to ask you a couple of questions, on the record, just because there's a lot of hub-bub on social media and a lot of people are really misinformed. One of the things is that you guys intentional broke off negotiations with Borders. Can you comment on how those fell apart and why, just to get it out there because there are a lot of miscommunications about what's going on with that deal?

Lewis stated the proposals that went back and forth were not feasible. We gave them a proposal and it would take quite a while to get one back and when we got it back it wasn't feasible operation to succeed.

Farmer stated a lot of this is dealing with the Borders location there's a group of folks that had some meetings with you that really prefer that location as opposed to this one. I feel like it's good to kind of clear the air and get some facts out there straight from you guys. One of the other questions was asked was how it could be cheaper in new building as opposed to an old one. Can you comment on that?

Lewis stated it wouldn't be cheaper, that's a fact. New construction cost more than existing, but then it depends on what the overall repairs, maintenance and refrigeration would be in the long-term.

Fleming stated part of the answer that is if you design this facility from the ground up, you're able to design the elements that they really need and want. We're able to get higher floor to ceiling heights in this building which is important for how they manage their inventory. When you're going into an existing building you don't have that luxury to say how tall the buildings going to be that's already built. There's a lot of those kinds of things that if you design from the ground up, yes it's more expensive to build, but it's going to be cheaper to operate and it's going to meet your needs much better, I think, in the long run because it's been design specifically with the grocery store in mind as opposed to trying to do an adaptive reuse of another building.

Farmer stated I made that comment to somebody who sent me an email. I being kind of in the food business myself, I know retro fitting a building that wasn't really designed for those kinds of purposes.

Fleming stated you would never buy a warehouse with a 12 foot ceiling you'd buy one with and 18 to 22 foot ceiling.

Farmer stated absolutely. I think it's good to get some of this stuff out because this is the first time we've really had public conversation about this and there's a lot of folks that are really upset and frustrated that things are moving forward what they perceive is a better location and I think it's good for that group to hear you address some of those things.

Lewis stated it's a little bit different when you're talking to people in our community. People that live in Lawrence versus somebody that lives in Detroit, somebody's whose in Philadelphia. It's a little bit easier when everybody can sit in one room and create solutions and that's kind of what we've been doing.

Riordan stated a number of people have talked about having this elsewhere. Can you think of any place else in East Lawrence to eliminate this food desert that we have other than this possibility since Borders isn't a possibility at this time. I can't think of any.

Lewis stated no, I've had some people bring up other locations along that 9th Street Corridor and somebody even brought up back by the Poehler Lofts, but you're getting too far back into the community according to our surveys.

Riordan stated sometimes you have situations where like the ITC Police facility, where that building could not be retrofitted. You just don't know if you think that's a possibility and what's important in the City. What's important in this City is that we provide you some place and some help with this and it all depends on what we can do and what we can't do. I'm very much in support of having a grocery store downtown and I think all the Commissioners are.

Amyx stated this is the first time I've considered a grocery store downtown so that is a big deal and I want to thank you for that. A lot of discussion is going on too about this location and 6 blocks away you have another big competitor. Tell me about the importance of this location and specifically at 11th Street.

Lewis stated its closer to the hill and the students, that's a factor. It comes down to the number of people. We work on a low margin and it requires traffic.

Amyx stated I know you've done some modeling of your business and a business plan, but how many people that you're going to serve that will come in by foot.

Lewis stated a high percentage on foot. We haven't done exact numbers on whose walking and who's driving in, but it would be a large percentage.

Amyx stated in this concept everything goes into play are we going to have local goods?

Lewis stated as much local and green as we can get. What we try to do is provide the freshest products at the lowest possible price and that's what we've been doing in the community for years.

Amyx stated I appreciate you bringing up the term “community.” I know myself along with Commissioner Schumm and Commissioner Dever, we have our businesses in the community and for me, I’ve heard from some of the community members and some potentially future neighbors about parking concerns. I wanted to bring that out because it kind of works all together and we’re kind of one close knit little group downtown with the store owners and service providers. We need to recognize if all this were to go together how that is going to work.

Lewis stated we understand it’s a puzzle. It’s going to take a community effort.

Jim Lewis stated I’ve been back in the community for 32 years. I’m deeply rooted here. We’re committed to helping the community grow and develop. The community solicited us to provide service downtown that has not been provided for many years and we’re willing to go into that venture, but that venture all crux on one thing and you all have discussed that and that’s parking. We need your deep consideration on helping us with the parking. If you can do that the project is very viable and without the parking it’s not viable.

Mayor Amyx called for public comment.

Tom Peterson stated it has been about 2 ½ years since you have had the misfortune to have be in front of you and 2 ½ years ago what I was asking you all to do and I think a lot of people in the East Lawrence area was to put together a serious strategic plan for the whole New Hampshire Street Corridor which is from 11th Street to the river. What we’re seeing 2 ½ years ago was development that was being driven by commercial interest, we all know that. That’s what we have going on at 9th Street and New Hampshire right now. It seems to me to be a very logical to get a study and a plan that could develop that strip which is mostly undeveloped or was mostly undeveloped before we start developing. 2 ½ years have gone by and there is still no plan and no plan for a plan. This building is too tall and it’s in the wrong place and too tall because it breaks up downtown by putting up a big barrier. Treanor Architects was very careful to avoid saying the word “seven”, but seven stories are too high. I think what we need to do is find a location that is further north in the middle of the food desert. A big consideration is a lot of

people who want to walk across from North Lawrence and this is 4 blocks farther south. I talked to some people from North Lawrence a few weeks ago and they were saying that the Borders location is about as far south as people will walk. That's a very important consideration to find a structure that's ideally existing and that had parking associated with it. It sounds like the Borders site to me. I think you need to really think very carefully about whether this is the strategic thing to do or it's what one group of people that can make some money off of it want to do. That would be my suggestion to you. I'm very appreciative of Checkers and the community in fact, we do all of our shopping there and we'll continue to, but I think it's also worth pointing out that this is not a sole proprietor endeavor which is to say this is one possibility and the City already has a mechanism developed for a request for proposals and ideas. If this doesn't work out, this is not our only option.

Gary Strong stated I'm very appreciative of Checkers. We do our shopping there, not just for our home, but twice a week for the business as well. My concern though is the parking and I don't want to get too deep into that because I know that's going to be a discussion in the future, but I would just like the Mayor and the Commission to make sure they're involving all the businesses along Massachusetts in any discussions in the future for this. I know Commissioner Schumm did a great deal of work on the Treanor parking talks that we had and I really appreciate to that and I would just like to make sure we're always involved with that conversation.

Dave Crawford stated I have been lead organizer for the project downtown grocery. We started this approximately 2 years ago and it was in response to an LJW article and we all know about a food desert in the northeast quarter of Lawrence. We've work pretty tirelessly meeting once a week. We haven't missed a meeting yet and the idea was to find a grocer and a location that would defeat this food desert. Of course, the first grocer that we thought of was a local family owned grocer, the Lewis's, and we were pleased to death that Jim and J.R., would pick up the ball. We've followed them, we've given them our support, and we have thousands of

people on petition, 300 people on a Facebook page, every Neighborhood Association, adjacent to this food desert is in support of a grocery store downtown. We really thought that this was going to work out at the Border's building. What's happened, I believe, with the group that owns the Border's building just like J.R. said, they are detached and their offices are at a distance. They're not as welcoming as a local developer, but never-the-less, I've received personal phone calls from the principle at Agree Reality at 7:00 in the morning asking me how things were going along. I don't really think the problem is that they were difficult, but I think they weren't given enough time. We've been in contact with the owners of the Border's building and we're not convenience that there isn't something that could be worked out with them. What I want to leave you all with is an idea. A friend of mine asked me the other day when we were talking to go over to 7th and Massachusetts and look south. What would you see? A couple of people I've asked that they said a lot of businesses. I said you know what, there's a tower at the top of that horizon and he said "what do you think about that". I said you know that tower that's on that horizon is really the icon for Lawrence. We want a grocery store downtown and what that food desert defeated, but as J.R. said, this is going to the community and will take some real looking after and we're going to hope that the City Commission will do that for us.

Ted Boyle, representing the North Lawrence Improvement Association, Lawrence Association of Neighborhoods and also the Downtown Grocery Store Group, stated we do need a grocery store downtown. The Lawrence Association of Neighborhoods thinks that 11th Street is the wrong place for many reasons. Some of the reasons are: parking, traffic, a 7 story building that's going to block out everything on the east end of town, including the court house, and North Lawrence. We haven't had a grocery store since about 1995 so we were pretty enthusiastic about this project starting between the Lewis' and Borders, but it hasn't happened yet. Maybe there's another grocery store that might be interested in the Borders building and maybe could negotiate a deal because I was at the meeting when we called Kansas City and spoke to them on a conference call and they were still interested in leasing the Borders building.

Maybe we ought to put out that RFI and maybe we ought to have some competition in here. Competition makes the world go around. I think the 11th Street project is going to be a difficult situation, not only in parking, but who's going to monitor that. Are we going to pay our police department to monitor those parking places? I've talked to people in North Lawrence and around and they don't want to park in a parking garage to go grocery shopping. If that was the case we would do the mall down at the Marriott and have a covered parking place. We talked about that in North Lawrence and they weren't for that either. I think we ought to keep negotiations up with Agree Reality on the Borders Building. The parking and zoning is there. It's ready to go and is in the middle of the food desert. Also, the grocery store was in that area was designed to service an area 1 mile circumference, North Lawrence, Pinckney, Old West Lawrence, East Lawrence, Brookcreek and Oread. It wasn't just for the downtown or KU, it was for the neighborhoods. We would like to keep that on track.

Brad Ziegler stated it's my 25th year of owning Louise's bar downtown in the 10 hundred block of Massachusetts Street so I'm pretty familiar with that block. There are a few misconceptions that I want to point out. In this letter of request was that that block is not as used as other downtown blocks. On my way down here tonight there was not a parking spot on either side of Massachusetts Street or the public lot behind the ten hundred block. On Friday when I read the article in the paper that we were going to be discussing this tonight, I drove downtown at 1:30 that afternoon and there were 3 spots in that entire block that were empty. There asking for 60% of the parking on the east side of the street on that block. I don't see how that works and I wanted to quote one of the Lewis'. If we're going to talk about being a neighbor and getting people in that neighborhood involved along with business owners, I'm quoting Mr. Lewis, "If we don't have enough parking, you can't have enough business and then it fails." That goes for more than just grocery stores. It goes for bars and bagel shops. There are 25 businesses on that block, only 2 of them are not locally owned. If we're going to talk about being local in the community, I think we should have started talking with the people on that

block. I went door to door today and no one was even informed of that meeting. We didn't get a courtesy letter that this was happening tonight. It seems to be happening awfully fast. I know if I want to apply for a downtown parking permit or sidewalk permit, I have to write my neighbors a letter and get their input before anything happens. I think this process needs to be slowed down. Who's going to monitor parking? Are there going to be shopping carts up and down Massachusetts Street? That will be a fun thing to have on a Friday night with a bunch of college kids at 2 in the morning with shopping carts. Is it 24 hour parking? There's a lot of vagueness in this. If I could be on the committee, I would love to help with any information I could provide you on the 10 hundred block of Massachusetts Street. I know the businesses that are there need that parking. We rely on it.

Amyx stated it is extremely early in this process. As we look at this request, believe me we're going to include everybody that's in that area and the surrounding area so we can get plenty of input into what it's going to look like. We don't have any idea at this point.

Ziegler stated I made a comment earlier about building from the ground up; why not build 18 more parking spots in the parking garage?

Daniel Wildcat stated I'm kind of a late comer to the downtown grocery store group that they put together. I'm one of those people who got involved because I was very excited about the Borders location. I understand for a number of reasons that hasn't worked out. I wanted to make just two quick points and then kind of an observation. The first quick point is to second what is already been indicated. As we start thinking about what we're going to do in downtown Lawrence, those of us that are here take so much of this for granted, but working with a lot of people in Kansas City and up and down the I-70 corridor with K-State, people from Manhattan, Kansas, it's interesting why people come to Lawrence. They want to come to Lawrence because of its historic character of this downtown. Massachusetts Street attracts people. They marvel at what they see when they go down there. I know we're early in the process and I think we've got good minds that can come together to kind of tackle some tough issues, but I think

this historical character of that particular area, we have the Watkins Bank to the west, we've got the Douglas County Courthouse and then to the east is the English Lutheran Church that has been maintained and it's now a law office. As my grandmother use to say, I don't want to be sold a pig in a poke. We want to downtown grocery store, but what this is attached to seems to be something that we weren't engaged in talking about. Just keep that in mind. I think whatever is going happen, let's take that historical prospective and really value that because I don't want to ever get to where we take that for granted and destroy what is unique in the process of moving forward. The second point is that I do think that we're early in the discussion. I do think we have people who can come together as a community to find a solution to end this disgraceful situation with the food desert in Lawrence Kansas. I want to be a part of that. The downtown grocery store group as well as business owners want to be a part of it. Let's start the discussion, let's get everyone involved because I think this is a very important community issue. The final observation is as I was sitting here tonight, I was looking at my clock and thinking I should be grading exams, but this is what I love about Lawrence that people get up, speak their mind and you listen. I think we can make something good happen. I think we're very early in it. I agree with J.R. and Jim and I'm really glad that they stepped forward to help us make this happen.

Michael Almon stated I wanted to address parking because that's what the agenda item is about, but before I do, I'd like to make a couple of observation that good design ways and balances of various options and although I was involved early on with the grocery group and I prefer the Borders location actually I call that the deliver stable location. I want to point out first of all regarding adaptive reuse as opposed to new construction and the various costs. The delivery stable building is an adaptive reuse situation. That building which was borders was done that way. Similarly, Treanor Architect headquarters is an adaptive reuse. They virtually removed 80% of that building and rebuilt. It can be done. I don't know how the negotiations are going with the owner of the delivery stable or not. Regarding parking, in favor of this location I

can see a number of things that can happen and for one thing the police department income tax proposal partially addressed the lack of parking at the Judicial and Law Enforcement Center, this could help solve part of that problem. Another thing about parking is that parking is always on the context of automobile parking. This is a downtown grocery store which is what we're talking about. A lot of the traffic is going to be walking traffic and theory, that's the idea. A lot of the traffic is going to be bicycle traffic. That kind of bicycle traffic needs to be utility bicycles. We need to accommodate that, the size of the spaces and accessibility from the convenience to the front doors where people are toting packages. Parking can be addressed, maybe fewer automobile spaces and maybe more utility bicycle spaces. Another thing about parking is that the Peak Oil Plan that this Commission Plan that this Commission adopted calls for reducing automobile parking requirements as a disincentive to driving so that more people would walk and bicycle. That's part of the Peak Oil Plan recommendations. You're already considering that or maybe you've done it already with the HERE Project, I'm not sure exactly where that is in this process. This certainly is a candidate for some reduced parking requirements. I'm not saying I endorse this location, but there are things that can be done to help alleviate some of the concerns although I think those same things can be done at the 7th and New Hampshire location and I prefer that location.

Fleming stated first of all Brad we did send information to Downtown Inc., about this meeting, but we did not contact the business owners. The process that we used, we went through the Treanor process is we had a meeting where all the downtown business owners showed up and provided input into that so I would anticipate some type of similar process. There's not any intent to exclude anybody, it's just this is the point of starting the process asking the City to start helping us send those notifications out. I just see this as the first step and it's not the final step. There's no decisions be made here. It's just a part of starting the process then getting that input from the local business owners. We understand there are all sorts of competing interest here and all those have to be balanced as part of this process. The second

point is that we didn't come into this thing 6 months, we read the newspaper like everybody else and what the newspaper said was the Lewis had negotiations with Borders and they didn't go anywhere. That's when we made the phone call to J.R. to say, are you interested in this location. I don't see how you can force the Lewis' to go to a location where they've already tried to make a deal and negotiate something in the situation that obviously shown that they can't make a deal there. I respect all the work that the local grocery store group has done, but I don't think that having side channels of negotiation or communication with the owners at Borders is necessarily helpful and I would also point out that if we want to actually promote a local grocery store group, doing a grocery store in downtown, that this is probably the best solution that we've got right now. I don't think that having an RFI or continue to solicit proposals from out of town grocery stores is going to be particularly helpful. I don't think there's room for two grocery stores in downtown. I think there's only room for one. Maybe this solution isn't the perfect solution for what a lot of people think, we're 4 blocks farther away from North Lawrence, sorry about that, but this happens to be one of the few developable lots that happens to be ready for development in the City and it's a situation where the buildings that are there now are underutilized and frankly are not particularly conducive to promoting downtown. If we could redevelop this site, that should be something that's a positive for everybody downtown. The other thing is that we had some meetings on Horizon 2020 Plan. I just participated in those at Lawrence High School about 3 weeks ago. Dave was there and some of the other planning staff was there. They had all these different groups at different tables and one of things they said is we need to promote density for downtown. Well that's a totally different discussion and some of the people that made comments today have said it's too tall, well we're going to have those discussions too. These parking issues are separate. We still have to through the same process that we did no these other projects to go through and meet downtown design guidelines. To have a discussion with you, have a discussion with the community and seek input from the neighbors. All of those processes still also have to run and there's not been any decision on

those things either. That's a separate line that we have to go down, but we have to start some place and it seems to us the logical place to start is kind of addressing the threshold issue which is can we get adequate parking to make this project work or not.

Amyx stated the way I see it is we can refer the item to staff. Staff and I and the rest of the Commission members can come up with a plan of how we want to discuss this item, what would be the appropriate way to process this parking request item. I think this is the one question that needs to be answered upfront. Is there a timeframe that everybody needs to meet?

Fleming stated a reasonable time.

Schumm stated on New Hampshire Street has there been any thought of looking at angle parking space there to get more parking on New Hampshire Street as opposed to parallel parking?

The architect from Treanor stated at this point we do not study that. I think that is absolutely an option. We know the character of Vermont Street and New Hampshire Street language had been setup primarily through downtown is the parallel parking. We've got the exception of Hobbs, but for the majority it's diagonal parking on Massachusetts and parallel on Vermont and New Hampshire. We've kind of kept with that language, but there's certainly the possibility to look at angled parking.

Schumm stated the reason why I say that, I don't think that it's any bold statement that people haven't thought about, but the real difficulty in this project is going to be 18 spaces on Massachusetts Street. That's going to be the hard part to get over indeed they are made just solely available to Checkers. I'm looking at any other way that would be accommodating other than those 18 spaces. I'm not saying I'm not going to do it, I'm just saying that's the hump in the project right now. I don't know if the rest of you agree with me but the people I've talk to every one of them said that's tuff. The ones on 11th Street are net new parking spaces and I don't have a problem with that. If we could come up with some parking on the back that maybe works

and maybe that helps out a lot. You might want to look at that one. I know that depends on the configuration of the street as well, but if that works, it might be one of the solutions.

The architect from Treanor stated we'll look at it.

Amyx stated you bring that up and then the angle parking that we're placing in front of the new building at 9th and Massachusetts, the increase number of parking spaces on the east side of New Hampshire is incredible and taking out 7 spaces and end up with 17 new ones. It was a really large net gain. One of the things I think we should do is to come up with a plan on how we are going to consider this and whether or not the suggestion is a good one. From the Commission I'd like to have your thoughts on a study group along with staff and us and just any kind of things you want to bring into this. We'll place that back on the agenda once we have a plan to approve so everybody knows where we're at. We'll try to get this done in a reasonable timeframe.

Farmer stated there's so much animosity already about this project from so many different people and we just now started. I hope folks understand that this is just to get the conversation started. Really, this is a starting place, you got to start somewhere. It would have been real bad to throw this site plan on an agenda for City Commission review and approval being a first place for a conversation to start. I just want to encourage everybody who is a part of those meetings. I know we're going to reach out to Downtown businesses, East Lawrence, Old West Lawrence, North Lawrence, everybody that would be affected by the food desert even maybe a little bit of Barker on the south side and get some input from them. I just want to encourage everybody to come to the table with an open mind and let's have an honest and productive conversation and not believe the worst about everybody because that's where we've gotten into so much trouble. I agree with Dr. Wildcat that's a great thing about our community is that we come together and we have conversations and we give input to one another, but it become unproductive and very antagonistic and extremely just harmful to ourselves when we can't have productive conversation. I would like all of us to keep that in mind as this

conversation gets started and the ball gets rolling. I hope the five of us will take the lead with that to engage the community to get input and to consider all points of view. Compromise will have to be the key here; which means that nobody really wins, everybody's going to lose one thing or another whether, whatever those things might be. I just want to say I'm really disappointed with all the animosity that exists already before we even started this conversation. I want to encourage us to be better.

Amyx stated I'm going to entertain a motion that we refer this item to staff and again, all of your input is going to be necessary on how we're going to go about considering the dedicated 18 parking stalls. The information requested by Mr. Schumm on looking at angle parking, just whatever it may be that we can put together a plan that we're going to hear all sides of this. We'll get some dates to you so you all know when we're going to be doing all of this.

Moved by Amyx, seconded by Schumm, to receive the request from Hillcrest Foods, Inc., for 18 dedicated parking stalls along the east side of Massachusetts Street at 11th Street for an Uptown Market grocery store; and, refer to staff for review. Motion carried unanimously.

4. **Review existing 2014 City of Lawrence Legislative Policy Statement and direct staff concerning issues for inclusion in the 2015 Policy Statement.**

Amyx stated we can review this on another night.

David Corliss, City Manager, stated you can do it any night you care to. The upcoming holiday season reminds us that the beginning of the State Legislature Session is not too far away. As you all have ideas about items to include or perhaps change in our existing 2014 Legislative Policy Statement be sure and let me know about that. We haven't drafted a new one we've just put out the old one to see if you all have any changes. It's pretty common for us to be fairly consistent in this area, protect home rule, protect our revenue sources, leave us alone on a lot of different other things. We do advocate for a lot of things. You see communication from Hugh Carter at the Chamber about some items they're including in some of their policy statements that was sent this afternoon and may be appropriate to include in our policy

statement. I leave it to all of your political judgment as to the ability of us to persuade the entire legislature, but this is at least a good communication to our local delegation about our priorities.

Amyx stated I would suggest since the hour is getting late, we can put this on next week.

Moved by Schumm, seconded by Riordan, to defer the City of Lawrence Legislative Policy Statement for one week. Motion carried unanimously.

F. PUBLIC COMMENT:

Josh Montgomery, owner/operator of Wicked Broadband, stated we've had an agenda item on the Commission's agenda for quite some time. This past weekend, I was informed that I will be on orders for about 3 months next year, two months of that will be short notice so it will be 4 or 5 days and then I go. I was hoping, given that we've been through the study sessions, PIRC, and the RFI Review Committee, 2 public City Commission meetings in addition to the other one and the process has gone forward. I think there had been a lot of information generated and a lot of expertise gained on behalf of the Commission. I was hoping that we can put our item on the agenda for a week from today for a final vote.

Amyx stated that had been my feeling and I think it is fairly important that we have the fiber policy in place first. As I said in our study session earlier, I would like to have that done on the 13th of January if we can't do it any earlier. I understand that is the day it will happen and then we would hear your request immediately following that.

Montgomery stated my concern is that we've had final dates on this at several points in the past, including one in October, two and November where we we're supposed to reach the end of this process and it seems to keep getting extended. The opportunity cost for me and my family for this project over the last 2 years has been \$200,000. You set the agenda, you chose the date. I guess in the realm of equity I'd certainly proposed that maybe the Commission consider waiving the franchise fees that we've asked for total about \$50,000 going back to the date that we put the application in to off-set our cost that we've incurred as part of this process. It has not been inexpensive to go through it. It has not been inexpensive to put various different

projects on hold and it has not been inexpensive corresponding and working with the public as part of this process.

Amyx stated I said my peace as to what I think ought to happen.

Schumm stated just earlier this afternoon we said we wanted more information on the share use. I think that's a very important element that we've got to decide. We've got two very conflicting view points on that. I wouldn't feel comfortable passing policy when we don't have that ironed out. I know it's taking a long time, but this is a big deal. This is the future of technology in Lawrence for quite some time. It's best to do it right as opposed to get it wrong and then try to redo it after words. It gets ugly.

Amyx stated that's been my thought Joshua. I think this fiber policy is the most important part that we have to consider because it's the one piece of the puzzle that we really have and that is the fiber and how the fiber is to be used.

Farmer stated I want to get your thoughts that if it is put on the agenda next week and the fiber policy is not done and the common carrier has not been sited, that may cause folks who may vote differently next month to vote a certain way next week because those aren't worked out. That's kind of the trade-off is what two folks just said.

Montgomery stated I think the only item I took away from our study session this afternoon that was really in doubt was whether or not the City would require a common carriage requirement on any use of this fiber. I think everything else, as near as I can tell, there's a lot of consensus on it. I think that staff has a lot of information on that. I can certainly forward them a pile of information and organize it for them and provide some better documentation of where in world and the United States that's been successful. Whoever opposes that concept, it's usually big carriers. I'm kind of surprise to see a small guy opposing that concept and wants to forward their information, it can certainly find its way to the agenda on Thursday. I would hope that we could vote on the fiber policy and just follow it up with the incentive policy if that works. I'm not

going to insist, but I do want to just highlight that this has been a very extended and very expensive process.

Amyx stated I'll have the City Manager contact you unless you want to go ahead and hear it next week.

Dever stated I think we need to get the fiber policy done, we've said it all along and then we need to move as quickly as possible after that with a commitment up or down.

Amyx stated if the fiber policy is done on the 13th, you'll be on the next week.

Montgomery stated the 13th of January. It's not something that could be done this month?

Amyx stated I don't think so.

Montgomery stated alright.

G. FUTURE AGENDA ITEMS:

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

H: COMMISSION ITEMS:

Schumm stated the organization that represents the firefighters wants to get started on their contract negotiations and Diane Stoddard had emailed me a request for some dates to participate if I wanted to do it. Actually, I was willing to do it, but I felt like I should have the agreement with the rest of the City Commission. I did it last time and would be happy to do it again this time. If somebody else wants to do it, you can have at it, but I didn't just want to presume I was going to be the liaison between the City Commission and the Fire Fighters again without discussion about that.

Moved by Dever, seconded by Riordan, to agree that Schumm be the liaison between the City Commission and the Fire Fighters. Motion carried unanimously.

David Corliss, City Manager, stated I just wanted to point out that we're also going to have discussion with LPOA as well.

Amyx stated we can wait on the police. Have we set a date to start with the police?

Diane Stoddard, Assistant City Manager, stated we haven't. I've asked for a starting plan.

Riordan stated I just wondered when we might have a response from staff on starting the City Commission meetings at 5:30 p.m.

Corliss stated if it's alright with the Mayor we can talk about that maybe next Tuesday.

Amyx stated that will be fine. One other thing I wanted to visit with the Commission is that a month ago we had the sales tax election on the Police Facility and one of the things that I would like to have us do and we can all be involved or a couple of us be involved in these meetings is I'd like to have a time where we just have some community input in talking about the community's feelings and needs. We can start those meetings next month maybe a couple of meetings in January and February and try to get input from the public and what there thinking is on the facility and locations. I'm happy to take the lead on that and I know other Commissioners would love to be involved with it. What I'd like to do is be able to direct staff to come up with some dates and locations to talk about planning in the future. I decided to wait for a while let everybody calm down and have time to talk about all of it. Dave, if you would start looking for some dates in January and February where we can actually have some sit down old fashion meetings about getting some ideas from the public about facilities, locations and everything that goes along with that, I'd appreciate that.

Corliss stated yes.

Farmer stated have we had calls concerning Cedarwood Apartments.

Scott McCullough, Planning and Development Services Director, stated we've had a couple. I've got it on my calendar to get with Code Enforcement and see what came in this week yet.

Farmer stated can you send me an update.

McCullough stated I will.

I: CALENDAR:

David Corliss, City Manager, reviewed calendar items

J: 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 Dever, to adjourn at 10:11 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON JANUARY 13, 2015.


Diane M. Trybom (City Clerk)