



# City of Lawrence

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CITY COMMISSION

MAYOR  
MIKE AMYX

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

January 13, 2015

The Board of Commissioners of the City of Lawrence met in regular session at 5:48 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Dever, Farmer, Riordan and Schumm present.

**A. RECOGNITION/PROCLAMATION/PRESENTATION**

1. Proclaimed the week of January 14 – 21, 2015, as Dr. Martin Luther King, Jr. week.

**B. CONSENT AGENDA**

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

1. Approved the City Commission meeting minutes from 12/09/14.
2. Received minutes from various boards and commissions:  
Sustainability Advisory Board meetings of 09/17/14 and 10/08/14  
Traffic Safety Commission meetings of 11/03/14 and 12/01/14
3. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 173 vendors in the amount of \$8,982,116.69 and payroll from December 28, 2014 to January 10, 2014 in the amount of \$1,999,694.35.
4. Approved licenses as recommended by the City Clerk's Office.

**Taxicab License Renewals**

Ground Transportation Services, LLC 1200 E. 25<sup>th</sup> St.  
RedyCab 4901 Stoneback Dr.

**Cereal Malt Beverage Renewals – Off Premise**  
**(Pending Departmental Approvals)**  
Mass Stop 1733 Massachusetts St.

5. Approved an appointment as recommended by the Mayor.

**Homeless Issues Advisory Committee:**



We are committed to providing excellent city services that enhance the quality of life for the Lawrence Community

Reappoint Becky Peters (913.223.1892) and Laurie Hooker (785.832.1533) to additional terms that would expire 12/31/17.

6. Bid and purchase items:
  - a) Set bid date of February 10, 2015, for Phase 1 of the Lawrence Solid Waste Facility at 2201 Kresge Road.
  - b) Approved an increase in the scope of services for a Historic/Archeological survey for the Environmental Assessment project at the Lawrence Municipal Airport with Airport Development Group for \$7,428.14.
7. Accepted dedication of easements and rights-of-way associated with Final Plat, PF-14-00373, for Americare Addition No. 1, a 2 lot subdivision of approximately 20.7 acres, located at 3901 Peterson. Submitted by CFS Engineers, for Lawrence I, LLC, property owner of record.
8. Approved submittal of the Five-Year Airport Capital Improvement Plan for the Lawrence Municipal Airport.
9. Concurred with the following recommendations of the Traffic Safety Commission:
  - a) To install Traffic Calming on Lyon Street between 7<sup>th</sup> Street and 9<sup>th</sup> Street (TSC item #2; approved 6-0 on 11/3/14). Funding is not currently available for construction of traffic calming devices.
  - b) **REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** To deny the request to change the Yield Sign to a Stop Sign on southbound Haskell Avenue at 11<sup>th</sup> Street (TSC item #3; denied 6-0 on 11/3/14).
  - c) **REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** To deny the request to establish a Multi-Way Stop at the intersection of 4<sup>th</sup> Street and Illinois Street (TSC item #4; denied 6-0 on 11/3/14).
  - d) To construct a Pedestrian Hybrid Beacon on 19<sup>th</sup> Street at Alabama Street (TSC item #4; approved 7-0 on 12/1/14). Funding is not currently available.
  - e) To install Traffic Calming on Elm Street, between 3<sup>rd</sup> Street and 4<sup>th</sup> Street (TSC item #5; approved 7-0 on 12/1/14). Funding is not currently available for construction of traffic calming devices.
10. Authorized the Mayor to sign a Mortgage Subordination Agreement for 908 West 3<sup>rd</sup> Street.

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

**Moved by Dever, seconded by Riordan,** to approve payroll from December 28, 2014

to January 10, 2015, in the amount of \$1,999,694.35. Motion carried unanimously.

**Moved by Schumm, seconded by Dever**, to approve Rock Chalk Park related claims to 2 vendors in the amount of \$14,977.24. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Motion carried.

Amyx asked, "Dave, what is the item that is on the claims this week that takes the claims to nearly \$9 million dollars?"

Dave Corliss, City Manager, stated, "There's the payment to KDOT that you previously authorized for 31<sup>st</sup> Street and other projects. We've got a total expense of \$3 million dollars on a number of different utility projects."

Amyx stated, "I just want to make sure it's all those projects."

Corliss stated, "It is all those projects. There's \$4 million dollars to KDOT total on all those different projects, so that's where it's going."

Farmer stated, "When there's big stuff like that Dave, can you?"

Corliss stated, "Find a way to set it out, sure."

**Moved by Schumm, seconded by Riordan**, to approve non-Rock Chalk Park related claims to 171 vendors in the amount of \$8,967,139.45. Motion carried unanimously.

Farmer removed from the consent agenda for separate discussion, consent agenda item No. 9 (b) to deny the request to change the Yield Sign to a Stop Sign on southbound Haskell Avenue at 11<sup>th</sup> Street (TSC item #3; denied 6-0 on 11/3/14).

Farmer stated, "On some of the other Traffic Safety Commission materials there's data on how fast people are going. I know there's only been one accident there in the past three years, but that's where I work and there's been a number of, I think, almost very close calls even for folks that are paying attention. I guess, I would be curious to see how much traffic is there with one being a minor arterial and one being a collector street and what the average speed is as people approach 11<sup>th</sup> Street on Haskell because I think people kind of fly down that road. This is southbound right?"

David Woosley, Traffic Engineer, stated "Correct."

Farmer stated, "They're coming in from the County and so I'd just be kind of curious because my observation has been most of the time people don't yield, folks east bound and folks north bound turning west bound. There had been a number of close calls so I kind of like to see some more information on that."

Woosley stated, "Sure, we can collect that data."

Mayor Amyx called for public comment.

K.T. Walsh, East Lawrence Board, stated, "It hasn't happened yet and there's no funding to extend the trail at 11<sup>th</sup> and almost to Haskell on to the river and to the river bridge, but at some point, there will be bikes, strollers and wheel chairs. There is a push button light there, but that will add into the mix too."

**Moved by Schumm, seconded by Farmer**, to defer until a later date, the request to change the Yield Sign to a Stop Sign on southbound Haskell Avenue at 11<sup>th</sup> Street (TSC item #3; denied 6-0 on 11/3/14). Motion carried unanimously.

Consent agenda No. 9 (c) was removed from the consent agenda for separate discussion, regarding the Traffic Safety Commission's recommendation to deny the request to establish a Multi-Way Stop at the intersection of 4<sup>th</sup> Street and Illinois Street

David Woosley, Traffic Engineer, stated, "At the November 3<sup>rd</sup> Traffic Safety Commission meeting, the Commission heard a request to establish a multi-way stop at the intersection of 4<sup>th</sup> and Illinois. 4<sup>th</sup> and Illinois are both classified as local streets in a residential area. The speed limit on both streets is 30 mph as established by state law. During the past three years there have been no reported crashes at the intersections susceptible to correction by stop signs. Traffic data obtained October 9<sup>th</sup> and 10<sup>th</sup> found the 85<sup>th</sup> percentile speed for east bound and west bound traffic on 4<sup>th</sup> Street could be 33 and 31 mph, respectively. The intersection does have the potential of school children crossing 4<sup>th</sup> Street to get to Pinckney School, however, pedestrian counts taken on October 23<sup>rd</sup> and 24<sup>th</sup> found no students during the crossing period, crossing either in the morning or the afternoon. Therefore, none of the

requirements for stop signs are provided in the manual on Uniform Traffic Control Devices, are currently met and in addition the MUTD's, CD states that stops signs should not be used for speed control. At the Traffic Safety Commission meeting, no one from the public addressed the Commission concerning this item and the Commission recommended unanimously on a vote to 6-0 to recommend denying the request, any questions?"

David Unekis stated, "We were hoping to have it either deferred or withdrawn from this meeting because we had a communications mix up that we didn't get anybody to that meeting to just kind of present some other data about the density of kids in that neighborhood, especially in the summer months moving across that street frequently. We were mostly just hoping to have a chance to revisit this at their next meeting so if we can kind of have no action on it now and come back and look at it after we had a chance to actually talk to the Commission."

Amyx stated, "So you're asking that the item be referred back to the Traffic Safety Commission for another consideration."

Unekis stated, "Yes, if we can do that."

Amyx stated, "We'll have people at that meeting to be able to discuss it?"

Unekis stated, "Yes."

**Moved by Riordan, seconded by Schumm,** to defer the request and refer back to the Traffic Safety Commission for further consideration, to establish a Multi-Way Stop at the intersection of 4<sup>th</sup> Street and Illinois Street (TSC item #4; denied 6-0 on 11/3/14). Motion carried unanimously.

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

David Corliss, City Manager, presented the report regarding the City's Solid Waste Manager certified as Integrated Solid Waste Management Systems Manager; and, Building Inspector identification and Inspection Expectations/Protocols.

#### **D. REGULAR AGENDA ITEMS:**

1. **Considered setting a bid date of February 17, 2015 for Bid No. B1467, Project UT1304, Contract No. 4 Wakarusa Wastewater Treatment Plant and Conveyance Corridor.**

Dave Wagner, Utilities Director, presented the staff report.

Farmer asked, "The add alternatives, would those be adequately funded under the rate scenarios that we've adopted?"

Wagner stated, "That would depend on what the actual bids are, they may or may not be. Currently, with what we expect the project to bid, the answer would be no. It would require additional revenue sources to fund those additions. If we get good bids though on February 17<sup>th</sup> that may not be the case."

Farmer asked, "You're looking at an additional \$7 to \$12 million dollars, right?"

Wagner stated, "Yes, each one of these will be a separate add alternate and we have an idea of what those will bid at or at least an engineering estimate at this point in time and the total of those three we expect to be between 5 and 7."

Farmer asked, "If you had to rank those in priority order, how would you rank them?"

Wagner stated, "I'd like to see the price before I give you the recommendation on each one of them and I'm not trying to be evasive. I think there's serious consideration for all three. The meeting space would be a nice amenity to the department as well as the City could use, but it certainly isn't a fundamental thing that we need to run that Wastewater Treatment Plant. Solar Panels is a green alternative, but given current energy payments that we pay, it's not a payback kind of a thing, but it is environmentally responsible to do and so I probably put that one on a relatively high order from an environmental friendliness point of view which is kind of our core business as well. The 5 million gallon additional treatment capacity gets to be complex and it's somewhat hedging the bet on growth. It prepared the community for additional growth, but it also has to do with treatment capabilities and the next phase of nutrient removal we face at the existing plant. We'll probably try to prepare better and give you better explanations when we see

what that number is about how important that is, how good of a deal can we get today and what can we use that for, not only for growth, but beating future regulatory requirements as well.

Amyx stated, "Can you go back to the design, where the pipe comes from the new pump station back to the new wastewater, the video portion. Was there an open part where this pipe is?"

Wagner asked, "You mean above ground?"

Amyx stated, "Last week, I had written a note down that there was an open part of this pipe system along one of the roadway's"

Wagner stated, "Mayor, part of the pipe lining is horizontal directionally drilled so it's all done below grade which includes the part you see right now where we start to do open cut lining. So for the areas that are actually within the wetlands area where it is horizontally directionally drilled to avoid any disturbance and then when we get outside that area, we're using the more conventional pipe laying technique of sticks. These are continuous runs. The fuse pipe like we talked about, the main that goes across to North Lawrence, it's the same technology."

Amyx stated, "I'd written a note to myself to ask that question. It can't be open."

Wagner stated, "It's not exposed. It's well below grade."

Mayor Amyx called for public comment. None.

Amyx stated, "I think that we've had a lot of input on this project over the years and again going back to the time at least you and I were involved with locating where the plant was ultimately going to be. I know there's been a lot of work and study that's done. Again, it's been put on hold during a time where economics just couldn't justify the time so we've gotten very good recommendations at that point. I feel very good. Let's get a bid on this and see where we are at this process."

Schumm asked, "Are you pretty confident that we're going to get several bids."

Wagner stated, "That's our hope. I haven't touched with the design team today on what we think the interest is, but I think we're hoping for more than one. The last time we bid a major project, I believe we had 3 bids on the expansion of the existing Wastewater Treatment Plant.

Schumm asked, "Say you get two bids and both of them are higher than your estimated value, can you back out of that, redo it, redesign it, wait a while until the market loosens up?"

Wagner stated, "I think all of those things are probably an option, Commissioner Schumm. Actually, the largest project we've done to date at the Utility Department, the last expansion project went over that amount, the engineers estimate amount which is really rather unusual for a project of that size. With that historical project we went back and looked at ways to bring the project back within scope and budget to the engineer estimated amount. We did some value engineering on that and brought the project back so that's one approach we can undertake, is to try to value some things out and get back within what we can afford to do. We're hoping we don't face that."

**Moved by Schumm, seconded by Farmer,** to set a bid date of February 17, 2015 for Bid No. B1467, Project UT1304 – Contract No. 4 Wakarusa Wastewater Treatment Plant and Conveyance Corridor. Motion carried unanimously.

2. **Considered authorizing submittal of Lawrence Arts Center Our Town Grant Proposal to the National Endowment for the Arts to meet the January 15 deadline.**

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

Amyx stated, "The question that I had, has to do with the funding coming from the City, the 2015 of \$60,000. There's not an earmark or any place that we have recommended to pull that from."

Stoddard stated, "The Commission hasn't discussed that and it was not a budgeted item for 2015."

Amyx stated, "That's what I needed to know and for 2016 and 2017 we should, if we're going to do that, consider that as part of the budget process, correct?"

Schumm stated, "We did distribute money for 2014. Was it \$25,000?"

Stoddard stated, "I think it was \$20,000 in 2014.

Sarah Bishop, Director of Grants and Special Projects at the Lawrence Arts Center, stated, "I have with me today, our Director of Film and New Media, Marlo Angell, our Director of Exhibitions, Ben Ahlvers, and our Board President, Tom Carmody. We're just here to present this grant proposal to you. So, this is the National Endowment for the Arts, Our Town Grant Proposal. It's a creative Place Making Grant. The goal of which is to increase livability in Lawrence, and essentially we're saying that we're going to increase livability in Lawrence in three ways. The first way, for the 2016 and 2017 festivals, is to bring in international artists, as well as nationally recognized artists, to think about freedom. This is the Free State Festival so to think about freedom and to reimagine and redefine freedom in different ways and from different perspectives. The second way that we're going to increase livability is by bringing in a guest curator Nina Katchadourian to select some international artists that will be featured in partnership with some local artists that will be featured and these artists will work with Nina to think about ways to collaborate, to create some temporary public art projects that will be shown at the Free State Festival in 2016 and in 2017. The third way is to work with Centro Hispano to provide some bilingual middle school students with digital film training and these students will be creating both short silent films that think about the ways in which film is a sort of international language that bridges language barriers. They'll also be creating a bilingual film that thinks about the ways in which different languages, like English and Spanish, shape the way we think about the world and experience the world. That's what we're proposing. I want to thank the City staff for all the help they had given us and the Lawrence Cultural Arts Commission which took special time out of their holiday to read and review the grant and they gave some great feedback so we really appreciate all the help. I'd like to turn it over to Marlo and Ben to talk a little bit about their vision for the festival. Thank you"

Ben Ahlvers stated, "Thanks to the Cultural Arts Commission for their work. As Sarah said, Nina Katchadourian is somebody that I've worked with and I think she's got a very unique view point practice. I think the idea of partnering her with local artists to make outdoor temporary public art is a really unique opportunity and there's a wealth of resources locally to draw upon. I really like the idea of intermingling people with different perspectives to sort of draw on what's here. That's sort of at the core of what it is and how it develops or how it looks is not known by me or anyone, but I think it would be a great project to work on. Thank You"

Marlo Angell stated, "It is our mission from the beginning for the festival was to really embrace our local arts scene, film making scene and create bridges with national and international artists."

Bishop stated, "I should clarify that we are expecting to have a \$60,000 request for the City to take funds out of the guest tax so the bed tax to fund the Free State Festival. We believe it will be on the agenda the end of January. We have put into the budget for the Our Town Grant \$120,000 as pending from the City and we would be just repeating those requests just as we put one in this year. Again, \$60,000 in 2016, \$60,000 in 2017 that we're hoping might come from the bed tax, just to clarify that."

Mayor Amyx called for public comment.

K.T. Walsh stated, "I'm speaking only for myself. I just have a couple of comments about the grant. I'm certainly not in opposition. I was really pleased to study this grant application, especially the budget section and see that the revenue is clearly and transparently listed. The list includes corporate, individual, in-kind, projected earnings and the hope for grant funds as opposed to the Arts Center in the City's Art Place Grant budget. There was no blacked out redacted areas. I found this very refreshing. I also understand, as per what Diane and the Arts Center people just discussed, that they will be requesting \$60,000 from the City at your January 30<sup>th</sup> meeting for the Chamber of Commerce to work with the Arts Center. So it was troubling for me to read the letter of support by Larry McElwain, who I esteem, but the letter he

wrote of support for the Arts Center Grant says and I quote; "We look forward to working with the Lawrence Arts Center to imagine how the festival can both attract and support business development along the 9<sup>th</sup> Street Corridor." Attracting and supporting business development along the east 9<sup>th</sup> Street Corridor is not necessarily what I have in mind with the film festival and the use of our bed tax. I just think we'll need to get very clear with the Chamber about their goals, how this \$60,000 will be used in the 3 years and that it supports the residents and small businesses along East 9<sup>th</sup> Street and finally, again, in this grant they described the East 9<sup>th</sup> Street project as 7 blocks, Delaware to Massachusetts. That is a change from the Art Place Grant that repeatedly describes the 6 block project which will be Delaware to New Hampshire or if you want to start on Pennsylvania, you can run it to Mass. The City website on the East 9<sup>th</sup> Street Project also lists it as a 6 block area so at some point we're going to have to decide what the East 9<sup>th</sup> Street Project entails."

Amyx asked, "Other public comment? Okay, back to the Commission."

Schumm stated, "I think we ought to settle this kind of very minimal definition of what the 9<sup>th</sup> Street Corridor is. As far as I know, and we've always talked about it in terms of Massachusetts Street to Delaware, knowing that there's not going to probably not be anything done on Massachusetts Street or in the intersection. If you think about the rest of that block, it has the Bourgeois Pig and it has a number of other corner retail stores and you got a bank, a parking lot across the street and an apartment building. I don't know what there is to worry about being developed more than what it is. It could be, but I don't think it will. I think we ought to get over this little bump in road and say that we all agree that the corridor is from 9<sup>th</sup> and Mass to 9<sup>th</sup> Delaware."

Riordan stated, "It makes sense."

Walsh stated, "The dilemma is that is not how it's stated in the Art Place Grant that went to New York and was granted so it's repeatedly listed as a 6 block area. My concern is when you go to Mass you involve Downtown Lawrence and my personal feeling is that Downtown

Lawrence, if you go to their website and read their mission statement, it's all about promoting our incredible downtown, making money for people, events, and entertainment. As you leave downtown and move into a neighborhood where there are schools and churches and people are raising their kiddos, a very different atmosphere and my personal feeling is that I do not want to see East 9<sup>th</sup> Street become an entertainment district so I have concerns that if it goes to Mass, number one, we need to talk to Art Place in New York, the people that gave the money, but also we need to just get really clear about who are the partners."

Schumm stated, "I've been rather clear all along, when you say K.T., you don't want the downtown involved in it, square footage in that zone. I want it. Everyone needs to be heard on this project and that's what ELNA has espoused forever, is let's get everybody involved in it. Let's get everybody that has a stake in the game and move on with it. I think Downtown Lawrence has a huge stake in the game. That's my opinion, you have your opinion."

Farmer stated, "So the grant was New Hampshire which DLI has representative businesses on New Hampshire Street. I think that irrespective of whether or not you say it's New Hampshire, Massachusetts or Vermont, it doesn't start at Rhode Island and end at Delaware. Even if it starts on New Hampshire, that is downtown. I think anybody along there that is a business, I think they would want to have some say, regardless of whether it starts on that block or however many feet that is to the next one. I think it's important that regardless of our opinion of what downtown is, even if it starts at New Hampshire, that's still downtown in my opinion. I just want to say if there is any contact to be made with the Art Place Grant, I don't think, you know I've been copied on some emails where folks from the neighborhood had been sending emails, inappropriate emails in my opinion, to the folks at Art Place, trying to stir up controversy. My fear is that the folks at Art Place completely yank the rug out from underneath this project because of some people's desire to get to the bottom of what they feel is not being a good process and at that point, we're totally screwed and nobody wins and this whole thing doesn't happen, period. I think we need to be real careful about how we move forward and who

we involve in these sorts of conversations. I think that any communication regarding this should come from the representatives of the grant which is the City, its neighborhoods, its downtown, and the Arts Center which is going to be facilitating this project. I'm really concerned that we're having a dozen or half dozen people sending emails to New York and what that says, not only about us, but about our community and about our inability to get along with one another. If I were the folks in Art Place, I'm not even going to share what I would think about Lawrence, Kansas right now. It's certainly pathetic is all I'd say about it. I don't think we want to represent ourselves in that way as a City, as a neighborhood, and as the Arts Center. We've got to get this on track and get everybody on the same page and that doesn't happen by sending back biting emails talking about how ridiculous we think this process is."

Amyx excused himself at 6:33 p.m.

Schumm asked, "The grant has been made to include from New Hampshire to Delaware?"

Bishop stated, "Unfortunately, I think that the Art Place Grant is somewhat ambiguous on the question. It does say 6 blocks, K.T. is right, however, I think writing it I envisioned it as being Massachusetts to Delaware. I understand that's just a problem. I'm not sure what to say about that, but we try to be very clear in this grant in terms of defining it so really laying out 7 blocks, Massachusetts to Delaware, for this grant, think about as being the 9<sup>th</sup> Street Corridor. That's what we're trying to focus a lot of the Free State Festival Events so I should say that of course the Free State Festival takes place throughout the entire cultural district so this is going to be going on in other parts of the City as well."

Mayor Amyx returned at 6:35 p.m.,

Schumm asked, "What are the ramifications of going in and asking the granting authority to amend the linear route to include the intersection of Massachusetts Street, or is it not even necessary?"

Bishop stated, "We can definitely run that by them and see what they have to say, I'm certainly happy to take that up with Art Place. I don't know how much they would care about that, I would think probably not too much, but I'm certainly happy to bring it up with them and I think it's a great idea. I think it's important to keep Art Place in the loop on all these issues and to make sure that they know exactly what's happening, if that's what we decide to do. I think we should definitely let Art Place know."

Amyx stated, "I have a question talking about something that the Vice Mayor brought up a minute ago. Is there a public process that a member of the public can follow to send into the Our Town people? Is there a process one has to follow if somebody wants to send an email or has contact?"

Stoddard stated, "I'm not aware."

Amyx stated, "That's just something that may or may not be happening."

Corliss stated, "The National Endowment of the Arts is a Federal Agency and they may have any number of different processes for receiving public comment on their grants. I don't know what that would be."

Amyx stated, "I didn't know if there might be a formal process one has to follow to get information to them."

Corliss stated, "We'll try to find out."

Amyx stated, "If somebody wished to contact a federal agency of some kind, they should have the right to be able to do that, but if there's some other thing that's going on, I think we would want to know that also. Back to the question of the 6 block versus 7 block area or however long it's going to be. Does the application need to be amended or anything to be able to determine whatever that length is?"

Stoddard stated, "I don't think that that is necessary Commissioner. That would be, though, up to the Arts Center and Art Place. The Art Center is the recipient of that particular grant. However, in the City's Request for Qualifications that we put out for the architectural and

design services on the project, we did define the project limits from Massachusetts to Delaware. We had a map in the packet and we sort of always defined it as that. I suppose the actual project area really, though, ends up being a function of the scope that's determined with the contractor and then really the design as to what occurs or doesn't occur in the project area."

Amyx stated, "Whatever corridor length that is ultimately selected, is fine for the application."

Stoddard stated, "Yes."

Amyx stated, "It seems to me that if we start with the consistency, we have an application that may say from New Hampshire to Delaware and as the Vice Mayor just said, 9<sup>th</sup> and New Hampshire is just as much of downtown as any other place. It's one of the entrances into downtown. I don't really have an opinion as to where it can go. It can be Mass or New Hampshire. I guess I just think in sake of consistency, make it New Hampshire to Delaware."

Schumm stated, "The only thing I would speak to that about is, what if something really cool was able to be done from say the alleyway half block east of Massachusetts Street and then down into the New Hampshire area. In my opinion, you would be unauthorized to accept that work product and move forward so you'd really start the event at New Hampshire and move east. It just seems like it is one street and it's going to have the whole context of art and why stop it a block short of Massachusetts Street?"

Dever stated, "I don't understand the difference of a block. New Hampshire is considered downtown. We allowed Downtown Design Guidelines, we administered Downtown parking rules. We have all sorts of coordinated efforts between New Hampshire and Mass Street as it relates to downtown activities. I'm not sure why it matters other than the fact there might be some retail which would go towards perhaps Mr. McElwain's comment about business and about bringing business to the corridor. Perhaps maybe where he got some of his ideas on how business could be enhanced in that area, if there's a walking area between the eastern

portion and the downtown portion and perhaps, more people would walk and partake in those activities that are along New Hampshire Street and Mass Street.”

Amyx stated, “Really, as I said a minute ago, I really don’t have a strong opinion other than the fact the consistency of the Grant Application is the main reason that I would think that we would want to do that, but I do think, one way or another, it’s important to define as to what that corridor connection is going to be. I mean, Massachusetts fine, because it does take in the Bourgeois Pig and the other area right through there. I think that is a possibility, but my big thing is questioning whether or not we need to amend things or to be able to show it any different. I think that is something that we owe our partners in East Lawrence, also.”

Riordan stated, “This concept is one where we have a downtown and we have an arts district and this is a corridor between the two. If we think defining it by New Hampshire or Massachusetts will bring any less or any more protections for the citizens of East Lawrence, I don’t agree with that. I think the protection for East Lawrence is the fact that we will listen to them. They have requested meetings and we’ve done that and we will continue to do that and so will the architects. I think we should not limit ourselves on an arbitrary means of determining where it ends because the corridor is 9<sup>th</sup> between Mass and Delaware. So I think we ought to just call a spade to spade and get on with it.”

Schumm stated, “You know there’s going to be some lighting in there and you want to tie that together with right off Massachusetts Street so it’s a natural leader for people that want to walk to the east end. There’s that. There could be some unique benches that go from different places and that block could be held barren. There are all kinds of stuff. I don’t see what the big deal is either way, that’s what my feeling is. I just think we ought to get over this minor little bump in the road and get on with the big stuff.”

Amyx stated, “Where we are right now is to consider authorizing the submittal of the Lawrence Arts Centre Art Town Grant proposal to the National Endowment for the Arts. Do we

need to then add language that it's going to say that it will include from Massachusetts Street to Delaware then?"

Schumm stated, "That is on this grant, but the other grant needs to be talked about too."

**Moved by Riordan, seconded by Schumm,** to authorize submittal of Lawrence Arts Center Our Town Grant Proposal to the National Endowment for the Arts and define the corridor area from Massachusetts to Delaware. Motion carried unanimously

Amyx stated, "I use the statement of partnering in East Lawrence very strongly, I want you to know."

Schumm asked, "Do we want to take action by advising Sarah Bishop to re-establish the route from Massachusetts Street to Delaware and see if that's appropriate with the granting organization."

Mayor Amyx called for public comment.

After receiving no public comment, **it was moved by Schumm, seconded by Riordan,** to direct Art Center staff to amend the application to define the corridor from Massachusetts to Delaware. Motion carried unanimously.

3. **Considered authorizing the Mayor to execute a professional services agreement and scope of services with McDonald & Associates, Inc., in substantially the form of the attached agreement and scope, for the independent review of the payment for certain infrastructure costs at Rock Chalk Park.**

Toni Wheeler, City Attorney, presented the staff report.

Dever stated, "I tried to find out a little bit about this company on the internet and had a difficult time kind of finding much out about them. They're not a very big firm from what I can tell, two people listed in their DMB Report. What do you know about them and what makes them qualified?"

Michael Eglinski, City Auditor, stated, "I know that they are, the staff that they are going to assign, are certified internal auditors, certified construction auditors. We looked at their resumes so we have an idea of their experience. The things that we were looking for were

experience with construction audit and public sector projects. Both of their staff has that and the certifications. I know they've done some work for County auditor, but I can't remember what it was but I also verified that they had, in fact, done that work."

Dever asked, "How did you find them?"

Eglinski stated, "I'm not sure I can remember exactly how I found this firm. When I started, I called other audit shops that I knew, especially in the area, and asked them for names of any firms they've used, aware of, or that they put in bids. I looked at some of the companies that I knew that were certain large area firms to see their proposals. I honestly don't remember how this one came."

Dever stated, "It's interesting."

Eglinski stated, "Yeah, they're a small firm compared to the other ones that proposed too."

Dever stated, "I just want to make sure they can get things done on time."

Riordan stated, "Under Exhibit A, it says consultant will attempt to perform the contract services in compliance and it goes on, however, under the circumstances full compliance with all those standards may not be possible. Could you explain that to me?"

Eglinski stated, "I think I can."

Riordan stated, "We're looking for an audit that's accurate and believable and will we still attain those two?"

Eglinski stated, "I believe you will. They do have the qualifications as I mentioned, certified internal auditor and certified construction auditor. I think they have some other certifications as well. They intend to follow the Institute of Internal Auditors Standards, but they're not comfortable guaranteeing that they will have complete compliance with that in the given time frame."

Riordan asked, "Why is that?"

Eglinski stated, "I think it's the time frame is tight and having to do all the standards. The standards may include things like assessing the IT technology controls that may be not especially relevant to a project like this, but that they would have to document their decisions to assess things like that."

Riordan stated, "I guess I'm not comfortable with that. I think they should perform this by using consultant's operation manual, the red book and be in compliant with that and we need to do that. I don't think we should do otherwise. If we need to create a situation or change something so they can do that, we should. We can put something in here that say's if they don't think that can occur they should come back to us at a reasonable time and say we can't do this and give us options on what to do. I can't agree with doing it in a way that doesn't comply. It doesn't make sense to me. It might make sense to others and I'd be happy to listen, but right here, it says we're going to do it. We might do a sloppy job, we might not do a good job, and we might not follow the standards, but we're going to get it done. That's not the message that I want."

Eglinski stated, "I don't think I would characterize it as we're going to do a sloppy job.

Riordan stated, "Good, because that's the way the public will look at it so let's follow the standards."

Eglinski stated, "Right, so what I think their intending to do is more of what in the audit world would be called a consulting engagement which is, under government audit standards, things called non-audit work."

Riordan stated, "I'm just saying I cannot support this with the words that are being used here."

Eglinski stated, "Okay."

Farmer stated, "What words are you having trouble with?"

Dever stated, "Attempt."

Riordan stated, "We want conformance, we want it accurate and we don't want to have a situation where somebody can look and say, you even set up ahead of time that you didn't have to do a good job. The words have to be different, I can't accept them."

Eglinski stated, "One of the possibilities, I guess, would basically go back to the firms that proposed and say, give us a price and a proposal and that you would meet IIA Standards for an audit or Government Auditing Standards for an audit."

Amyx stated, "Here's the deal, you and I had the discussion yesterday in the agenda meeting about the difference between review and audit and it was pretty clear to me that several weeks ago, when this body recommended by a unanimous vote, that we would have a comprehensive audit. Maybe again, I don't understand what the audit is going to look like, but I asked the question about the difference between a review and an audit and you assured me that we're going to be able to get exactly what we think we need to be able to provide to the public that the monies that were spent on this project and went exactly the way they were supposed to go. The big thing is that I'm always under the belief that if the language isn't specific as to what we want in an agreement, then we're probably not going to get that. If there's something that we really want in this thing, let's make sure that it is extremely clear of what we anticipate this coming back as."

Dever asked, "Can you tell us when they say they will attempt to perform the contract services to compliance with the Internal Auditor Standards, the Red Book, and by using the Consultant's Operations Manual, under the circumstances, full compliance, all these standards may not be possible. Are they saying full compliance with the auditing standards may not be possible or full compliance with the Consultant's Operation Manuel? That's big and they need to clarify that. Basically, to further what you said, the report we're going to get from them, the deliverables, are laid out pretty clearly. The conclusions regarding whether the construction of Rock Chalk was delivered in accordance with the Development Agreement and two other items, there's not any caveats there about what we may or may not get, but I guess I need to

understand what ‘not performing the audit in conformance with those standards’ might mean to us because none of us are auditors and I don’t know what that book says. I don’t know how substantial that is.”

Eglinski stated, “I think that the other examples I’ve looked at, when I was looking at firms, don’t follow audit standards, they follow, for example, the AICPA which is a CPA firm sort of governing body consulting standards. But, I can say this needs to follow IAA or Government Auditing Standards and we can get them.”

Amyx asked, “So at that point Michael, will it be considered to be an audit and they will be able to ask questions of anyone or any part of this that they feel that they need to be able to meet the standard, like Commissioner Dever brought up?”

Eglinski stated, “I think the work would change substantially. It would probably add some time. It would probably add some writing time. I’m not exactly familiar with the requirements for response if they have recommendations under government auditing standards. The code here, if it had any recommendation, it would have to go for 5 working days, response and things like that. I think that we would have to relax the expected deadline.”

Dever stated, “That’s fine.”

Amyx stated, “We want it right. This is the one thing the Commission, you know that we want this to come back so that when the public looks at this, that it meets, at least, the majority of people’s expectations on what they’re getting, what they’re paying for. Let’s make sure that language is right.”

Eglinski stated, “I can do that.”

Amyx stated, “We talked about the deadline last week and we relaxed that some, but here again, if it’s something that’s going to require more time then let’s get that time.”

Riordan stated, “I guess my comment would be that we would like it by that date. That’s what the contract would say but we are willing to negotiate the date in order to get a project that performs the contract ‘in compliance with’ rather than ‘attempts’. If that’s their only problem, I’d

remove those couple of words, 'will attempt to'. Knowing that they can sign it or if they say we can't do that, we need something on here that says a longer time and they can come back and say that to us. I have no problems with that."

Amyx asked, "So this is something then that you need to take back to the firm and re-look that project?"

Eglinski stated, "If they won't do that there are two other firms that had proposed. We can go to them next and at the end of that we could re-advertise."

Riordan asked, "Could we vote on this tonight removing those 3 words, send it to them and see if they'll sign it?"

Amyx stated, "In case that they don't, I think that we need to keep the flexibility of authorizing Michael to go to the other firms."

Riordan stated, "I'd agree with that too. That could be part of the motion that if this doesn't work out, we go to one of the other auditors."

Amyx asked, "Okay, specifically, then what is the language that you're proposing as part of this agreement."

Riordan stated, "I would just remove the word under Exhibit A(a), consultant is to perform the contract services in compliance with etc...rather than consultant will attempt to perform then I would add an addendum to that, if the group will not be able to comply with that and sign it then we can go to another auditor."

Amyx asked, "As part of this, I assume that there may be a cost differential in some of this, correct?"

Eglinski stated, "I would expect, yes."

Amyx stated, "I don't know if we can authorize an additional expenditure at this point."

Riordan stated, "I don't think we need to if they accept it we're fine, if they don't then they just have to come back to us and give us some new numbers and then we have to look at that,

but at least we have the possibilities of them accepting them, knowing that we will consider amendment to it."

Farmer stated, "At that point, you probably also want to take out; however under the circumstances, you want to strike those last two sentences from there as well."

Riordan stated, "Yes that will be correct. I accept that as a friendly amendment, if we have a second."

Amyx stated, "Again, I want to go back and have you tell me again that under the sections 1102 of the Development Agreement, this firm, if selected, and in agreeing to this, they are going to be able to question anybody and everyone that may be involved. As I read the development agreement, it says that Bliss Sports shall provide to the City the necessary documents and books, right?"

Wheeler stated, "The firm that is selected then will have access to the records that the City has including the large number of records that has been posted on the City's website. We have received additional documentation from RCP and Bliss Sports II and they have also provided additional information, clarification and questions that we've asked. They have cooperated to date and I would expect that would continue with this, when this firm is implemented. At this point, I'm not sure what the firm will ask for that we do not already have, but they would be entitled to documents that the City would be entitled to under the development agreement and we'll just have to see what those might be."

Amyx asked, "Toni, would you recommend that we go ahead and proceed, at this point, as amended to get approval from McDonald and Associates or to go through a week and clean this up so everybody knows exactly what this says, in your professional opinion here?"

Wheeler stated, "Well I think that the amendments that you are proposing are clear enough and we could go back to the firm based upon that direction and see what they have to say and report it back to you next week. I think that the modifications, we've made notations of

what languages is a concern to you, and we can speak to the vendor quickly and get a response and provide an update to you.

Amyx stated, "Commissioner Riordan, I would suggest that what we do is that we direct staff to go ahead and meet with McDonald and Associates, to go ahead and discuss the changes as recommended by the Commission. Don't make an approval at this point but to give it a week so that we know exactly what's coming back, if they have a negotiated position in this."

Riordan stated, "I can live with that, that's fine. We have the same goal. I will withdraw my motion."

Mayor Amyx called for public comment.

Stuart Boley stated, "I have heard much of this discussion and I'd like to ask you to just step back from making a decision on this tonight. In December, you voted for a comprehensive infrastructure audit. Now you're considering whether to just do a review of certain infrastructure costs. There's a huge difference between an audit and a review. I worked for the IRS for over 32 years. I did a lot of audits. I've seen a lot of audits done by other people and I've seen some reviews. The difference between an audit and a review is standards. Audits have high standards and reviews don't. Audits have a high level of credibility and reviews don't. The review that you're considering won't answer the important questions about this contact, an audit would. The review you're considering will simply make general observations and comparisons based on available information. An audit would require that the City obtain the information we should be provided according to the provisions of the contract. A review won't answer the question, did we get what we paid for. That requires an evaluation of the actual costs, not just a general comparison. How are the cost divided among the parties? An audit would answer that question, but a review won't. So please, don't act on this issue tonight. There's no rush. Most of the money has been paid out already anyway. Please direct the staff to re-write the proposal to comply with the high standards that you yourself chose in December when you voted in favor of a comprehensive infrastructure audit."

Amyx stated, "We discussed sending this back to staff and to discuss with the vendor about the language changes and if additional time was needed. The expectation again, is there any other language that we wish to add to this, things that we want to have considered that need to be specific in this contract?"

Dever stated, "I'm not an IRS Agent nor an Auditor so I don't think I have any clear or important language that we already have so I can't comment on that. That's what I thought Michael's job was, as an auditor, to provide the perfect language for this request and I thought that he had done that. I'm not really sure where the disconnection is."

Farmer stated, "I guess I'm having a difficult time figuring out, because I thought this was an audit, but apparently it's a review, so I'm confused. Help me out here."

Eglinski stated, "The firms that I talked to, especially with that February 3<sup>rd</sup> reporting date, none of them are willing to do it, as an audit."

Farmer asked, "It, meaning what, an audit?"

Eglinski stated, "To follow standards."

Farmer asked, "How much longer would they need in order to do that?"

Eglinski stated, "I didn't ask, but I'll go back and ask these folks what it would take and say, you have to follow audit standards and we'll find out."

Amyx stated, "I think that that was the direction that we gave. Let's give you the week then to go back to them and tell them we need an audit done that meets the standards."

Eglinski stated, "Okay."

**Moved by Dever, seconded by Farmer**, to defer for one week and direct staff to present amended language to execute a professional services agreement and scope of services with McDonald & Associates, Inc., in substantially the form of the attached agreement and scope, for the independent review of the payment for certain infrastructure costs at Rock Chalk Park. Motion carried unanimously.

4. **Consider approving payment to RCP, LLC, in the amount of \$1,055,588.52, for loan origination and loan interest costs per the Rock Chalk Park Development.**

David Corliss, City Manager, stated, "Mayor, members of the Commission, we did receive some additional correspondence and documentation from RCP, LLC, we have posted that and it was in response to some questions and raises new questions. I don't know if I can answer all those questions this evening."

Amyx stated, "The new information was on the letters of the 12<sup>th</sup> and even today's letter.

Corliss stated, "Correct, for example, on the soft costs there's information from the architects and engineers that sets out certain payments from different vendors, it's not always Bliss Sports II. The development agreement talks about Bliss Sport II. We know that those are probably related into Bliss Sports II, Thomas Fritzel. I'm not sure exactly what that means under the development agreement. We also know that some of the dates go back, in some cases, to 2012 on some of that work and I can't respond to why that's included in the documentation. There is information here from Emprise Bank where the bank officer clearly says that the loan amount is related to the infrastructure improvements, which I know is one of the questions, but I can't answer all of those questions and I think this needs to be part of the audit review, the additional documentation that we received. We made our earlier recommendation. We were basing it upon the representation of the work that was performed, to specifications, and the costs were appropriate. Now we're getting this additional information and we think it needs to be reviewed as well."

Schumm stated, "I'm going to change my position on this for a number of reasons, but in the event the audit turns up something that was inappropriately paid, then I'd like to have some cushion of money for us to recapture that additional costs. I just think, at this point, let us sit and wait for the audit and then let the chips fall where they may and pay up what we owe."

Riordan stated, "I think the same concept has been sent to probably most of this body, different citizens in Lawrence that they also agree with that concept. That if we're going to have

an audit, and pay all the money ahead of time, then we have no right to create a situation where we rectify that problem.”

Farmer stated, “This is why we wanted information all along, is to give folks in the public some comfort regarding what we’ve been paying on this. You know it’s unfortunate that some of the dates are off. It’s unfortunate that we didn’t get these until what, yesterday?”

Corliss stated, “Correct.”

Farmer stated, “I don’t know why, and certainly I agree with Bob on this one, and that’s kind of why I was reticent a few weeks ago regarding this. Of course this is new information. And with new information, we got to be responsible with that information. So, I think it would behoove us, ending up with the audit, necessarily, will find anything that is not above board, other than maybe some administrative errors, I hope, but it would be responsible of us to certainly withhold that until that’s looked at comprehensively and then when the audit comes back and says that everything is above board and appropriate, then I feel like us and everybody in the community will have more comfort and a better understanding of that. I just hope we’re not accused, at that point, of not doing enough, although maybe that’s what is going to happen, which is unfortunate, also.”

Amyx stated, “One of the things I think in all of this is that I think we were lead to believe that an audit would have been done and that that would have been a public document at this point. That would be where we are today, but it’s something that we feel is necessary. Again, we did talk several weeks ago about doing a comprehensive audit of the infrastructure portion of this and I think it’s wise that we hold up at this point, until we do anything else.”

Mayor Amyx called for public comment.

Stuart Boley stated, “I’d just like to endorse the decision you’re making. It’s the right thing to do.”

Amyx stated, “Thank you. The item before us is to approve the payment. “Dave, is there an action to deny the payment?”

Corliss stated, "What you could do is you would just say to defer additional things to RCP LLC until you receive your comprehensive audit."

**Moved by Schumm, seconded by Riordan**, to defer payments to RCP, LLC, in the amount of \$1,055,588.52, for loan origination and loan interest costs per the Rock Chalk Park Development, until our final comprehensive audit is completed. Motion carried unanimously.

Dever asked, "So the million dollars that we received from the Assist Foundation, what were the million dollars that we owe at this point, I believe last time we talked about it, is money from the Assist Foundation. Is that correct?"

Corliss stated, "The development agreement provides that once we reach a certain threshold of payments, then if there's money from the Assist Foundation, it comes to us and we would then pay that amount as well. We've received that million dollars through the Douglas County Community Foundation and we have those funds."

Dever asked, "Were there any contractual requirements in receiving that money?"

Corliss stated, "No."

#### **E. PUBLIC COMMENT:**

Dan Dannenberg stated, "I am here, in the words of Vice Mayor Farmer, to expound completely wrong and asinine conspiracy theories. A few weeks ago I got a call from a person in my neighborhood who was concerned about automobiles being parked on lawns and this person said they had brought it up or mentioned it to a member of the Planning Commission and they were concerned about it. So, I got in touch with a member of the Planning Commission, of course they said, don't worry about it and so I started looking around and sure enough, 9<sup>th</sup> and Lawrence, Yale and Crestline, on the south side of 9<sup>th</sup> Street there are places where automobiles have created ruts and mud pits and just general deterioration of the property. I also looked on the west side of Iowa Street in the 1100 block and there are a couple of places there that look like used car lots with the number of cars parked in front. In fact, one of them had so many cars that there is an extra cut in the curb for the cars to ingress and

egress to the house. Whether or not this was paid for by the office of Landlord Advocacy and Protection, I don't know, but this is really detraction and also the south side of 19<sup>th</sup> Street, east of Iowa Street has practically been destroyed. Those houses in there will no longer be habitable for single owners or residences and pretty much a lot of them have parking spaces in front of their houses and are really not in good situation. These present other problems in terms of access by public safety personnel because they're blocked, particularly the one on the 1100 block of Iowa Street. There are so many cars there at times that you can't go. I don't know how they would get there, and since my Orwellian time is about up, I will just point out that the 1200 block of Oread has the best example of a rutted and mudded up yard with cars parking off the sidewalk. In fact it's so bad that I'm thinking about nominating that property for the Mayor's Slum of the Month Award next year, next week, or next month.

Riordan stated, "Dan, I have a question for you. Do you know what the City regulation is about parking cars in yard?"

Dannenberg stated, "Oh, I imagine it has to do with no off-street parking available so then you could create a parking place."

Riordan stated, "I'm asking you, do you know what the regulation is?"

Dannenberg stated, "No, I don't."

Riordan stated, "Let me tell you what it is and it was very simple for me to find out Dan. I called the City and said people are parking in the yards, what can I do? They said, report it."

Dannenberg stated, "I reported. I go through the website and report it."

Riordan asked, "Did you call the police?"

Dannenberg stated, "I don't know who you call. I've called the police and I've sent through Code Enforcement, I have no idea."

Riordan stated, "All you need to do is call the police. If you want the number all give it to you after the meeting."

Dannenberg stated, "I have called the police and the police call me back and, in essence, tell me, we don't want to mess with this."

Riordan stated, "Don't interrupt me again and I won't interrupt you. That's inconsiderate. Call the police and they will take care of it. I've done this 50 to 60 times and they have come out 100%, 50 to 60 times. Be a good citizen Dan and help us to regulate the City. Quit complaining and be an active citizen in this. Come up to me after words and I would be glad to give you that information. It works."

Dannenberg stated, "No, it doesn't work, Mr. Commissioner because if it worked, we wouldn't have an on-going problem. We wouldn't have this continual problem. We would have a city that has put forward a program to stop it, but no, we have to do this all the time and I have done more than my share as a citizen. I can tell you that."

Riordan stated, "You've done more complaining as a citizen. I want you to be an advocate of the City of Lawrence. I have done this, it works and I'm telling you it works."

Dannenberg stated, "It does not work, it does not work for me."

Amyx stated, "Well gentlemen, we can have this conversation later. Dan. thank you, Terry, thank you.

Riordan stated, "I will mention our police are very efficient at this. They're excellent and they support us in many ways. It's something that I have seen happen many of time. We have no parking on the yards in our area because the kids learn very quickly."

**F. FUTURE AGENDA ITEMS:**

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

**G: COMMISSION ITEMS:** None

**H: CALENDAR:**

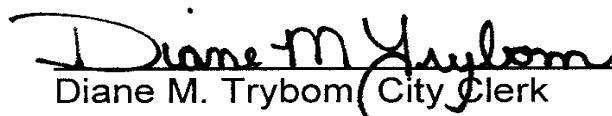
David Corliss, City Manager, reviewed calendar items

**I: CURRENT VACANCIES – BOARDS/COMMISSIONS:**

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

**Moved by Schumm, seconded by Riordan**, to adjourn at 7:32 p.m. Motion carried unanimously.

**MINUTES APPROVED BY THE CITY COMMISSION ON FEBRUARY 17, 2015.**



Diane M. Trybom  
Diane M. Trybom, City Clerk