



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

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

January 20, 2015

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 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: None.

Mayor Amyx stated, "The first item on the agenda is usually proclamations and recognitions, but we don't have any of those tonight, but I do have a special announcement, we have a special guest coming to town, President Obama. It's a big time for the City of Lawrence and all of our residents to have a sitting President coming to our community."

B. CONSENT AGENDA

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

1. Received minutes from various boards and commissions:

Board of Zoning Appeals meeting of 09/04/14
Community Development Advisory Committee meeting of 09/25/14
Historic Resources Commission meetings of 07/31/14, 08/21/14, 09/18/14,
10/16/14, and 11/20/14
Horizon 2020 Steering Committee meeting of 12/08/14
Joint Economic Development Council meeting of 09/11/14

2. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 364 vendors in the amount of \$1,056,436.28.

3. Approved licenses as recommended by the City Clerk's Office.

Taxicab License - New

Lawrence Go Green Taxi
Ben Sehon



2714 Chipperfield Rd.

Cereal Malt Beverage Renewals – Off Premise
(Pending Departmental Approvals)

Friends Corner 1900 Haskell Ave.

4. Bid and purchase items:
 - a) Awarded Bid No. B1465 – construction contract for Project No. UT1419 8th Street Waterline Replacement from Indiana Street to Kentucky Street - to Banks Construction, LLC in the amount of \$406,850 and authorized the City Manager to execute the construction contract.
 - b) Authorized the City Manager to execute Supplemental Agreement No.4 to the existing Engineering Services Agreement with Burns & McDonnell in the amount of \$45,000 for continued construction phase engineering services in conjunction with project UT0701DS Kaw Water Treatment Plant Transmission Main Phase I.
 - c) Approved Change Order No.1, in the amount of \$17,450.52, for additional work on the PS15 site, located at N. Michigan Street and Pin Oak Drive, and authorized the City Manager to execute the Settlement Agreement and Mutual Release with Emcon, Inc. for Project No. UT0919 - General Wastewater Pumping Station Improvement Project Priority Group I – PS15.
 - d) Authorized a purchase order in the amount of \$50,195.89 to continue the City's participation in the ESRI Enterprise License Agreement for small governments and for annual maintenance on the Data Interoperability Extension and Community Analyst Online for the period from January 22, 2015 through January 21, 2016.
 - e) Approved the sole source purchase and authorized the purchase of 40 TASER X2 models and associated equipment, from TASER International, in the amount of \$63,167.08.
5. Adopted Resolution No. 7102, approving conditionally an application for low income housing tax credits from the State of Kansas for Bethel Estates of Lawrence, a proposed senior housing development located at 25th Terrace and O'Connell Road.
6. Accepted dedications of right-of-way and easements for Final Plat, PF-14-00441, for HERE Addition, located at 1101 and 1115 Indiana Street. Submitted by HERE Kansas, LLC for Berkeley Flats Development Company Limited Partnership and Georgia Bell, property owners of record.
7. Authorized the Mayor to sign the Kansas Department of Transportation Authority to Award Contract Commitment of City Funds document for the Breezedale Monument Restoration Project. The total cost of the project is \$121,193, with the City responsible for twenty percent (20%) or \$24,300.
8. Received Bert Nash Community Mental Health Center.

9. Authorized the Mayor to sign a Release of Mortgage for Bruce K. and Kristen E. Barlow, 815 Elm Street.

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

Moved by Schumm, seconded by Riordan, to approve non-Rock Chalk Park related claims to 358 vendors in the amount of \$1,023,551.71. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Moved by Schumm, seconded by Dever, to approve Rock Chalk Park related claims to 6 vendors in the amount of \$32,884.57. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Abstain: None. Motion carried.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report regarding, the December 2014 Monthly Permit Reports; Special Populations Puts on America's Got Talent Program; Pump Station 04 Redundant Force Main – UT1302CS; Department of Utilities Recently Completed Watermain Replacements; Mississippi Street Watermain Replacement – UT1313DS; Arkansas Street Watermain Replacement – UT1315DS; Fuel Summary for 2014; and, City Recycling Report 2014.

Farmer stated, "It's pretty unbelievable that we collected, in the last 3 months of 2014, nearly what Deffenbaugh collected in the first 9, as far as recycling, so that's very exciting. It's just absolutely amazing to see these numbers and encourage anybody to go out, look at them, and be proud of this great program that we now get an opportunity to be a part of.

Amyx stated, "Dave, thank you for having the report done on the fuel expenditures. I think that will be an important part of 2015 as long as prices stay down. The only question that I would have is there any way that we can buy futures to keep it at this rate in the event it starts to skyrocket.

Corliss asked, "Do you want it at this rate or do you want it at what it's going to be in three months?"

Amyx stated, "It used to be I would go to the gas station before the prices went up, now I'm taking my time before I go and wait to see if it's going to go down."

Corliss stated, "The real question is going to be in April and in May, what number do we put in for the 2016 Budget."

D. REGULAR AGENDA ITEMS:

1. **Consider a Comprehensive Plan Amendment, CPA-14-00459, to Horizon 2020, Chapter 14 (West of K-10 Plan) to change designations from Low Density Residential, High Density Residential, and Residential Office, to Commercial Center - CC600, located at 6200 W. 6th Street. Submitted by Steven B. Schwada and Timothy B. Fritz, co-managers of K-10/40 Development LC on behalf of TAT Land Holding Company LC, JDS Kansas LC, Kentucky Place LC, Venture Properties Inc., Sojac Land Company LC, Scotsdale Properties LC, and Tanglewood LC, property owners of record. Consider adopting on first reading, Joint City Ordinance No. 9069/County Resolution No. 15-3, for Comprehensive Plan Amendment (CPA-14-00459) to Horizon 2020, Chapter 14 (West of K-10 Plan) to change designations from Low Density Residential, High Density Residential, and Residential Office, to Commercial Center - CC600, located at 6200 W. 6th Street. (PC Item 2; approved 8-1 on 12/15/14)**

2. **Consider rezoning, Z-14-00458, approximately 120.6 acres located at 6200 W 6th Street from CC400 (Community Commercial Centers) District, RS7 (Single-Dwelling Residential) District, RM12D (Multi-Dwelling Residential) District, RM24 (Multi-Dwelling Residential) District, PCD (Planned Commercial Development) District, and RMO (Multi-Dwelling Residential-Office) District to CC600 (Community Commercial) District. Submitted by Steven B. Schwada and Timothy B. Fritz, co-managers of K-10/40 Development LC on behalf of TAT Land Holding Company LC, JDS Kansas LC, Kentucky Place LC, Venture Properties Inc., Sojac Land Company LC, Scotsdale Properties LC, and Tanglewood LC, property owners of record. Consider adopting on first reading, Ordinance No. 9070, to rezone (Z-14-00458) approximately 120.6 acres located at 6200 W 6th Street. (PC Item 3; approved 9-0 on 12/15/14)**

Scott McCullough, Planning Director, asked, "Mayor, does it please you to do items one and two, the comp plan and rezoning presentations together since it's sort of a package?"

Amyx stated, "That will be fine and then we could have individual votes on those."

McCullough stated, "I will remind you that we would appreciate ex parte communications declared for the rezoning as well."

Schumm stated, "I have had no comments what so ever on this issue."

Farmer stated, "Me either."

Riordan stated, "I attended a meeting with the developer and everything in that meeting is public knowledge today. There's no new information that I could report."

Dever stated, "I don't recall any specific information I got from any conversations I've had outside information published on the agenda."

Amyx stated, "I have had no contact or comment from anyone on this item."

Jeff Crick, Planner, presented the staff report.

Amyx asked, "Why doesn't the square footage of the commercial change at this node? What does it stay at 360,000 square feet?"

Crick stated, "The portion of the request was to just leave the 360,000 square feet as is so it just expands the land there but not necessarily the amount permitted."

Amyx stated, "Okay."

Schumm stated, "Also, that comes through in the next second agenda item. That while we're suggesting at keeping the allowed square footage of development at the same level as what it is right now and just squaring it off so they can use different types of commercial in that whole plot. Can they come back at a later time and request for additional zoning in that area?"

McCullough stated, "They could request to revise the zone but one of the benefits we saw in this application is that, by going to the CC600, essentially all the uses that are already accommodated in the plan and the different zonings are accommodated in the CC600 district, except for the single family zoning. If they wanted to do a single family project in this part of the node, they would need to come back and rezone to a single-family district. The multi-dwelling structures, office projects, retail, non-retail, commercial projects are all accommodated by the CC600 zoning district."

Schumm asked, "Can they ask for additional square footage of development of commercial in this area?"

McCullough stated, "Yes. They could make the request. It would require a plan amendment change, not necessarily a rezoning change, but it would require raising a limit of

commercial retail square footage at this particular corner of the node. That type of request could occur, whether we accommodate the rezoning and plan amendment in terms of the usage change today.”

Schumm stated, “Because other land owners could make the same request.”

McCullough stated, “Correct.”

Mary Miller, Planner, presented the rezoning request.

Amyx asked, “How much weight is given to the area to the east, which is primarily residential, in establishing compatibility but what the neighborhood actually is right now.”

Miller stated, “That will be our principle consideration of any site plans done along the east side of the property. We look at the scale and the massing of the buildings. We require a landscape buffer yard between the two uses and we send out notification to the property owners of the total feet. It would be a principle consideration.”

Amyx asked, “Did we get any response from the property owners to the east?”

Miller stated, “That would be the site planning. We did send out notification as well about the rezoning, we just didn’t receive any comments from that.”

Matt Gough, Barber Emmerson Law Firm, stated, “I’m here today on behalf of the applicant, K-10/40 Development. I’d like to commend the staff for their thorough report. We are in agreement with the staff report, and pleased to stand for any question you may have, but fundamentally this request is intended to increase the flexibility of the site to market for potential uses and also in recognition of the fact that because of the development of Rock Chalk Park and the Sports Pavilion Lawrence, the need for single family uses along the northern border have been made unnecessary and it’s a very straight forward request in our mind.”

Mayor Amyx called for public comment. No public comment.

Schumm stated, “This is about as straight forward a proposal as I’ve seen in a long time. And, we’ve all been out there working on things for Rock Chalk Park, and driving around in that area, I think makes a lot of just good common sense, especially to put all that one tract of land

under one type of zoning and get the most out of it. I can't see a thing wrong with it, I guess, is what I'm trying to say. I can't usually say that about most things. I'm probably going to support that Mike."

Riordan stated, "I would agree. To me, this just makes sense. With the changes that are out there, what happened with Rock Chalk Park, with where this is and the type of nodal plans that we have for this, commercial makes sense. We're not increasing the number of square footage; we're just making it be consistent with what should go out there today. So, I have no problems with it and I would be supportive."

Farmer stated, "It's exciting. I don't think this request would be coming forth without all the work that's been done with the land out there, and potential folks looking to go out there, and I think this is something that's necessary to do. I think this is a tremendous idea and really will, hopefully, give the flexibility to the property owners to go out and secure retail development to go out there, and so it's a pretty exciting thing for us to support. We'll look back on this, with other things that may come down later, and see this really is the game changer when we kind of opened that up to be able to support things that will potentially go out there. I'm very supportive."

Amyx stated, "I appreciate that Jeremy. And, as somebody who has seen this particular corner, at least develop on paper, it is one that, as we closer to seeing improvements begin, one of these days in that area. This is exciting. I know that the residential probably did make sense at one point in time as we looked at what that buffer was going to be to the north, but at this point in time it does give the developer the opportunity to come up with some really exciting plans that can happen on that property, especially taking that consideration with the plans that we have for site planning and everything that goes along with that. This is going to be pretty exciting. This is going to be a dynamite intersection one of these days, especially when you consider the improvements that KDOT is going to be making at K-10 and West 6th Street. Yeah, this is going to be some pretty exciting times and a very good piece of property."

Moved by Farmer, seconded by Dever, to approve the Comprehensive Plan Amendment (CPA-14-00459) and adopt on first reading, Joint City Ordinance No. 9069/County Resolution No. 15-3, to change designations from Low Density Residential, High Density Residential, and Residential Office, to Commercial Center - CC600, located at 6200 W. 6th Street. Motion carried unanimously.

Moved by Schumm, seconded by Farmer, to approve rezoning (Z-14-00458) approximately 120.6 acres located at 6200 W 6th St from CC400 (Community Commercial Centers) District, RS7 (Single-Dwelling Residential) District, RM12D (Multi-Dwelling Residential) District, RM24 (Multi-Dwelling Residential) District, PCD (Planned Commercial Development) District, and RMO (Multi-Dwelling Residential–Office) District to CC600 (Community Commercial) District. Adopt on first reading Ordinance No. 9070. Motion carried unanimously.

3. **Receive request for Industrial Revenue Bond financing (for purpose of accessing sales tax exemption on materials used in construction) from Midwest Health for Pioneer Ridge Independent Living Project located at Wakarusa Drive and Harvard Road. Consider referring to Public Incentives Review Committee for recommendation. Staff analysis has not been conducted on this request and a staff recommendation has not yet been prepared.**

Corliss stated, “Mayor and Commissioners just a brief introduction to this. Pioneer Ridge at Wakarusa and Harvard has been a successful development within the community providing great service and looking to expand. We do have a question in regards to Industrial Revenue Bond financing for this type of development. It’s my understanding the applicants attorney is here. Kevyn, Diane and Britt have also worked on this so we stand ready to answer any questions. We don’t have our analysis completed at this point but I wanted you to see this before it’s referred on.”

Amyx stated, “Dave, this is exactly what we did at Neuvant House.”

Corliss stated, “It’s similar. They paid all the applicants property tax so there was not any property tax exemption but there was a certificate that allowed them to have the materials that they purchased in construction to be sales tax exempted. That’s similar to this.”

Farmer stated, "You set precedent, but I'm curious what our policy is in relationship to these types of exemptions. Because, I remember, when we first came on, was it Presbyterian Manor, or something like that, Neuvant House. Do we have a policy in place talking about how we receive these and what's applicable and what's not?"

Corliss stated, "We do and as part of our analysis we will go in and compare exactly what they're asking for against that policy, but we do have a policy that generally provides for this type of request."

Farmer asked "In relationship to the type of business?"

Corliss stated, "Correct."

Amyx asked, "Other questions?"

Kurt Peterson, representing the applicant, stated, "I know not to waste anybody's time so if there are any questions, I can answer them now otherwise we would just ask for that recommendation and meet everybody at the PIRC meeting"

Riordan asked, "If this is granted, what benefits does this have to the City of Lawrence citizens?"

Peterson stated, "It's a great question. This facility, the City Manager said, is an expansion in the sense of our current operations where we have skilled nursing and assisted living. I think folks that have any interaction, whether parents or other relatives that have been in those facilities, know these are high costs facilities. This would be an extension of that. In fact, this will be independent living, in-arguably, because folks have a little bit more mobility and can take part in more active activities. This is a really nice facility with a lot of amenities. So, for the City, it offers for people's parents or for people that are looking to downsize and get into a facility that is independent living instead of single family it offers a great place to go. Some place for the City to be proud of to have within the City's border."

Riordan asked, "Will it be more affordable?"

Peterson stated, "No. That's one thing we'll come back more prepared for. I don't know, off the top of my head, the rates for this facility but that's one thing I'll be ready at PIRC for and come back to the City Commission to talk about."

Farmer asked, "Will this project proceed, as scheduled, if the City chooses not to issue IRB's?"

Peterson stated, "We're close to shovel ready, this is pretty late for a project to come before you. The answer is, when I have my client here at PIRC and City Commission, we can be a little bit more on point with the client. Back to the origin, the reason we're here is because as we were working with our lender, and you start finalizing your construction budget, this became a little tighter than they originally expected which is why they sought us out to say hey, what can we do here? We looked at the City policy, reviewed that with Ms. Stoddard in the City Manager's Office and looked at, again, other things like Neuvant House that had been done before here. We came here and said we think this is a good way to bridge the gap and make a little more solid, secure the loan and get started. So, that's the background."

Riordan asked, "Just for public education, would this affect any further taxes on the building?"

Peterson stated, "No sir, this would be only sales tax exemption on materials during construction."

Mayor Amyx called for public comment. None.

Moved by Schumm, seconded by Dever, to receive the request and refer to Public Incentives Review Committee for a February 3, 2015 Public Incentives Review Committee meeting for recommendation. Motion carried unanimously.

4. **Receive request from The Eldridge Hotel to establish a 15-year, 95% Neighborhood Revitalization Area for the property located at 705 Massachusetts Street and for Industrial Revenue Bond (IRB) financing for the purpose of accessing a sales tax exemption on project construction materials and consider referring the item to the Public Incentives Review Committee for a meeting on February 3, 2015 at 4:00 p.m. and consider setting February 10, 2015 as the date for a public hearing on the proposed NRA and Revitalization Plan. Staff analysis**

has not been conducted on this request and a staff recommendation has not yet been prepared.

Amyx stated, "Again, there has not been staff recommendation on this analysis yet."

Corliss stated, "Correct Mayor and Commissioners. This is similar to the previous request in that you're receiving a request and referring on to the Public Incentive Review Committee. In addition to the Industrial Revenue Bond financing, which is part of the request, again for the purpose of getting the sales tax exemption on construction materials, there's also a request under the Neighborhood Revitalization Act and that is whereby the property owner pays the property taxes. That incremental property tax that's associated with the project, in this case, taking the vacant lot and putting in a hotel extension, that property tax increment is then rebated back to the property owner if the project complies with all the redevelopment plan requirements. We made it clear that this project has not received all of its planning use approvals. They've been successful in some of their request but there's been some time period in regards to that review. That would obviously be part of eventual approval of the project, but we do think it's important to tie any incentive that would occur with complete compliance with the land use requirements on the project."

Schumm stated, "I didn't see a dollar amount that would be rebated to them. Is that not defined yet?"

Corliss said, "We haven't done an analysis yet. We've had good conversation with the County Appraisers Office to determine exactly what the likely property tax would be on this property. We don't know that yet, obviously, it hasn't been built. But, we're in the process of taking those numbers and then doing the analysis as to what that would be. Regardless of what the PIRC's recommendation is, you'll see that recommendation again. You'll see this project again with that analysis."

Farmer stated, "It needs to be clear for the record, for anybody watching that we're not making a decision on this tonight."

Corliss stated, "The only decision you're making is whether to refer it on for additional review by your Public Incentive Review Committee. You're not making any final decision on any incentive this evening. You're setting the public hearing date."

Schumm stated. "Would it be possible sometime in the near future before we get this back from PIRC to demonstrate the different projects we've given tax abatement to but they have supplied parking for their facilities."

Corliss stated, "That could be part of our analysis Commissioner Schumm. We can make sure that that's part of your discussion. Some projects, as you know, have and some haven't."

Amyx stated, "Bob, I have a similar concern that you have. We're adding more need for parking in the area but that's something to be considered separately."

Nancy Longhurst, Eldridge Hotel, stated, "In 1985, I was proud of that time to be the general manager and partner of the Eldridge Hotel when Rob Phillips and a group of investors bought the Eldridge at which time had a 100 room apartment complex right there on Massachusetts Street and David's grandmother even lived there. I have great memories of going up to visit her and it was in great need of repair. It had been through a lot and had kind of suffered a little bit. It was at that time that actually Rob Phillips was the one who decided to bring it back to the grandeur of the day, the way it was built in 1925. We went through a lot of work and we brought it back to the way it was and on December 31st, 1986, Linda and David Coleman were the very first people to check into the Eldridge Hotel after a very long time. It was a very historic evening. Our mission statement is Memory's Created, Hospitality Defined and we certainly made that possible for everyone in Lawrence Kansas that was proud to the Eldridge back as a hotel again. I returned back to the Eldridge in 2005 after a group of individuals bought the hotel at auction and rebuilt its reputation for service and history once again. At that time we did not ask for any City incentives and we spent 7 million dollars in renovation. Business was restored and the community enjoyed the ambiance again of the

Eldridge Hotel that opened in 1925. The original terrazzo floor which you can see today when you enter, the intricate plastic molding in the crystal ball room and in the big six, which is exactly the way it was in the 1920, and also the beautiful moldings you'll see in Ten Restaurant. How lucky we were and are to work at the Eldridge today. We do conduct monthly tours of children all the time, every single month of children in our community. We tell them the history of the Eldridge Hotel and tell the history of Quantrill's Raid on Lawrence, Kansas. The citizens of Lawrence have been very supportive of our hotel which happens to be sitting on the most historic corner in the State of Kansas. We are very appreciative. With much pride we are ready now to expand the hotel to the south. For as long as I can remember, over the past 9 years being back, people ask me all the time, "when are you going to do something with the south lot". And, so, the lot sits vacant. It sits unproductive and it's underutilized. The time has come and I'm proud to stand before you as we embark on this expansion. We are not interested flipping the actual project. The ownership looks at the big picture. We're here for the long haul. It's been 9 years and it will continue on with all of us. Both the historic Eldridge and the expansion will be working together as one entity. So, of course, we've got the Eldridge and what we're talking about is the actual expansion, but we'll be working of course together. We all have a deep desire to continue operations with the ownership group to welcome all who stay at the Eldridge and our community. Being in this business as I have for a long time, I see the need for more quality projects in Lawrence as it expands and grows its visitor's base. Let's provide them with some great guest rooms where they will want to return to Lawrence for more meetings, more sporting events, and show, downtown, what we're proud of. Our expansion provides us the opportunity to bring out-of-town guests into Lawrence, which is what we do, we have full sales staff team out, every single day, bringing more people to this town. It increases our overall tax base and also the transient guest tax for the City. I've also consulted with our ghost and Colonel Eldridge believes it's a good idea as well. We are formally requesting a neighborhood revitalization act for our expansion project. This clearly is a neighborhood revitalization area,

both encouraging re-investment and improvements to this property, and in the community. We are requesting economic development support in the form of a 95% rebate of property tax for a period of 15 years. After review by PIRC, you will find the cash return on the City to be very significant and well worth your support as I believe. I look forward to the time studying this proposal with you and answering your questions at the Public Incentive Review Committee. What is good for the Eldridge, in my opinion, is good for this community. Thanks for your support.”

Amyx stated, “Nancy, thank you for all the hard work that you all provide.”

Mayor Amyx called for public comment. None.

Moved by Schumm, seconded by Dever, to receive the request and refer to the Public Incentives Review Committee for recommendation and set February 10, 2015 as the date for the public hearing on the proposed NRA and Revitalization Plan. Motion carried unanimously.

5. **Receive update regarding discussions with the East Lawrence Neighborhood Association representatives and receive briefing from Josh Shelton of El Dorado, Inc. regarding the preliminary design scope and fee proposal for the 9th Street Corridor (Art Place) project.**

David Corliss, City Manager, presented the staff report.

Schumm stated, “It was a good meeting and it started at 4:00, and we planned on meeting an hour, and we got out of there around 6:00. It was a good meeting and we had a lot of representation from East Lawrence, a lot of the people who have been very intimately involved in this. We worked through a number of issues with Josh Shelton’s help and, as Dave said, put in a different review point so that we don’t get too far down the design line and somebody can’t like it or a bunch of people can’t like it and you have to back up and do it over again or the things falls apart. I thought it was very constructive and I thought everyone there worked well to try and make a good outcome in that. When I left, I felt very good.”

Amyx stated, “We appreciate your time on this matter Bob. I know you’ve had a lot of involvement in the corridor and the arts plan so I appreciate the work that you’ve done on this.

You feel like we're at a point where, based on where you left last week, that we're ready to move ahead, at least finalizing this contract."

Schumm stated, "Absolutely and I thought there was a real firm general consensus of the group that was there, and the group that was there is representative of the ELNA Board. I thought it was good in those two regards and we had a good representation and we reached a fairly general consensus with regards to what we talked about."

Amyx stated, "It seems like to me, at least in the discussion I've had with Dave, and what we have before us, that there is a lot of time for participation and questioning of any of the anticipated work and design that will happen along the corridor. Am I reading that right?"

Schumm stated, "If you go to every meeting, you may not have a business left, I don't know, because there's lots and lots of opportunities to comment and it's just going to take a lot of data collection and it just looks to me that it's just overwhelming. I can't imagine anyone's going to get left out of the process in terms of what they want to say or what they want to make sure is looked at."

Amyx stated, "There was discussion before Dave about notification and we can be involved with helping, mailing and getting that information out."

Corliss stated, "One of the things we offered to do is if there were additional mailings that East Lawrence Neighborhood Association wanted to do we could do that. We mail a lot of things so we can participate in that regard as a way to try and get the word out. I think that's one of the work plan items that you see in the scope is to figure out what are going to be the best means of communication to all the different stakeholders and interested parties. We don't want to assume that just mailing something or posting something on the internet is going to be the best way. There may be other ways as well."

Amyx asked, "Any other questions of staff." There were none.

Josh Shelton, El Dorado, Inc., stated, "I think the scope and fee proposal that was presented has been posted online as have a couple of examples of comparable projects that we

completed, studies that we've completed, for Kanas City, Missouri, one along the West Pennway Corridor and one along the 20th Street Corridor. I just wanted to touch on the meeting, in particular, that we had with East Lawrence Neighborhood Association members, Bob Schumm, and City staff. The biggest things that we touched on were milestones and we did add a couple of review periods that were not originally proposed in the document posted. So, I wanted to touch on that in a little bit more detail. One had to do with the work plan that we would develop at the beginning of the project, to add to the scope and incorporation of a statement of values for the project. And, I think, that was rightfully pointed out by the East Lawrence Neighborhood Association members that it would be important to establish that. Whether that is three value statements or 10, but to get that into the work plan to have an overarching kind of guiding statement of values, and to actually have that work plan fall under a two week review period. I don't think that would affect the overall project schedule because we would be able to undertake workshops, and things like that, while that's going on. There was another one that I think Bob mentioned, that 50% through the way of schematic design, we would meet with the Citizens Steering Committee bringing them up to speed, and get feedback, with where the design progress is and I thought that was another appropriate insertion of kind of a milestone meeting. Those were the kind of primary adjustments that we would look to make to the scope and fee document moving forward. If there are any questions, I'm certainly here to address them."

Amyx asked, "Any questions of Josh." There were none.

Amyx called for public comment

Dave Loewenstein stated, "I also wanted to commend the City, especially the City Manager, Commissioner Schumm, Josh for meeting with members of the East Lawrence Neighborhood Association Board last week to discuss the proposed East 9th Street project. I think it was a good meeting and I feel like I made some progress. But, I also wanted to acknowledge an unexpected stumbling block I believe we've encountered and this was

something I brought up during our meeting. That's the resignation of Christina McClelland, the City's first ever Director of Arts and Culture and the main City staff person with facilitating the East 9th Street Project. In only three months on the job Ms. McClelland expertise and experience I think were shown to be integral in creating an informed and equitable process. Unfortunately, now the position is vacant and we've been left, more or less, adrift without a Director of Arts and Culture to navigate the complex and sensitive dynamics of this project. This is the first time Lawrence has ever undertaken an arts-based development venture like this. One that seeks to remake part of a neighborhood using arts and culture as a catalyst, doing it right by waiting until our new Director of Arts and Culture is here to advise and lead is the responsible thing to do, I believe. Let's not let our ambition get in the way of making good decisions and getting the critical help we'll need to ensure a successful and equitable project."

K.T. Walsh stated, "Speaking only for myself, I just wanted to reiterate what I told you last week, and I think I'll just come every week and talk about this because it means a lot to me and that is I was so pleased last week when they brought you the film festival budget and it was all very clear, every donor, every foundation, every grant, going into that. Because the numbers are redacted from this particular grant that we're talking about tonight, we don't know who has skin in the game and so not only is there the perception that they're hiding something, they are hiding something. I just think as a good faith effort, so we can move forward in an atmosphere of trust, if they would just show us the budget so we know what's going on and who's involved, I think we could have a smoother path forward."

Katherine Simmons, Chair of the Lawrence Cultural Arts Commission stated, "We've continually, unanimously considered and approved moving forward with this project. Hopefully we can move forward, I think, addressing engagement which has been a big issue with contention in the past. I think we've sort of come beyond that at this point. In the agenda packet today, there's very detailed scope and budget proposed so I think it is there and again the Lawrence Cultural Arts Commission has unanimously considered these items and voted to

move forward with PIRC so I'd just like to reiterate. I would also like to say we also were disappointed with resignation of our integral staff person, however, the City has moved very quickly on looking to refill that position. It is currently open and the deadline for submittals is February 2nd. You also have a Cultural Arts Commission which we have been very active in this process so we're always here to give input. You're always welcome to attend our meetings if you'd like to hear our additional discussion that we have so I would just like to say thanks."

Aaron Paden, President of ELNA, stated, "The meeting that we had on Friday went well and I had some good conversations back and forth. I thought that everything considered that we would come up with some really good ideas of how to reach equitable good ends to make a better project which was our intent before. Thank you to Bob for his effort and for your time."

Amyx asked, "Aaron, you're very comfortable with all of the public process that will happen in being able to give comment and being able to give information out to neighbors."

Aaron stated, "Yes, it seems we have multiple methods in place at this point. I would say that we're very comfortable and it seems Josh is too. I think we should move forward."

Amyx stated, "We need to discuss receipt of the item. Are we pleased with the direction that we've gotten so far and specific action?"

Schumm asked, "How close are we to being able to sign a document? Can we have it come back next Tuesday night for an authorization of signing the contract?"

Corliss stated, "That's our plan. To have Mr. Shelton make those changes that he's indicated and we'll take that and you authorize me to sign a contract. That's the agenda item that we would have next week. We'll put in all the appropriate contractual language and make it happen."

Schumm stated, "That sounds good."

Amyx asked, "Is everybody comfortable with all the work that has been done by Dave and Commissioner Schumm and all the work by the neighborhood association on making sure that we have all the discussion and milestones in place to make sure that this happens."

Dever stated, "Yes."

Riordan stated, "Yes, I think this is a great project and I think it's going to really be tremendously beneficial to the City and I think it's a good example of when citizens are engaged and they are asked to come in and give true discussions where some good things can come out of it. I'm pleased with that and boy, I'm looking forward to getting this forward."

Farmer stated, "I had a really great meeting this morning with a few folks from the East Lawrence Neighborhood Association board and we just had a great conversation about how important it is for East Lawrence residents to feel like they are understood as far as the history of the neighborhood goes. I think it's incumbent upon us to exercise some leadership in relationship to helping to get the word out about folks who may never show up at a City Commission meeting and I think we need to make sure and Josh you were praised so highly in that meeting for giving additional meetings and input. They basically said you were bending over backwards to make sure that the neighborhood felt included in the process. I think that's to be commended so thank you for doing a great job. Hopefully as these things go forward a lot of the fears that everyone thinks are going to happen will be mitigated and found not to be the case. It's an exciting thing for our community and I just would encourage everybody to continue to be open and I'm talking to myself here too."

Amyx stated, "Thanks for all the hard work Bob and thank you Dave for the work that you did. Thanks to the neighborhood association folks, the Arts Center, and everybody that was involved. Josh, thank you. I know that there's going to be fear and there's going to be concern. We appreciate that and if it takes us a longer time to do it and do it right, we're fine and get everybody's input throughout this entire process. That's all this is about. Here again, when I made the statement last week, we're partners in this deal, I mean we are going to be partners in this. We're going to make sure everything is going to be of the best. We're pretty good street builders, we're pretty good sidewalk builders. We're going to make it work and make it work well. The only way it's going to work is the lines of communications always being open

throughout this entire process and you're going to see that a lot through this process. That's where we are."

Schumm stated, "The only thing I wanted to follow up with or close on actually was I thought that after that meeting on Friday afternoon, that was the first time I really felt comfortable that we'd actually reached some strong agreements and mutual understanding and mutual trust, from that aspect, I really appreciate it. I left they're feeling really good so I think this is the way to step forward now and it was really a swell meeting, it was really good."

Moved by Schumm, seconded by Riordan, to receive the update and direct staff to finish negotiations with El Dorado, Inc. and place the contract on the January 27, 2014 City Commission agenda. Motion carried unanimously.

6. **Consider 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.**

Michael Eglinski, City Auditor, presented the staff report.

Amyx asked, "Michael, I have a question here on Exhibit A, Objective. It has 'review' in here rather than the term 'audit'. I would assume that we would have used audit rather than review."

Eglinski stated, "What I can say about that is, to some extent in this we're using 'review' in the way you use the word, 'I'm going to review the document', as a sort of verb of what they're doing. The place that I saw that I thought we could remove that language, because we want it to be audit work following these audit standards, was especially in the next section, Services point Number 1, uses the term 'review' in that. I think we could use either 'audit' or remove that word. It's not intended to indicate that it's not following audit standards."

Amyx stated, "I want it to be clear that we're doing an audit and we're just not doing a simple review. The other part was under the 'engagement assumptions' and it's under item B. It talks about 'The City understands and agrees that Consultant's completion of the Contract

Services and timely delivery,' on and on. You get to, 'The City also agrees to endeavor to facilitate Consultant's access to third parties' information and if access to that information is not obtained, the City agrees to accept the Consultant's final report based upon that information that has been made available to Consultant.' I'm not willing to accept something that's not there. If we don't get the information, do we have time to go back and ask how we want to be of assistance to be able to get that information? Just because it's not available should not mean we're not interested or we accept it the way it's written."

Eglinski stated, "We have access to information through the development agreement and there's two sections. I think its 11.02 and 16.01 that we believe gives us access to the information we need to answer these questions."

Amyx asked, "That does answer the questions in the development agreement? Is it open to interpretation? "

Eglinski stated, "I think everything is open to interpretation among lawyers."

Amyx stated, "Just understand, I'm a lot uncomfortable in accepting something that we ask for information that we don't get and we accept that as being a final document. Is there something that we can do, during this process, if information was not obtained, that we have at least one way, maybe if we chime in on that, and we're able to get that information."

Eglinski stated, "I guess what I would say is that I think the parties involved are interested in cooperating with this process. I think the development agreement provides us with a reasonable amount access. That said if there's some information that we do not have a right to access and we're not given, there's really not much we can do about that. I think we have the development agreements, those aspects of that, that layout access to some information. I think we have a reasonable expectation that people will cooperate."

Amyx stated, "Here again, the reason I bring it up is we look at 11.02, I may read it one way and other people may read it another way. I believe that we have the access to that information that was to be provided within the 10 day period. As I look at that, is that what I

think was supposed to be provided and this says well if it's not, we accept it as being the norm or the final report; I have a hard time with that."

Eglinski stated, "The report, I believe, if there was information they request, and they do not have access to, and they need access, they would report that. Just like if I were doing work where I needed to look at some record, and I have access to that record, through the ordinance, but if I don't get that, what can I do? I report that I didn't have access to it. I do think the ability to ask questions and hopefully to have cooperation is important."

Riordan stated, "This is a complex agreement. We all know that. We have a building that we built, which is City owned, we have university owned complexes and then there's this shared area for parking, development and all that that we're talking about. One of the things I want to make sure is that whatever information that is there, that they have, the university, Bliss Sports, whatever entities that are involved in this, that we will have full access to that and we know that ahead of time. To me it doesn't make sense to have an audit and to say, no you can't have access to that ahead of time. I'm concerned about that aspect of it. I know there's been consideration with these discussions and are we confident that we have full access to everything that they have and there's nothing that they have that we won't have access to, concerning the parts that we're doing, which is basically the infrastructure."

Eglinski stated, "I think we have full access to everything that the development agreement gives us access to. I don't mean for that be circular."

Riordan asked, "Do we have full access to everything they have, not what we have access to. I know we have access to what we have access to, but what I want to know, do we have access to everything?"

Dever asked, "Can I interrupt? We met today, Michael did as well, Dave Corliss, Vice Mayor Farmer, and Legal Counsel and we hashed out these specific issues with both Bliss Sports and with KU Endowment. I think they made it pretty clear to us that what we asked for we'll be given access to. And, that they're not hiding anything and that, although, as you said,

the development agreement gives us limited access to information. I specifically let them know that, in the spirit of cooperation and transparency, that if we can get information that the auditor deems necessary, that they're going to give it to us, period. There's no if, and, or but. For me, this is not a gray area. We met for that specific purpose and wanted to make sure we understood what access we were going to be given because I don't want to go down this path, spend this money needlessly, and then walk away with some incomplete assessment of the information and leave people wondering whether or not we got access to the information we needed. So Mike, I invited you to that meeting, you asked the Vice Mayor to be present and I wanted to make sure there were no questions about what we would be given access to. I think Michael's being diplomatic, but I think I was less diplomatic and said, let's make sure we get what we need whether or not the development agreement requires it or not. I think I made that pretty clear, yes?"

Farmer stated, "Yes and we made it very clear to them that this was something we needed to do to ensure people in our community that the tax payers did not get a bad deal for what was paid for and I think they were extremely understanding of that. Did we do everything in the development agreement to comb through all the copious details to ensure that we were doing everything that we should have done in order to protect our own interest? I think the thing that you said this morning that was so appropriate was, it's not an excuse it's just a reality, and we've never done anything like this before. We have no precedent. We have nothing to go on. Did we get it all right? No. Did we make mistakes? Yes. Are there things that we would have done differently? Absolutely, but, at the end of the day, we through this audit are going to be able to ensure to the tax payers of our community that before the 11 million or whatever it was worth of infrastructure, that we got at least that worth of infrastructure, that we weren't short changed, we weren't short sighted, we got a good deal for what we paid for and that's my hope with this audit is we're going to be able to show that. The audit is going to, I'm sure, come back and say, procedurally there were things that we didn't do right and what I want to remind

everybody is what I said this morning, you did an audit of our cash handling procedures as a City and came back with recommendations for things that your observation was, we weren't doing right, that we can be doing better. At the end of the day, as far as the execution of the agreement, certainly I think there's going to be recommendations made to how we can do this better in the future if we ever choose to. I think the most important thing is them giving us open access to all the information which they agreed to do. Nothing is going to be behind closed doors, everything is going to be out in the open and we're going to be able to post it on the website. We had that conversation this morning and Mike and I were very clear that's what we needed in order to ensure the people in our community that we got a good deal for what we paid for. Is that fair?"

Riordan stated, "Vice Mayor Farmer and Commissioner Dever, thank you very much for that answer and knowing you two and your professionalism that I've seen over the last two years, I feel very comfortable with this, at this time."

Amyx stated, "Back to item B. We feel comfortable that we are going to be given access to everything that is available to us under the development agreement correct?"

Dever stated, "Everything that's under the development agreement and those things that the auditor might deem necessary that may not be provided by the development agreement, but that is available and accessible by KU Endowment so, more than what we signed up for in our contract."

Amyx asked, "So as we talk about third parties, which might be a subcontractor, if the auditor deems it necessary to visit with one of those, that information will be made available?"

Dever stated, "Yes, in fact, we indicated we wanted a swift and highly responsive effort both by KU Endowment and Bliss Sports and their third party subcontractors. We asked that they provide that on a timely basis so that we can get this audit wrapped up and to save the tax payers any dollars that will be available by moving forward quickly."

Farmer stated, "They agreed to it and I'll say if they don't, I'm going to throw a conniption fit until we get, you know integrity is important here. I take somebody at their word until they give me a reason not to, and if they don't do what they said they're going to do, which I have no reason to believe that they won't, I will absolutely bring it up at a City Commission meeting and we will absolutely talk about that, and call them out. I think we need to hold people to their word."

Dever stated, "There is one thing I wanted to bring up that came up and we should probably talk about publicly was the discussion about if the auditor requires, or desires, to view the legal documents associated with preparation of contracts or any legal issues associated with this, that they have access to those documents and KU Endowment has indicated that that's acceptable. I thought it might be a good idea to have Toni Wheeler, our legal advisor, present so that This auditor clearly has as background in construction, but I don't know if they have a legal background and if there are any questions about what needs to be done, what's typical in a City contract. They're only allowed to view those documents in-house, in the law firms offices, and I just wanted to make sure it was okay with you all that if the auditor wanted to that, that if they request that, based on the documents that they review, that Toni might be made available to go with them to help maybe to go through those documents to make them understand what's normal and what is required in a contract."

Amyx stated, "We've had those discussions early on about Toni going and meeting if necessary or required that she would go along with an auditor and view those particular documents so that would be okay."

Farmer stated, "I am one of five here, but every time we at Just Food have an event or every time we have something that goes on, we always have a conversation about how we thought it went, what we could do better, and changes we would make. I think it would be good for us to direct the City Manager to come up with essentially, a how did this go and what would we do differently had we chosen to do it all over again. Some of that is going to be on us

because we've directed him to do some things that he's carried out that probably we might direct differently in a future conversation, but I think we need to also ask the community what it is. It might just be no more no-bid contracts. I think we need to hear from the community on, have we had this all to do over again, what changes we would make and what things would we do differently because if we don't learn from this and I think if we don't get input on how we can learn from it as a Commission, as a City staff, I think we're really doing ourselves and our staff a disservice. The second thing I would say is, because there is so much information out there about what happened, what didn't happen, who's what, I think it would be great to prepare some kind of fact sheet. For instance, one of the things that I heard a lot on some blogs that I've posted recently is that everything was a no-bid contract, but that's not true. So a fact sheet of just a one pager of here are the realities of what happened and I know there's a lot of information conglomerated out there on Sports Pavilion Lawrence website, but unless you're going to go through and read, it's great night time reading material guys, but folks aren't going to do it. I think we need to put it in very short form about what the facts are and once we do that we can pro-actively do that and then give people an opportunity to make up their own minds about the facts of the case rather than kind of let all this misinformation float out there addressing it as it comes up or addressing it as we hear things. I think we need to be proactive and doing it. Those would be my two suggestions for the Commission's consideration to direct our City Manager to do."

Amyx asked, "Anything else?" There were none.

Amyx called for public comment

Stuart Boley stated, "The proposed scope of services agreement that you're considering is an improvement of the one from last week. You might have an opportunity to make it even better though. If you look at the engagement approach, phase one has a request for information on the very first part, is like 24 hours. Essentially, the hours are going to request information from the City and that will be what they all look at and you might consider just

having a pause after that while the City obtains the information to fill the request and then essentially do the audit and save 4 weeks, once all that stuff is in. Don't bring the audit team up from Tennessee. There are a couple of ways to control costs and control quality. One is to make sure you've got all the information and the other one is that it's organized. I hear all this about access to information. Let the auditors give you their request for information and then get the information and then bring the audit team up. What that would do really, that would shift the focus of the scope of service agreement from the day of the report to the quality of the audit."

Farmer stated, "I hear what you're saying. I'm struggling with this though, I think if the City is asking for this information as opposed to the auditors asking for this information, I feel like there would be room for people in our community to interpret that we are somehow trying to withhold information to give to the auditors as opposed for this independent third party to be the ones to ask. I think we're doing ourselves a disservice to be the gatekeeper for that. What do you think?"

Boley stated, "Staff is going to be in there giving legal opinions. I think what you need to do is get the information on hand and have it and then have the others come up."

Amyx stated, "But in the case of the City Attorney, it's going to be a completely different deal. We're going to have someone there on behalf of the city."

Boley stated, "I was responding the Jeremy's question."

Amyx stated, "I understand."

Dever stated, "She is going to be providing legal advice and I don't think that's accurate at all. It's giving historical information related to fees and hours associated with this type of activity as it relates to the City of Lawrence and these people have no legal background whatsoever, based on the credential that I reviewed. I felt it was kind of a serious flaw in their technical abilities to be evaluating legal assessments as it relates to an audit when they have no legal background from what I can tell."

Boley stated, "So who's going to get the information? Are the auditors going to get the information directly?"

Amyx stated, "The way it is right now, I'm going to guess they are going to work with staff to be able to do that, but what you're saying is to ask for the information upfront, have it here and then they could go seek other information that they need."

Boley stated, "If there are further questions, then they can ask. To control the cost of an audit, you want to make sure all the information is on hand and available. I guess you've done that with your access agreement. I guess the proof is in the pudding."

Eglinski stated, "So, if I understand the discussion, part of the concern is the idea of having them on-site. Certainly the initial review, so probably most of this first 24 hours can be done off-site and we can tell them they don't need to come to City Hall to read the development agreement and take that into account."

Amyx stated, "If they're able to take the development agreement and they're going to be able to ask the questions and what they need to have. Would it save everybody's time to assemble that information and then once they have that and they are able to start doing their audit, then they go out and seek other information that they need to finish it."

Eglinski stated, "I think what they envision is starting with these agreements and seeing what they would expect and putting together a list, a request for information, these are the things that they want to start looking at. They're bound to come up with other questions, they always do. I would anticipate at least some of the documents that they would want to look at we've already got and may be even available on the web page right now. I think most of the documents the City has are available on the web page. They may want to look at some other things that I know staff is preparing. Public Works staff has been making sure they have all their inspector log books available and that kind of stuff. I think City staff in general has made some efforts to kind of have available a lot of this documentation that they're going to ask for and really we don't know there bound to ask for something we don't have or that we haven't

anticipated. I hear the concern of sort of having somebody living in a hotel and running up bills when they could be at home and just looking at the documents at home reducing these costs and we can kind of emphasize that. If you don't need to come to Lawrence and you can do this work at your desk, don't come to Lawrence until you need to and of course if you come to Lawrence, staying in a reasonable place and bring lots of your own money to spend for various attractions."

Dever stated, "Michael, you mentioned today when we revised the general concept of this agreement as it relates to audit practices and standards that one of the big differences is that they would come up with a precursor or a summary on the front end. Can you go into detail on that practice would involve and how that would occur?"

Eglinski stated, "What they would be doing is doing some kind of planning work before they do any testing of documentation. It's kind of an iterative process. They review the agreement; they'll identify some documents they want to look at. They'll start to look at those and they'll say hey, we think we're going to need to do some testing of items A and B and then they'll develop a plan for how they're going to test items A and B. What they're adding is sort of a little more kind of careful planning as they go, and documenting that planning internally for their own quality control reviews. It's trying to do a more documented identification of risks and tests that they're going to do."

Riordan stated, "There is only one other area that I have concerns. I've had the other questions answered. I really don't like the concept under 2C, under services where it says, Time of Performance where it says 'time is of the essence.' That might seem like a small thing, but to me, accuracy and completeness is of the essence. I don't like that term because it infers that we're trying to go as fast as we can, and I think it's important to be efficient, but I would like those three words struck from that. I think that we have a time period on here tells them that we want to have this within a reasonable time, but we're more interested in accuracy and completeness."

Toni Wheeler stated, "Most contracts do have the language, 'time is of the essence,' so that the contractor is made aware that there are deadlines and we want to hold them to those deadlines. It does not imply that we want them to rush the job or to make it not at all comprehensive. I would recommend keeping that language in there. Time is of the essence. We do have a deadline for the report to be made and we want them to meet that benchmark. I don't think it implies that we want them to not give us a good product. I think the additional follow up that Michael has had with them, he emphasized with them that the Commission's desire is to have a thorough and full audit that will be conducted in accordance with audit standards and the firm is aware of that."

Riordan stated, "Okay thank you. I appreciate that information."

Eglinski stated, "Just one other thing and I would direct to that concern. If for example they see something and say: hey, we really don't think it's practical to answer these questions in this time. We can make sure they bring that up as soon as possible and tell us. If they say it's going to take longer for whatever reason and it could be anything from a blizzard or something, we see something here in the documents that we need to do work. We could ask them to make that known and come back to you guys. I think the agreement even sort of lays out what can be and the scope can be changed and expanded."

Riordan stated, "Okay thank you."

Amyx stated, "One of the things I want to say is that my goal in this audit, and I believe it will be the goal of the Commission, is that we want to make sure that we've been accurately billed for the City's responsibility under the terms of the development agreement. That is our goal. That is our one goal. One of the things that has always been my concern going through this process is to make sure that we're paying the infrastructure costs, what we're responsible for and only for those infrastructure costs and to make sure that they've been divided according to the development agreement. Also, to make sure that we're just paying on the infrastructure and no other parts that is already covered under some other deal. Michael, do you believe that

it's going to give us the opportunity to find that out with the scope of services that have been presented? Does the consultant have the flexibility to get to that?"

Eglinski stated, "I think that the agreement provides that opportunity and I think it is part of the work that they've designed."

Amyx asked, "We'll see that in the final report, you believe?"

Eglinski stated, "I believe so."

Amyx called for public comment.

Joe Harkin stated, "If you do decide to prepare a statement on what we would do different the next time, I'd be happy to volunteer to write the first draft. That's tongue and cheek of course. I do speak in favor of a self, introspective analysis even though I would hope that it wouldn't lead to a set of procedures to do a multi-million dollar project without a bid, better in the future. I think we've demonstrated the risk associated with that sufficiently. When you first decided to do an audit, I was very happy, I appreciate it and I commend you for it. I was also very pleased that you took great pains when you took those first steps to keep it as independent as possible. I recall you authorized the Mayor who then requested the help of the Deputy Mayor to work with your auditor to put this audit project together. I do get the sense that we're drifting away from that a little bit with the conversation tonight. There have been others now involved from the staff dealing with the other parties involved in the audit. Some of that may be necessary but I think it should be minimized and to the point where if anything of a legal nature comes up during this audit, with all due respect to your legal counsel, I believe that the auditor should have access to independent legal counsel to deal with questions that they are not technical competent to deal with themselves. So, in that regard I would suggest a short provision in the agreement that would authorize them, at a specific hourly rate, not-to-exceed their access to legal counsel if it's necessary."

Dever stated, "If we don't want to let staff be involved whatsoever, then I have no problem doing so. I just thought it seemed short sighted and overly onerous to prohibit a person

who I feel like has the deep knowledge and understanding of what we typically pay. If they're truly auditing something they're comparing these to other standards. If they don't want to use our information, they don't need to. That's what independence implies and I would think that it's implicit that they could hire or contract out that legal advice and take it out of their fees if they don't seem qualified to evaluate it because they do this for a living. I mean they audit construction documents for a living according to Michael. If there are legal issues, I'm sure they're accustomed to seeking outside counsel for that. I don't know if they bill separately but I believe that's one of the outside expenses that might be associated with this document."

Amyx stated, "Other public comment." There was none.

Riordan stated, "I just have one comment about the legal fees. I don't want to waste tax payers' money and I'm wondering if any legal opinion that Toni would give, I would feel comfortable with because I know Toni. If she did give a legal opinion, we would list that, what it was, and what it was concerning so people could look at it and say, this is reasonable. So that they are aware and we're open with what we're doing. To me that would be an alternative because to pay \$200 to \$400 an hour for a legal opinion gets quite expensive very quickly and if we have staff that can give one and it seems reasonable to the public to give because we tell them what the opinion was about, to me that would be an alternative that I would rather have."

Schumm stated, "Some of these may be straight forward opinions, just back ground legal knowledge of the contract. I would say that we could ask Ms. Wheeler if she felt like she was put in a position of conflict of making a judgment one way or another that she could then advise the auditor that she didn't want to become involved in that kind of explanation or interpretation. I don't know what the realm of information is going to be that we're going to look at. It seems like there could be some on both sides of that. Anything that would be controversial, that would just go to an outside legal person who would make that judgment."

Amyx stated, "So then we're going to use the City Attorney for historical nature?"

Schumm stated, "Anything that's non-judgmental."

Dever stated, "If you would let me interrupt, I think Michael pointed out today, we don't even know if they want to go look at those documents. They may look at it and say, perfectly normally. We don't know what they're going to ask for. In the event that they want to go seek out these documents, we just want to make sure that they have proper guidance and your blessing to involve her. If you don't feel comfortable then let's keep her out of it and move on, but I didn't see any reason to not include her in that since she renders legal opinions for us on confidential matters all the time and separate from our opinions and separate from the City's opinions. I think she could provide us some insight, historical reference as to how we do things at the City on other contracts. This truly is an assessment of those things."

Amyx stated, "I don't have any problem with having Toni be the attorney for historical perspective on any of this and help that way. The only question is, and it's something I think Bob just asked, Toni the question would be for you about your concern about being placed in a position of being able to provide opinion, if we put you in an awkward position that way."

Wheeler stated, "The discussion today centered on reviewing as a legal counsel on how I might be able to provide assistance in that realm. The auditing firm does have experience with construction projects and attorneys are often involved in those projects. I think I could assist the auditor by reviewing the bills and providing some context. I could also decline to give any legal opinions regarding the documents and they could seek that legal advice elsewhere if that's the Commission's desire."

Amyx stated, "I think that's what we should do then. Toni can do all the historical stuff and if an opinion is sought, they're going to have to seek that."

Dever stated, "Sounds good to me. On the insurance side, I just wanted to ask, professional liability is not part of the listed requirements and I just wanted to make sure these people have professional liabilities since it's clearly a professional service."

Wheeler stated, "This contractor, we understand is self-insured, and they do not have that line of insurance procured right now. We did have in the agreement that they will provide other standard insurance."

Amyx stated, "The only questions that I would have then is under Exhibit A, under Objective, where it talks about 'review' change that to 'audit'. The one thing again that I'm looking for is making sure that we're accurately billed in accordance with the development agreement as we all are and to make sure there is access again to all third parties by the consultant to be able to obtain information to make sure that the cost of this project and what we were billed for would reflect exactly that so the audit firm has access to all of that information. You've assured me that the Endowment and everyone involved with this is to make sure that will give coming forward. Do we need to strengthen any language based on the meeting today to make sure they can access all the information that's available?"

Dever stated, "I don't think so. Since our contract clearly states that we have limited access to this information."

Amyx stated, "So it's under the terms of the development agreement."

Dever stated, "Right, and we've asked for additional access to those documents today."

Farmer stated, "Which they've graciously offered to provide."

Dever stated, "Which is what we wanted, that's why we met."

Amyx stated, "Will everybody agree to change 'review' to 'audit' in that first objective and then under Services, we talked a minute ago under item number 1, 'staffing, scheduling and management of all', rather than 'review audit resources as assigned.' Michael that was the one you were talking about? The language that we had talked about on the City Attorney we can dress that up so that the City Attorney's role here is to provide historical background and that if legal opinion is to be rendered that is to be done at the expense of or part of the contractual arrangement with the consultant in this case, right?"

Eglinski stated, "Let me make sure I understand what you said about the legal opinion. So, putting in the agreement that Toni will assist, as appropriate, in reviewing documents and providing legal and historical information but if they need an opinion?"

Amyx stated, "If they need legal opinion it needs to come out of that contractual amount or whatever arrangement they have. They need to seek their own legal opinion, I guess, is what I'm saying."

Dever stated, "The Professional Service Agreement indicates that any subcontractors are their responsibility they would know, if they do this for a living, that they need seek the outside services of council. This is not new for them. I've just looked at their website and people had done this for years and I would think that they would hopefully include any need for such services in their proposal and their hourly rates. This shouldn't be a big deal but it says right there in in the contract that they're responsible for paying and the liability associated with those subcontractors."

Eglinski stated, "I'll check with Toni tomorrow on specific language."

Amyx asked, "Any other questions, comments or any recommendations that staff might have? Toni, are you comfortable with all of the changes that we've made?"

Moved by Farmer, seconded by Riordan, to authorize the Mayor to execute a professional services agreement and scope of services with McDonald & Associates, Inc. as amended this evening. Motion carried unanimously.

E. PUBLIC COMMENT:

Mike Myers, architect and member of the Live Well Lawrence Healthy Built Environment Workgroup, stated, "I want to speak to you just briefly tonight about one of the projects we worked on last year which was to try to extend the Burrough's Creek Trail from Hobbs Park to Constant Park, via a KDOT Transportation Alternatives Grant. That grant application was very popular among many diverse groups, neighborhood groups, non-profit groups, and bicycle advocacy groups and so forth. Unfortunately, the number of different groups applying for those

funds superseded the ability to cover this particular grant and what I was hoping to do tonight is just mention that we would like to continue to try for grants in the future, to get this done. The number of people that we had on board shows that, including City staff and various members of the Commission, shows that this is a good project towards the end goal of getting a separate transportation alternative network built through the City for bicycle and pedestrian safe facility. What I'm hoping to be able to do is to help move the project along by spending a little bit of time with City Staff creating an actual route plan. The grant we put together last time was based on my concept. A map I created was by walking the trail path and looking for good routes. There are various people who are advocates of these sorts of things who have different ideas. I think if we presented a united front, spent a little time doing a little background work, just among City staff and interested parties, neighborhood groups, and actually chose a route for this, we would have a lot better luck in the future for grant funding and if we had the map, with community buy in, then it would be easier to apply for smaller bits of funding for smaller trail sections. I think that having the 9th Street Corridor Project funded and having that piece that's going to be a great bicycle pedestrian thoroughfare, just points to the fact that this Burroughs Creek/Hobbs Park to Constant Park Trail, at least a small section of that really ought to be constructed and that would get through Hobbs Park to 9th Street and then you've got all sorts of neighborhoods, Edgewood Homes, Brook Creek, and East Lawrence who could use that safe, well designed facility to get to New York School, to get to Downtown and so forth. I'm asking maybe if there could be some direction at some point to actually define what this trail might mean and where it might go in the future."

Schumm stated, "I talked with Mike about this a little bit last week. I think what happens is we were all disappointed that we didn't get that long grant, like over a half mile long or something like that, but there are other opportunities that come along for smaller amounts of money and if you can find some segments that would match up with that, you're applying and filling in that trail as you go along. I think what we'd like to see is maybe some kind of

committee appointed to figure out what the route would be all the way from 11th and Delaware, all the way back up to Rock Chalk Park to try and conceptualize that, where that route my go because when you get the opportunity, as Mike says, you already have that community buy in and you don't have to go through the process of vetting it and making sure people are all on line. It would be kind of a fun process. We're starting to get different parts of this segment that are in place. There are a number of people that are interested in doing this and then all you'd have to do is take whatever segment it is that you're looking at a grant and then plug it in and see where you go. I mean it's going to have to be done sooner or later if we want to continue the trail program so it's just a planning issue really and if we can be proactive in it."

Amyx asked, "Is the suggestion right now to work with staff and other interested people Mike, to come up with what plan ought to look like and more appropriately, how do you obtain money to be able to do some of the segments or people to finish the route in the future correct?"

Myers stated, "Yes that's right. If there is money associated with that planning and I'm not talking about hiring an outside consulting firm, really I'm talking about doing a little bit of community activism working through the neighbors, through City engineering staff and MPO (Metropolitan Planning Office) to try and define that. There may be some small grant funds available through community endowments and so forth that might help if there were small needs for things like that, through Live Well, through the Community Foundation, those sorts of venues."

Amyx stated, "I think it would be great if anytime that you can have a plan that comes forward that has a ground swell and pride of ownership by a great number of people, is a lot better plan in the end. We can provide all of the technical assistance that we need to do any of that. Obviously, any time that we're going to have a group of people come forward and be able to do it right, it makes all the sense in the world. I would suggest is what we do is have Mike and others meet with staff and kind of come up with a plan on what's the right way to do this."

Schumm stated, "You know, we never did have a final plan when we went to KDOT for that half mile run. We had some ideas of where things were going to go pretty firmly, but there were some other options that could have been over here, over there, so you get in the position too of getting the grant and then you have to do all of the planning and maybe get behind on trying to accomplish that."

Amyx asked, "Other questions or comments?" There were none.

Amyx stated, "Mike, meet with staff to try to come up with a plan."

Amyx asked, "Any other public comment." There was none.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

Farmer stated, "Dave, I had sent you all an email about I'm going to be hosting some listening sessions regarding Capital Improvement needs and those dates I just wanted to get on the record. February 11th, 6:00 p.m., at North Lawrence Depot; February 12th, 7:00 p.m. at the East Lawrence Rec Center; February 16th, 6:00 p.m., at Fire Station No. 5; and February 26th, 6:00 p.m., at Sports Pavilion Lawrence in the Champions Room. The goal with these is simply to listen regarding what I've kind of made people, projects and programs over the next 5 years, what we as a City need to be focused on. How do we take care of people in our community, mental health, health care access, healthy food, etc., or whatever else somebody wants to bring up? Projects would be 9th Street Corridor, Police Facility, taking care of streets, infrastructure, that sort of thing and then programs. One of the things that I've heard a lot about is commercial recycling and I'm sure folks would have other ideas, sidewalk program, that sort of thing. Basically, taking about the first 30 minutes and writing down different things on separate boards around the room. Taking about the next 45 minutes discussing those, putting them in priority order, talking about how we're going to fund those, getting people's input and ideas on that and then the last 15 minutes just for other questions or things that people want to discuss. Going to

try to get out in the community and hear from folks and then what I will do is compile those into a report that I will ask the Mayor to put on our agenda to receive at some point in March. This would be the first to what I think are going to be many listening sessions that I'm going to go out in the community and ask. Thank you to Bobbie for her help in securing those spots. It's not a City sponsored meeting. These are listening sessions that I'm going to host and ask for folks help in facilitating so you all are more than welcome to come and attend those different spots in town."

Amyx stated, "We might want to make sure that we get those on our calendar."

Corliss stated, "Yes, we got those confirmed today and we'll do that."

Amyx asked, "Any other Commission items?" There were none.

H: CALENDAR:

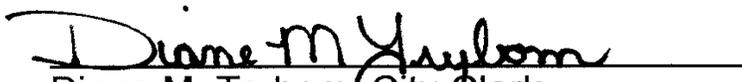
David Corliss, City Manager, reviewed calendar items

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Schumm, seconded by Farmer, to adjourn at 7:48 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON FEBRUARY 24, 2015.


Diane M. Trybom (City Clerk)