



City of Lawrence

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CITY COMMISSION

MAYOR
MIKE AMYX

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

July 8, 2014

The Board of Commissioners of the City of Lawrence met in regular session at 3:30 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and members Dever, Farmer, Riordan and Schumm present.

A. STUDY SESSION :

1. 2015 Budget Study Session.

The City Commission Meeting reconvened in the City Commission Room at 6:35 p.m.

B. RECOGNITION/PROCLAMATION/PRESENTATION: None

C. CONSENT AGENDA

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

1. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE VOTE.** Approved claims to 175 vendors in the amount of \$2,467,973.46.
2. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Approved licenses as recommended by the City Clerk's Office.

Drinking Establishment

Ladybird Diner
Diner LLC
721 Massachusetts

Expiration

New License

Retail Liquor License

River Ridge Liquor
River Ridge Liquor LLC
454 N Iowa St

New License

3. Approved appointments as recommended by the Mayor.

Douglas County Emergency Management Board:

Reappointed Truman Waugh to an additional term that would expire 07/01/15.



Lawrence Douglas County Advocacy Council on Aging:

Appointed Tamara Cash (331.8434), Dawn Hill (691.8986), and Michele Dillon (393.0166) to terms that expire 12/31/17 and appoint Megan Poindexter (913.568.4424) to a term that expires 12/31/14. Reappoint Judith Bellome (760.7892) and Mary Johnson (424.7466) to terms that would expire 12/31/17.

Sales Tax Audit Committee:

Appointed Linda Jalnek to a term that expires 04/30/17.

4. Bid and purchase items:
 - a) **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Authorized City Manager to approve the following change orders at Sports Pavilion Lawrence: 1) Concrete at north, east and southeast sides of building (\$20,511); 2) joints at tilt-up walls to foundation wall (\$19,503); and 3) for vapor barrier for turf area (\$8,362.80), for a total of \$48,647.08.
 - b) Awarded the bid for storm sewer pipe, Project No. PW1422, Mississippi Street (10th to 11th Street) Storm Sewer Infrastructure Materials to Oldcastle Precast in the amount of \$27,154.24.
 - c) Authorized payment to Green Teal, LLC in the amount of \$18,122.94 for required right-of-way and related costs for property located at 4901 Legends Drive.
 - d) Authorized the City Manager to execute Change Order #1 to the construction contract with Banks Construction for project UT1309, 23rd Street Waterline Replacement Project – Phase 1, Alabama to Louisiana increasing the contract amount by \$30,595.
 - e) Awarded the bid for the Comprehensive Rehabilitation project at 1308 E. 16th Street to T & J Holdings, Inc. for \$24,830.
5. Adopted on first reading, Ordinance No. 9020, to allow increased occupancy during cold weather periods at the Lawrence Community Shelter (LCS), located at 3655 E. 25th Street. Special Use Permit 1-3-10 for LCS currently caps the shelter's occupancy to 125 people. Ordinance No. 9020 would permit up to 140 guests when nighttime temperatures are 40 degrees Fahrenheit or lower.
6. Adopted on second and final reading, the following ordinances:
 - a) Ordinance No. 9009, allowing the sale, possession, and consumption of alcoholic liquor on public property in the 100 block of East 8th Street on Friday, September 26, 2014 from 1:30 p.m. – 11:00 p.m., for the KU Homecoming Pep Rally event.
 - b) Ordinance No. 9015, allowing the sale, possession, and consumption of alcohol in the 100 block of East 8th Street on Friday, August 8, 2014 for the Sandbar Birthday Party event.

- c) Ordinance No. 9017, allowing the sale, possession, and consumption of alcohol in the 700 block of Mississippi Street on Saturday, September 13, 2014 for the Old West Lawrence Neighborhood Association Block Party event.
 - d) Ordinance No. 9008, establishing the 2015 water and wastewater service rates, effective November 15, 2014.
- 7. Approved annexing, A-14-00155, approximately 54.31 acres surrounding the proposed K-10 and Bob Billings Parkway interchange. Submitted by Charles F. Soules, Director of Public Works, City of Lawrence for Kansas Department of Transportation, property owner of record. Adopted on first reading, Ordinance No. 8994, to annex (A-14-00155) approximately 54.31 acres surrounding the proposed K-10 and Bob Billings Parkway interchange. (PC Item 2; approved 9-0 on 5/19/14)
 - 8. Approved the joint City/KU monument sign for Rock Chalk Park.
 - 9. **PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION.** Authorized notice to proceed for the Rock Chalk Park trails (the low water crossings will proceed pending state/regulatory department approvals).
 - 10. Approved a street event permit for use of various downtown city streets for The 2014 Light the Night Leukemia Walk on Saturday, September 20, 2014 from 7:00 p.m. to 9:00 p.m.
 - 11. Authorized the Mayor to sign a Release of Mortgage for Edith Gilbert, 2920 Yellowstone Drive.

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

Moved by Schumm, seconded Farmer, to approve non-Rock Chalk Park related claims to 170 vendors in the amount of \$1,745,812.11. Aye: Amyx, Dever, Farmer, Riordan and Schumm. Nay: None. Motion carried unanimously.

Moved by Schumm, seconded by Riordan, to approve Rock Chalk Park related claims to 5 vendors in the amount of \$722,161.35. Aye: Dever, Farmer, Riordan, and Schumm. Nay: Amyx. Abstain: None. Motion carried.

Schumm removed consent agenda item no. 2 for separate discussion. He said he might have a conflict of interest voting on the license for Lady Bird Diner because he was the building owner and had a lease with this group.

Toni Wheeler, City Attorney, said it might be best for Schumm to recuse himself and not participate to avoid the appearance of impropriety.

Moved by Farmer, seconded by Riordan, to approve licenses as recommended by the City Clerk's Office. Aye: Amyx, Dever, Farmer, and Riordan. Nay: None. Abstain: Schumm. Motion carried.

Amyx pulled consent agenda item no. 4(a), change orders at Sports Pavilion Lawrence.

Corliss said he asked their architect team and Mark Hecker, Assistant Director of Parks and Recreation, to provide an overview of this request and respond to any questions the City Commission might have.

Craig Penzler, CP Sports, said they were the group that was hired to do the quality control management for the team and he had been working with Gould Evans group and Paul Werner Architect from day 1 and wanted to talk about the big picture on the project with the change order process initially. They had change orders for water related issues that had come about due to the building not being completed, down spouts weren't down, there were some issues with water getting into the building, details that were found that weren't working like they would like and they were going to try and fix those. He said he wanted to mention the whole process of the contingency process for cleaning those things up during a normal process. He said Rock Chalk Park and their development, construction and infrastructure agreements with the cap that they had, created a strained situation with the whole legal package that the Rec Center project because it didn't have the construction contingency attached. All of the City's sector projects had a construction contingency. They didn't because there were 4 different things out there and the cap on the whole process negated the need for that, but what that did in turn was that it didn't give them a vehicle to use the contingency process so every time there was a dollar saved or a dollar spent, they had to come before the City Commission and ask permission. On the project like the library, there was a contingency and if it was a contingency item that didn't need to face the City Commission every week or every month and he apologized that they had to bother the Commission, but they didn't have any other way to go through those items unless they come to see the Commission. He said the second issue was the whole

contingency on any of the projects, they typically carried in the 2.5 to 5 percent range on projects and a project of this size they probably had \$250,000 to \$500,000 in an account that for unseen things would come about, they would have that account to draw down on and wouldn't need to bother the Commission. He said they would run those through Scott McCullough, Planning Director. He said that was what they had done, but were present to review those things.

Whitney Lang, Gould Evans Architects, said she wanted to go through the change orders that had been approved to date. She said change order no. 1 was approved on May 30th, for \$31,962; change order 2 was approved July 1, for \$39,197.70; change order 3 was for \$48,647.08. The total change orders to date totaled \$119,807.21 or approximately 1.1 percent of the original contract amount.

Mark Hecker, Parks and Recreation, said on most of those items, it had been a collaborative effort between staff, their architect team and their quality control manager to go through the building as it was being constructed, identifying issues and then asking for solutions if they were seeing a problem. He said the concrete along the north side of the building was holding water next to the building. The full build out of the building corrected that with an interior cog joint, but in staff's opinion it was best not to have that water on the outside of that building and asked for what it would cost to put concrete between the building and driveway. He said a lot of those things were things that they were requesting a better solution, not that the initial solution was bad, but thought there might be a better option. The vapor barrier was another one as they looked at the turf area and thought to themselves, that would be okay with just a gravel underlayment under it, but as they looked at building humidity issues over the last couple of weeks, the humidity in that building continued to stay high. He said they looked at the turf areas and their potential problems where ground water could come up under the turf. He said putting that vapor barrier in eliminated that problem for the future. He said they were very sensitive to the wood floor and that was what they were dealing with and he was pushing the architect team

a lot and if he saw water anywhere he wanted a fix for it. He said the flashing had a cock joint, sealing two pieces of concrete together and they were seeing some seepage but the downspouts weren't on the building yet and the roof wasn't quite finished, but if he could see water coming between two pieces of concrete he was asking them what the problem was and they were telling him what the solution could be. He said again it was all money, all contingency, but on bigger projects there were usually mid-course corrections.

Dever asked if they added the perimeter drive on the north side of the building after the initial design of the building.

Hecker said the perimeter trail was added on the east and south corners. The north drive was always there.

Dever said the north drive was an original design by the architect with the intention of putting the current width drive in, along with the areas of unpaved surface adjacent to the building.

Hecker said the original plan called for the driveway and the down spouts that came down and ran along concrete to get out to the driveway and then across the driveway. He said what was currently happening since the downspouts weren't in there; it was dumping the whole roof right next to the building. A lot of that would be corrected by the downspouts being put on but in his opinion, if they get a north wind driving the rain against the north face of that building there was still that potential of running water down the face of the building and land in that dirt area. He said that was why he requested concreting that area because it eliminated problems for staff.

Dever said he would think that under no circumstance would gutter and downspouts route the amount of rainfall that was going to fall upon 180 square foot roof into gutters and downspouts away from the property. He said you would imagine that under heavy rains the inlets of the gutters were going to get overwhelmed and there would be some run-off from just the edges of the roof line.

Hecker said so far that didn't happen and he had been out there in a couple of major downpours. He said it was all coming out of the downspouts and was handling the roof.

Dever said there was no anticipation there would be water accumulating in those unpaved surfaces adjacent to the building.

Hecker said he thought there was some anticipation but basically the solution was to fill it with soil and slope the soil away from the building where it would allow the water to surface off the top over to the concrete.

Dever said there might have been an original design with either a drain inlet or some ancillary way for water to leave those curbed area because they were basically creating an impoundment around the buildings with those flumes that were built and the paved surface. He said he saw the solution, and it looked like an excellent one, but it seemed from a design prospective he saw this happen in other buildings that he inspected and caused just the problems that Hecker identified and he would have thought the architects would identify that as a potential water accumulation area and would have designed this originally to reflect the movement of water away from the base of the building under any circumstances other than obviously under the 500 year rainfall. He said under normal circumstances he hoped that scuppers would work, but his experience was when it rained heavily, unless there was some type of line along the top of the roof or the main way for the water to leave the roof, but it would follow gravity and go right in those spots. He said he was a little bit concerned the design wasn't introduced initially, with at least a drain in each of these areas to direct the water either into the detention basins or into the nearby creek. He said if they had that much surface area there would be water that was going to run off the roof and along the roofs edges and into that unpaved area. He said he thought it was something that could have been foreseen. He said he was surprised it wasn't engineered with, all the concrete out there; this was a pretty small amount of area that might have been paved otherwise.

Hecker said Dever and he agreed that the long-term solution was to pave that area.

Riordan asked if the downspouts were not in place yet.

Hecker said they were basically stuck down about 8 foot from the ground which was open ended pipe and they didn't have the bottom flume that would get the water where it eventually should to go.

Riordan asked how long had that open ended pipe been there.

Hecker said probably for too long. He said it was time to put the downspouts on.

Riordan said basically they created a mote around this structure and dump the water into that mote. He said it didn't sound like something that should be done and asked why that wasn't finished.

Hecker said he did not know that.

Penzler said they had asked them to put those downspouts on and were asking a little harder at this point, given some clarification. He said they even called the roofer and told him with the wood floor showing up this week they were going to demand that those downspouts be done prior to any wood floor being placed in that building.

Riordan asked about the flashing that was being put in and was this very unusual to put flashing at the base of the building so water couldn't come in. He said it seemed fairly standard that there was a joint, the joint was filled with a porous material and the water would come in. He said he didn't understand why it wasn't designed in the first place.

Hecker said basically the building was designed with a cock joint between two pieces of concrete so the panels had to be tilted on top of the foundation. Again, there were some pending issues that staff didn't have downspouts on the building therefore, the roof was dumping sheet flowing down the face of that building. He said if the downspouts were in, in normal circumstance would that happen, he didn't know. Again, when he saw water leaking through the wall, he was asking questions and they were providing answers. If there was a potential for water to come in, they needed to do something different and that was the solution they came up with.

Riordan said by staff observations, with the rains that this community had, if the downspouts would have been in, they wouldn't have any or very little water in there and would have this potential problem as well as the humidity that was high. He said basically because they didn't finish the downspouts that they had this problem.

Hecker said with the humidity issue, he wasn't sure because a lot of that had to do with the construction of the building. He said they were actually still pouring concrete in the building so therefore they were bringing in moisture with the concrete. He said staff had to suck the moisture out. Initially, if they could get the building humidity down they should be able to maintain it. He said his concern in the turf areas that might be a long-term problem.

Riordan said he heard a statement that the humidity wasn't coming down and that they thought it was due to this.

Hecker said yes and it was down now due to the extra pieces of equipment they put out in that area.

Amyx said the construction documents that were seen early on in this process with this grout joint between the panel and the concrete floor and staff assumed it would keep water out. He asked if this was a change order or was it something they should demand be corrected. He said he wasn't sure the taxpayers should have to pay for this.

Penzler said that went back to the whole definition of contingency. The contingencies were put into projects to cover the things that were missed by either unforeseen conditions or for drawings that weren't perfect. He said he didn't think anyone believed that someone could put out a set of perfect construction documents. He said he had never seen one and he had been in his business for 35 years. He said when looking at industry standard, they would find that every project out there would have a small amount of items that were unforeseen. He said unforeseen could be digging a foundation, it rained, and would need to be pumped out and do something else to dry things out and it would need to be repaired. He said that was no one's fault. He said it could also be the detail was either incorrect or missed a detail all together and

those were covered in a situation through a contingency like this. Again, he had seen that done a number of times. He said whether the taxpayer should have to pay or not, he thought the Commission would find that a lot of other projects that carry contingencies those items went through and weren't seen by the City Commission because it was a contingency item. Since they didn't have that vehicle, they had to come to the City Commission about every item.

Amyx asked how much water they took on last night.

Hecker said there was a little bit of water along the north side, but that was mostly under the door because the weather strips weren't under the doors yet.

Penzler said there were some temporary closures in there with that humidity issue.

Hecker said the good news was they held up to a 65 mile an hour wind with no problems.

Amyx asked what if they were to look at the situation where they finished the downspouts and had those spouts working properly to see if that took care of the problem or was it something that would continue to happen without that flashing and if the grout joint didn't hold.

Hecker said he saw water come through it and concerned him as a building maintainer for the next 20 years. In other words, he was not comfortable leaving it that way because he thought eventually it would become a problem. He said he would rather see it addressed now as part of the initial contract and not wait for it to become a problem later, especially if it started leaking along the wood floors. The leaks they were seeing were in the turf area and in the gymnastics area.

Mayor Amyx called for public comment.

After receiving no public comment, Schumm said it had to be fixed and there were going to be several car loads of wood in that area and wood and water didn't go well together. It would be a tragedy to have a warped floor on a major part of the facility and they would need to tear it out and start over again. He said it was unfortunate that it was an extra but it was

something that needed to be done. He said if it was his house with a hardwood floor and he was afraid that it might leak into the side of the wall, he would certainly be taking some preventive precautions. He said he thought it wasn't anyone's fault but something that was missed.

Dever said although a couple of those items were unforeseen or site conditions that probably couldn't have been designed out, he thought that north wall was a design flaw or miss. He said he agreed that it needed to be done and he had seen buildings suffer from the ponding that occurred in those spaces between pavement and exterior walls where water accumulated without proper drainage. He said he would ask that staff have a conversation with the architect or whoever could help the City pay for this change. He said he personally thought it was a bad design in his opinion.

Schumm asked if that was for both items.

Dever said the one about the north wall for sure. He said he saw it when he was in that area and didn't quite understand why they would put an unpaved area between two massive slabs of concrete and expect it to not accumulate. He said if they were saving money, they were just pouring concrete that could have poured before and they wouldn't have had some of those issues. He said for him that was a hard thing to digest because he looked at this and saw what they proposed was a perfect solution, but that should have been implemented initially. He said it was not a complicated solution because he had seen it installed in other places. He said he didn't know why they would put a massive hundred foot wall made of concrete against a surface of dirt or unpaved surface and then a large slab of concrete. He said they had explained that the waters would run-off through the scuppers, but he guessed the water was going to work its way out away from that under a heavy rainfall and it would continue to accumulate so he felt the City should ask for some help with this in future and then have a conversation about how to help pay for this change.

Schumm asked if the Sports Pavilion had a total cap of 22.5 million dollars.

David Corliss, City Manager, said correct.

Schumm asked if this was really an additional cost.

Corliss said under the language in the development agreement, the City's total amount was capped at \$22,500,000 that did not include change orders that they would make to the infrastructure side. It talked about change orders to the recreation center as an additional amount of expense that would still be underneath the cap so if there was that additional expense the City would pay less than a non-infrastructure. Staff had not arrived at all of those infrastructure costs and did not know if it would get at that 12 million dollar number or not, but it was probably working its way toward that. He said that was the mathematical equation. He said it was also fair to point out that when they were making owner requested changes of scope, for instance a change order for 5 racket ball courts that would be a change in scope of the project and wouldn't be appropriate to do in this situation. In this situation, staff designed it that way different from other projects because they wanted the City Commission to see all of the additional expenses. He said staff knew there would be some additional expenses and hopefully not very many and so far, not a lot. He said some of those were probably owner related items that clearly benefitted the City and some were related to the construction process and was clearly in keeping with the development agreement that would be underneath the cap.

Schumm said but they wouldn't know until the project was all done if they were going to hit the cap or not.

Corliss said that was correct. The City Commission had some items on the current agenda that were related to infrastructure. He said the Commission had been receiving staff's monthly reports and had seen what the costs had been. He said most of the infrastructure was installed but haven't started the punch list items.

Schumm said if they hit the cap and that change order wouldn't have any impact on the City's cost because they would have capped out.

Corliss said that was the literal mathematical formula that was set out. He said some of those things were things the Commission might want but weren't anticipated. He said that was the actual reading of the contract and that was how staff would proceed.

Riordan said he agreed with Dever's analysis and was pretty accurate. He said the other aspect was they had construction that wasn't done right. He said they allowed the downspouts to be put in and dumped into a mote around this structure which shouldn't have happened. It should have been completed at that time and was an error. He said the difficulty was that they did not have time to wait and needed to get this completed. He said this water issue needed to be corrected so the problem didn't delay it so much so the Sports Pavilion couldn't open or it didn't cause problems. He said they were under a vice of time and didn't have the ability to say they would negotiate with the contractor or architect ahead of time and had to do it after words. He said this error was significant and this was an obvious error that should have been completed at that time. He said the construction manager didn't do due diligence and should be asked to participate in some type of enumeration to the City for the problems they had for time, delay, and cost. He said he would recommend both be negotiated with some reduction in cost.

Amyx said if it was approved then simply ask someone else to participate under the City's agreement. He asked how this situation was generally worked out.

Corliss said usually when there was a dispute about who paid for things you try to work it out among the parties to see who was willing to financially participate. He said staff wouldn't allow the payments or the wood to come into that building until the downspouts were corrected. He said that needed to happen as quickly as possible because they had seen the results of that. One possible way to proceed was to approve those change orders, but direct that staff negotiate with the parties regarding this issue. One of the benefits of this month was that the City Commission wasn't meeting every week and some of the payments wouldn't necessarily be going out, but staff would talk to the contractor and the architects about the payments and how

staff wanted to proceed. He said staff would present that information back to the City Commission on July 22nd. He said that work needed to get done because it was strong insurance against the need to come back and revisit this when they would have a problem in the future. He said they wanted to keep water away from the building because it was a problem and those were things that they agreed helped get at that issue. The cost allocation was something they could work at.

Farmer said regarding 15th and Iowa reconstruction, he asked what the contingency was and how many approximate change orders.

Chuck Soules, Public Works Director, said there would be some change orders that was worked through the state and the state didn't work with the contingency. It was a big price and the city paid for and subtract from, based on the quantities installed.

Farmer said he wanted to rephrase his question because he wasn't aware of the state caveat.

Soules said that was how the City ran a lot of its major infrastructure projects. He said they didn't have as many details as a building necessarily.

Farmer said on large projects a one percent was low comparatively.

Soules said they were probably running higher than that.

Corliss said with the library project they spent about 3 percent from a contingency fund. He said when they approved the contract with BA Green and the Commission approved all of those different bids on that project, staff included a contingency and spent about 3 percent of the total construction cost on contingency items. A lot of those had been related to items that the library decided that they wanted to have. He said it was a little bit like this list, the library saw some additional electrical plugs that they wanted in the building. There was a cost to getting it there, materials and labor to do all of that. There was a number of examples and didn't know if there were hundreds of examples, but there had been a number of small examples and that was all part of the budget. He said it was still coming under budget and they still had a

contingency. He said last time he looked there was about \$100,000 left. The library was opening on the 26th and there would still be some items to probably finalize.

Farmer said he understood this project had gotten a lot more press than other projects had and every time there was a change order it had to come back before the City Commission. He said both of those, due to the nature of it being a no-bid, that was passed by the previous Commission gave a lot of people angst in relationship to this, but he had to be honest, if they were sitting at 1.1 percent contingency right now, if they would have had one, that seemed very low compared to other larger projects. He said the only reason he asked about 15th and Iowa because he remembered when they were talking about redoing concrete which was the first change order, it was said that it happened all the time out at 15th and Iowa and just never got reported on in the newspaper because it wasn't as big of a deal in a sense. He said he didn't know if it was fair for the Commission to go back and try to re-coupe cost for those types of things from the builder or the architect. It seemed that they were doing this the right way and if that number was 5 or 6 percent at this point in the game, then he would be inclined to think differently because that was a significant amount more. He said there was no perfect construction document and to be 1.1 percent away from being perfect was pretty good to him. He said he didn't know if he could support negotiation with other parties necessarily just based on principle that they were doing a good job and he was not sure if that would get them anywhere at this stage in the game.

Amyx said the recreational center was bid.

Schumm said there were 8 or 9 bidders.

Corliss said there were 9 bidders on the recreation center but the infrastructure was not bid.

Farmer said he was just saying the whole picture of that gave folks a massive amount of angst that they didn't have with any other project for whatever reason.

Amyx said he looked at this issue as warranty work. He asked if Dever would like to add additional language about negotiating.

Dever said if it wasn't the majority opinion that they should do it then he didn't want to force it. He said they discussed all of those owner requested change order and to lump this one in with it, he did not think it was accurate. He said he felt he had to say something about it because it wasn't an owner request, but a correction of a flaw and whether or not it was big or not. He said Farmer was right on, this project had gone very smoothly and didn't want to rock the boat, but frankly he had seen this type of problem before and how to solve it. The way you solve a problem with a new building was to design it properly. He said it was a foreseeable problem that could have been identified and designed properly. He said it was not a sincere thing to say that they were requesting a change. This was a bad design in his opinion but it was only his opinion.

Schumm said he valued Dever's opinion very much because it was Dever's expertise and his line of work. He said he would go along with Dever's line of thinking.

Dever said to lump all those things together, in his opinion, was not accurate and he wanted to make sure he said something about it.

Schumm asked what Dever wanted to do.

Dever said he would like to have a conversation and would be happy to do it when he came back from vacation. He said they needed to pay and fix this immediately.

Schumm said he thought the Commission should ask the City Manager to negotiate and see where it went.

Corliss said Dever would be back before the City Commission meeting on the 22nd and staff would facilitate a discussion.

Dever said he needed a better explanation.

Amyx said he appreciated Dever's expertise in this matter. He said he still thought this should be considered warranty work. He said the City bought a product and thought the product wasn't going to leak.

Farmer said he completely agreed that this was Dever's area of expertise. He said maybe it was a design flaw and maybe he would feel differently in a couple of weeks but right now for the city to be sitting at 1 percent contingency was incredibly responsible. He said design flaw or construction flaw was why there were contingencies. He said they had a process where there was a design team that was two great architectural firms and a quality control person. He said he was interested in hearing how those types of things got past all of those people but again he was looking at that 1.1 percent number and thinking that they had done a really good job. He said that was a good number for the taxpayers of Lawrence Kansas considering the size and magnitude of this project.

Dever said he agreed and he was solely disputing this on principle that the documentation that he read indicated that this was an owner requested change, but he disagreed that this was an owner requested change and was truly something that might have been engineered improperly to begin with. He said all of those other things that Farmer stated were accurate and he agreed 100 percent and that was the reason he brought it up. He said he wanted to be consistent because when he read that, he disagreed and then they stated that again. He said it wasn't an owner requested change but something that could have been designed differently and installed differently, including the downspouts being installed on time as well. He said this was a matter of semantics at this point.

Riordan said he could count and would vote for this even though he had a situation of knowing that this needed to be fixed now in an appropriate way. He said errors were made and there was difficulty with timing.

Farmer said the owner thing made a lot of sense and he could go along with that logic.

Dever said that was his statement in the letter the City received. He said, in his opinion, he didn't agree.

Moved by Dever, seconded by Schumm, to approve the following change orders at Sports Pavilion Lawrence: 1) Concrete at north, east and southeast sides of building (\$20,511); 2) joints at tilt-up walls to foundation wall (\$19,503); and 3) for vapor barrier for turf area (\$8,362.80), for a total of \$48,647.08; and, direct staff to negotiate a settlement agreement with appropriate parties. Aye: Dever, Farmer, Riordan and Schumm. Nay: Amyx. Motion carried.

Schumm pulled consent agenda item no. 9, regarding the notice to proceed for Rock Chalk Park trails.

Corliss said the City Commission previously approved the design of the trails with a few modifications. He said they looked at the cost, which were set out in the development agreement, and were paying for this through the infrastructure recreational center amount, but they wanted to have cost information that was a little bit more detailed than a lump sum and that was the information in the memo.

Schumm said he followed this Rock Chalk Park project from the very beginning. He said the last time they were there they finalized the trail and visualized how it would work and made a couple of changes. One was the addition of soil to the north, facing the dam, on the southwest part of the property which was completed and would reduce that slope to where it was a lot safer. He said if rounding the corner by the other detention pond in the north, central part of the property coming off behind the Recreation Center, he asked if they were going to stay on the ground because he hadn't seen any additional slope that allowed that to happen. He asked if that was going to happen.

Hecker said he thought it would happen but he wanted to check because they did some final grade work.

Schumm said it looked too steep for that to accommodate. He said they all agreed that they weren't going to run out into the street or in the parking lot and come back in.

Hecker said correct, that was still the plan in his mind.

Schumm said he was going to approve it with that caveat that that was going to take place.

Hecker said that was the last work they had.

Schumm said regarding the last item was the fire pit at \$17,500 and said he saw one early on that had chord and lime stone nicely fitted and grouted. He asked if that was the \$17,500 fire pit because last time he was out at that location, he talked to Thomas Fritzel who had quarried some rock from the quarry adjacent to it on the east and wanted to use some substantial sized quarry boulders that were rectangular and just make a 4x8 foot fire place. He asked what design they were talking about.

Chuck Soules, Public Works Director, said that was his understanding. The Oregon Trail rock was going to be used.

Paul Werner said Soules was correct.

Schumm said \$17,500 sounded like a lot of money for that stone. He said the original design that he had seen was all milled and looked like a regular fire place that looked like it was going to be in a home and could see where they would have that kind of cost, but this was roughed out slab limestone and it was going to be dry stacked.

Soules said it would be dry stacked and then there would be some type of milling.

Schumm asked Werner to address that question.

Werner said Schumm was correct that there would be millings around. He said the last time Schumm and Fritzel walked that area they were going to agree where to put it. He said the stack of limestone was from Oregon Trail next adjacent property to the east.

Schumm asked if the \$17,500 was the correct number.

Soules said that was the number staff had been given and thought that amount was fairly appropriate. The rock had to be called up, placed, set and other things and that amount should be in the ballpark.

Amyx asked how big the pit was.

Schumm said 4x8.

Mayor Amyx called for public comment.

After receiving no public comment, Amyx said this was the final piece of work that would be done at Rock Chalk Park as the trail system would be put in place.

Schumm said correct. He said he would move on this item with the addition that adjacent to the north retention pond, that it be built up and the trail not on the road. He said it was hard to describe because it was at weird angles.

Hecker said he knew the area that Schumm was talking about.

Moved by Schumm, seconded by Dever, to authorize the notice to proceed for the Rock Chalk Park trails (the low water crossings will proceed pending state/regulatory department approvals). Motion carried unanimously.

D. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report.

E. REGULAR AGENDA ITEMS:

1. **Considered the following items related to 1101 and 1115 Indiana Street, the HERE Kansas project request:**
 - a) **Approved rezoning, Z-14-00170, approximately 2.52 acres from RM32 (Multi-Family Residential) District and MU-PD (Mixed Use-Planned Development) District to MU-PD (Mixed Use-Planned Development) District, located at 1101 and 1115 Indiana St. Submitted by Hartshorne Plunkard Architects on behalf of HERE Kansas LLC, Contract purchaser. Berkley Flats Apartments, LLC and Georgia Bell, property owners of record. (PC Item 1A; approved 10-0 on 6/23/14)**
 - b) **Approved Preliminary Development Plan, PDP-14-00183, for HERE Kansas, located at 1101 and 1115 Indiana St. Submitted by Hartshorne Plunkard Architects on behalf of HERE Kansas LLC, Contract purchaser. Berkley Flats Apartments, LLC and Georgia Bell, property owners of record. (PC Item 1B; approved 10-0 on 6/23/14)**
 - c) **Received recommendation from the Public Incentive Advisory Committee and receive request from HERE Kansas related to a multi-use apartment building development. Consider the establishment of a Neighborhood**

Revitalization Area (NRA) and authorization of Industrial Revenue Bond (IRB) financing for the project.

Mayor Amyx conducted a public hearing to consider items related to the 1101 and 1115 Indiana Street, the HERE Kansas project request.

Sandra Day, Planner, presented the staff report.

Randy Larkin, Senior City Attorney, said this was a rezoning matter and the City Commission needed to disclose ex parte communications before hearing from the applicant.

Schumm, Farmer, Dever, Riordan and Amyx said they had not talked to anyone.

After receiving no public comment, Amyx said this was a good looking project.

Moved by Riordan, seconded by Dever, to approve the rezoning (Z-14-00170) of approximately 2.52 acres from RM32 (Multi-Family Residential) District and MU-PD (Mixed Use-Planned Development) District to MU-PD (Mixed Use-Planned Development) District, located at 1101 and 1115 Indiana Street and adopted on first reading, Ordinance No. 9018. Motion carried unanimously.

Moved by Farmer, seconded by Riordan, to approve a preliminary development plan (PDP-14-00183) for HERE Kansas, located at 1101 and 1115 Indiana Street. Motion carried unanimously.

Jim Heffernan, H.E.R.E. Kansas, said he stood before the City Commission 119 days ago when the Commission unanimously approved their project, but there was some angst to that approval with regard to the 1115 Indiana Street property not being a party to it. Since then, that property had been incorporated and it was a good solution for the project, for that long-term resident of the City, and for the City as well. The inherent nature of their project and many aspects of the City's Comprehensive Plan and the City's incentive programs which referenced the idea of in-fill redevelopment and this was certainly an in-fill redevelopment. Currently, the Berkeley Flats consisted of 103 units and they were proposing 237 units which was a little bit more than a 50% increase. He said the MU zoning district actually encouraged zero setback,

but yet the preliminary development actually gave bonuses for setting a building back. He said they had been able to come to a very good meeting of those two conflicting objectives by actually using the entire 80 foot right of way. He said by moving the right-of-way all the way to its western limits by the inclusion of the parking and then also bringing the outdoor dining areas around the perimeter actually to that sidewalk they were accomplishing both objectives that were in conflict with each other. The Berkeley Flats consisted of buildings that were constructed in the 1950's and the buildings further south on Indiana were in the 1960's and then the buildings out on Mississippi were in the 1980's. It was a very conventional building and would consider this an apartment project with on-site surface parking. He said 1115 Indiana Street was the most expensive piece of property in Douglas County. It consisted of 50x150 and it was very expensive. He said they were a little bit smarter than they were 119 days ago. He said they initially planned the project and presented the project to the City Commission using the GIS information supplied by the City and the County around the peripheral of the property. Since then they actually had it very systematically surveyed, all 2.52 acres. He said they found out the fall on the property was actually even more severe than they thought. If taking the southeast corner to the northwest corner it was 61 feet of fall and that was a little over a 6 story building. He said they were proposing a 7 story building and if you could imagine having 6 stories of fall on the same site, it presented a tremendous amount of challenges to the development of the site. He said their development solution was unique and if you were inside that building, despite all the fact that the Indiana fell at a different pace than Mississippi and 11th Street even more severe than those two and they didn't realize that inside building was all as if it was on a very level of 2.52 acres that were flat. He said what changed in the project were a couple of things that helped the project. First of all, they had tremendous grade challenges with not including 1115 Indiana Street it allowed abbreviated outdoor space for the project. They felt those outdoor spaces were mutual benefit, both to them as developers and making the project more aesthetically pleasing and functional as well as more desirable for retailers. He said that was

where their two interests aligned very well because the better those retailers did the better the City and County did as it related to sales tax. Another thing was that they significantly improved the Indiana frontage. He said with the elimination of 1115 Indiana it allowed for a continuous pedestrian wall and allowed them to move the amenity space. He said what was depicted in the center was actually an elevated pool area. He said by taking it off the roof, it allowed it to be a larger more contiguous and more centrally located area as well as allowed them to actually incorporate all of the public spaces of the building, right in the center core. He said if you could envision the outdoor pool area, a location like that was strategic in many ways. It's insulated from the northern winds from the building immediately to the right and yet allowed the all-day afternoon sun as the sun set in the west providing a pool area that would be usable for a longer period of time than if it were not the roof. Immediately adjacent to the pool to the left were two large rooms which were over 5,000 square feet of indoor workout facilities, both cardio/vascular in weights and on the other side was equivalent amount of space a little over 5,000 square feet as it related to study rooms for the students. One of the other benefits of acquiring the 1115 Indiana Street and incorporating it into the project was that it allowed them to better centralize the entrance to the building. He said they wanted to focus all of the residential guest and/or residence of the building through Indiana for a number of reasons, primarily security. He said they would have 24/7 security on premise and wanted to know who was in the building and what guest were associated with what resident so they could monitor behaviors better than just having a very loose opened entry to the public. However, that lobby would function very differently than most lobbies of residential student housing projects. It would operate similar to a loft hotel lobby with the one difference being that there was no alcohol. They wanted to have residents hang out in that area as a cool and nice place to meet, have coffee and snacks for their guest as well as the general public. He said that was a very unique of their business model. He said one of the things as it related to height, as they received additional topographical information, the south east corner, closest to the Oread Hotel was 57 feet and the

southwest corner which would be the Mississippi side furthest from 11th Street, which was 78 feet and then went to the highest corner which was the northwest corner, the corner of 11th Street and Mississippi which was 94 feet and the northeast corner was 73 feet. He said consistent with the vision of the site in the Oread Master Plan, the higher parts of the building were closer to the university which would be Mississippi Street. He said when they took this preliminarily after their initial approval not know they would actually were going to be successful in getting 1115 Indiana, they received some additional feedback from some of the financial markets, one was the mixed use which consisted of only 2 and 4 units and they wanted more diversity in that. The increase in beds on the property went from 592 to 624 which was a 5.4 percent increase and coincidentally was exactly the increase in the size of the Bell property represented a 5.4 percent increase. Although they didn't measure density as it related to City Code to beds per the square footage of the property, it was identical if they did it. The other thing that the financial markets were very critical of was the lack of perimeter parking. If looking at the Oread Neighborhood Plan there was a vision for an MU district and a district without convenient parking that was visible, they thought was a detriment. He said for them the retail components of the property were very important. First of all, they viewed them as an opportunity to add excitement and notoriety to the project. A unique retailer nationally recognized, unique to that area and was well received by the University, students, faculty, visitors and neighborhood would be a great asset to the project. He said they viewed that as an opportunity to provide an amenity that was immediately convenient to their 624 residents as well as their visitors. He said in contrary, if they had those spaces which was so often the case in mixed use developments around the country as they saw vacant spaces or spaces with very undesirable tenants was a condition that actually lowered the value and the excitement level of the project. He said they wanted an introduction of angled parking and they were lucky in as much as the 80 foot right-of-way on both Indiana and Mississippi Street actually allowed for with some caveats. One of the stated goals of the Oread Neighborhood Plan was to actually work

more closely in concert with KU. He said he had been very pleased with how receptive they were to this project and how willing they were to help foster a solution for that off-site parking that actually worked for all parties involved, City, KU and their project. It actually had an opportunity to really distinguish that area in a neighborhood that was so starved for parking that reiterated several times in the neighborhood plan. The latest plan actually had 107 spots which was a tremendous amenity, not only to the project, but for the neighborhood in general. He said tonight they had 3 votes, but already cast 2. The first 2 votes made the project possible and the last one before the City Commission would actually make the project. He said in reading the City's Horizon 2020 Plan, he saw something that struck him and was germane for this meeting. It said the actual reason for the Comprehensive Plan was "the advancement of the community's desires concerning the future image of the City of Lawrence." He said what struck him about that sentence was that it was very forward looking and was not defining the present by looking backward, but it was defining the present by having a vision of what could be. As they mired through the first MU district, he thought all parties involved had learned a lot because it was new for everyone. He said when they were unsure of things, they often look to the past to try and help understand what was happening and that had been a foible in how they approached this and had not looked to the future to help say what they wanted and then bring it back to today. He said it was very informative to look at some of the criteria that were presented in Resolution 6954 that was adopted by the City Commission on November 25, 2011 which actually put forth the criteria for an NRA. He said he had done many of TIFF's around the country but he had never done a NRA and was not familiar with it at all before it was introduced to him by City staff. He said the criteria was, "the opportunity to promote redevelopment activities for properties which had been vacant or significantly underutilized." He said obviously this property wasn't vacant, but it was significantly underutilized as was evident by the fact that there project could increase the income of this property as it related to the status quo, even during their requested rebate period in year 2 which would be 2017 by 800%. He said that qualified as significantly

underutilized. It also said, "The opportunity to attract unique retail or mixed use development which would enhance the economic climate of the City and diversify the economic base. The NRA had been used several times and those examples didn't involve any mixed use projects or unique retail and yet they were handcuffed by what they had done in the past as it related to the utilization of the NRA as a tool. The NRA language was very specific and he read in the paper about apartments and precedent and would like to be on the record very clearly that this was not an apartment project but a mixed use project which was extremely different. One of the differences was that it involved a 17 million dollar parking structure and there wasn't a parking structure in this community with a 17 million dollar parking structure. The other reason was because it also had retail. Whoever wrote the NRA and this idea to attract unique retail had an understanding as to the power of what actual sales dollars meant to the City's coffers. In an environment that was consistent across the country, all communities such as Lawrence were desperate for more revenue as expenses continued to rise, income decreasing, state subsidies and help was always diminishing and they were very sensitive to that. They understood that asking for something like this was unprecedented but they felt their project was unprecedented in many aspects, one of which was the actual scale of the project. He said City staff had confirmed that this probably was the largest private project to ever be before this body. He said another criterion was the opportunity to enhance the vitality of a neighborhood within the City as supported by the City's Comprehensive Plan and/or other sector planning documents. The Oread Neighborhood plan was actually ratified by this body on September 21, 2010, specifically that plan placed an overlay district of district 2 on this very specific property, not only the MU zoning, but the district 2. It gave direction in that vision. Still other criterion was minimum parking requirements, massing scale, bulk and articulation for new development, maximum lot coverage, height and density maximum increase, larger structures located on corners of certain streets, lot size assembly and finally, the opportunity to enhance the community's sustainability by supporting projects which embraced energy efficiency, multi-modal transportation and other

elements of sustainable design. He said their project represented the smartest and greenest building in this community. He said automatic robotic parking was a leading edge technology associated with cities far larger than Lawrence. It was becoming mainstay in New York City, Los Angeles was introducing more and more, but it was his understanding that Lawrence would be the first City in the State of Kansas and also the State of Missouri as well with this innovation. He said the reason why it was very green was that it was extremely efficient as it related to CO2 emissions. Everyone had been in parking garages where they drove around trying to find a parking spot and when they did find a parking spot, then they couldn't find their car or waiting around idling when going down the cork screw isles on the way out. As it related to automated robotic parking it was really a man less valet where they could tell the system to call their car up and it's not started until they were ready to get in. He said you wouldn't think that that was a big savings, but over a garage of that size, 577 cars, going in and out all the time, it was massive. He said they could provide the Commission with those formulas for that calculation but it was immense as to how many CO2 emissions were saved by that. On a larger scale he asked what it said about this community to be on such a leading edge. He said when the time comes, this would be noteworthy. The system and operation was a little kid's toy at the scale of a man because it was using technologies that they all dreamed about having but it could actually be seen in action. It was a safe thing for the women residents of their building. They all experienced the idea of being up in some isolated area late at night trying to find their car. This would not do that and they would always be in the central bay which had continuous monitoring of cameras. A woman would leave her car in a very central place and it was taken into a vault and there were no human beings allowed in the vault other than sporadic maintenance people on a scheduled basis and there was no interaction with their cars. Another benefit was leaving your keys in your car because no one could get into your car and leave things that you're worried about being stolen because it was all in the vault. It brought a new level of what was possible, not only to their building but to the community. He said in looking at the IRB it

referenced “projects that were requesting IRB’s that were primarily residential in nature shall only be considered if the project was multi-family or senior living projects and fit the criteria herein described, in-fill development or redevelopment was preferred.” He said their project was both in-fill and redevelopment, but then again, it stated mixed use projects were more desirable. It stated that in-fill projects should be looked upon more favorably if they were mixed use, but the City did not have any mixed use projects. The City had an MU zoning district for a long time and it had never been utilized and there are a lot of reasons for that. Many had decades of service for the City and had an appreciation for what he was saying. He said redevelopment was taking something that was obsolete and putting something new in it. In-fill was all about using the central core and all the infrastructure already in place. The result, in contrast to green-fill development, was that they didn’t need to extend roads or water and sewer. He said they could reap such a huge reward from this. He said both their NRA and IRB were very specific and didn’t say apartments, and their project was not an apartment, but a mixed use development and there were a lot of reasons for that. He said the perimeter parking would help make this project extraordinarily successful in many ways. First and foremost, it would make their retail successful and, as a result, it would also make the coffers of the City and the County successful as well. He showed pictures of the project to the City Commission. He said one benefit was their ability to expand the outdoor areas of the building with the inclusion of the 1115 Indiana Street because it allowed them to transition the grade changes on Indiana, in particular, much more successfully allowing them to elongate the outdoor dining areas. He said for them it was an aesthetic but it was also usable great space in a climate, depending on the time of the year could be very desirable. It also related to viability in terms of having an experience and creating a sense of community where the neighborhood could come, walk to those restaurants, and every one of the outdoor spaces had been enlarged as a result of the changes in the plan. He said one of the things he failed to mention when he showed the street scape was they were introducing a mid-block pedestrian access point. He said this was going

to be a 6 foot lighted sidewalk mid-block between 11th and 12th Street and thought that would facilitate good access between Mississippi and the Oread. One of the big criticisms that he had of the model that was used to analyze their project was that it did not take into consideration the retail sales dollar generated by the project. The City's ordinances and policies governing the City's economic assistance were very specific to mixed use development and the reason for that, in part, was because of retail sales dollars. He said one of the criteria in the City's policy was they wanted to diversify the City's sources of income and this project did that. There had been some discussion about what was incremental, as it related to sales, in a location like this. He said KU was the biggest economic engine on every front and KU stated that their community of students, faculty, and employees constitute 42,000 people. In their analysis that they ran they were saying those retail spaces would generate \$300 per square foot. He said to be conservative they said 50% of that would be incremental. He talked about incremental sales dollars and the City's model analysis. He said he had sent a letter to the City that referenced that this was a way to use the private sector as a conduit to help capture the economic engine in a world class university like KU because KU paid no property or sales taxes and was a huge user of the City's infrastructure and this would help pay for some of that. He said this was a transformational project and he was extremely proud to be associated with it. The project was unique in every aspect and it was a win/win for everyone involved. He said he hoped he had the City Commission's support.

Britt Crum-Cano, Economic Development Coordinator, presented the request, the eligibility, the analysis, and the recommendations.

Diane Stoddard, Assistant City Manager, presented the project impacts as well as the next steps.

Schumm said he read in the newspaper the total amount of tax rebate and asked if staff had those numbers. He said 85% with ten years with an IRB equaled how many dollars of rebate.

Crum-Cano said approximately 5.7 million.

Schumm asked about 95% with 12 years with an IRB.

Crum-Cano said approximately 6.47 million. She said there was approximately \$800,000 dollar difference between the two packaged values.

Schumm asked Crum-Cano to go through the “but for analysis.”

Crum-Cano showed Schumm the results from the 4 different scenarios that were similar to what they ran for the cost benefit model.

Schumm said with and IRB and an incentive, it would get into the nine's, the time for set returns.

Crum-Cano said yes.

Schumm asked about the standard return nationally on a predominately parking structure with some other mixed use.

Crum-Cano said staff didn't have a resource for that type of data.

Amyx asked if they didn't have that data locally either.

Crum-Cano said no but what they had was a cap rate that the County provided to the City and used that cap.

Schumm asked what that cap was.

Crum-Cano said 8.9 but that was not the same as a return rate. It helped figure out the amount of taxes and rebate that would be paid.

Schumm asked what that return on investment would be on that kind of basis.

Crum-Cano said again, they would probably need a national or regional resource and they did not have that.

Schumm said he was trying to figure out if this was generous, standard or below standard. He said he had no way of knowing other than seeing comparative analysis to what the industry stated.

Crum-Cano said the investment threshold was two times the risk free rate or two times what a treasury bond would provide and that would give a little bit of the benchmark in terms of how that fared.

Schumm asked what Treasury bond Crum-Cano was talking about.

Crum-Cano said the ten year.

Farmer asked about the cost benefit result and the 10 year total package value. He asked if that was with all of the taxing districts and not just the City's portion.

Crum-Cano said that was correct.

Farmer said they had the IRB in the amount of 2.4 million dollars.

Crum-Cano said that was the total package value for all 4 taxing districts.

Farmer said he wanted to be clear and wanted to make sure he pointed that out to Schumm because that was not what the City would abate.

Schumm said he understood.

Moved by Schumm, seconded by Farmer, to open the public hearing on the establishment of a NRA at 1101-1115 Indiana. Motion carried unanimously.

Kurt McClure said he rose in opposition to item 1c. He said he was present and a part of creating the criteria for the use of such economic development incentives such as the Neighborhood Redevelopment Act, the use of IRB's. He said those were tools with appropriate uses. The uses would be inappropriate in this particular case. They were to bring investment that would not otherwise occur which was the whole purpose of the "but for analysis." They were to be used where they served a compelling public purpose and an example would be affordable housing, historic preservation or redevelopment of a neighborhood that could not otherwise be redeveloped. Those tools would not be appropriate here and it was obvious on its face that this neighborhood was enjoying a considerable level of redevelopment and private unsubsidized investment. They needed only to look at the development to the north of this project site to realize money was flowing in here. They did not need to put in 6.5 million public

dollars to make this deal happen. Beyond that, was that it was not serving some additional public use and this was not affordable housing but luxury housing. This was not historic rehabilitation it was simple teardown and rebuild. They needed to make sure that when they used those tools carefully, wisely, and only when they would serve those compelling needs. He said benefit cost analysis was a good and useful thing and helped the State pass the benefit cost analysis roll. He said it was a good one and it was an exercise they should go through but it was way too easy to lose the forest through the trees. The most important concept of benefit cost analysis was that they would be bringing in benefits that would not otherwise occur. He said that was not the case here. It was a zero sum game. He said what they had done was say an 800 or 900 percent increase on the parcel but it was not an increase at all to the community. This was student housing and was not going to bring any more students than the community had already. He said as the zero sum applied, they were simply going to take students out of other existing rental properties within the community and moving to this site. The same with the retail space. They would not be generating new retail spending and not having new people coming, new people or income coming to town and were simply going to be taking away retail spending from other areas of the community and bring it to this location. He said regarding the jobs that were mentioned, this was the same situation. He said this was not new money to the community. The number one rule of economic development was that it must be basic industry and must be selling a good or service to buyers outside the community. He said you bring in an office that sold services outside the community that was basic industry. He said retail and residential could almost never be basic industry. In fact, what was happening was they were trying to imply that those increases were happening to the community. They might be happening to this parcel but the aggregate value of the rental properties in this community were a function of how many renters they had, what their income was and the value that would derive from their rental spending and the City would gain nothing. He said the same way on the retail and retail jobs. The benefit cost analysis had a fatal flaw in that they were treating no basic

industry as basic. He said not only was this analysis flawed but the City was subject to a great deal of political cost with this one. If this proposal went forward the City would be asking the average tax payer of Lawrence Kansas to subsidize luxury student housing. That would be a misuse of those very valuable tools and recommended against it.

Moved by Schumm, seconded by Dever, to close the public hearing. Motion carried unanimously.

Dever said he understood some of the statements by Professor McClure and since McClure was the only one that spoke out in this meeting, he thought it was important to touch on a few of those subjects. He said he was not intimately knowledgeable as to the impact of such a development and/or the misuse of this analysis for this purpose but he asked if there was anything unique about this and was this their typical share of the living room with 4 bedrooms and was clearly marketed to students. He asked if the purpose of this was to attract and serve students only.

Crum-Cano said that question was better for Heffernan to answer.

Dever asked if Heffernan provided Crum-Cano with any kind of pro-forma relative to the rents and the number of bedrooms in each unit.

Crum-Cano said yes as well as the commercial space, those were all projections based on Heffernan and his team.

Dever asked about Crum-Cano's impression and asked if those would be 1, 2 or 3 bedroom units.

Crum-Cano said she believed there was a mix of different bedroom units within that complex.

Dever asked if Crum-Cano could explain the mixed use concept in that they had retail as part of this development and the retail dollars associated with sales at this facility were figured into the formula.

Crum-Cano said the model did not take into consideration retail sales from the commercial components and McClure had a criticism because it didn't.

Dever said he brought it up because he thought that McClure was implying that the retail dollars were a part of the taxpayer subsidy and in reality they would never utilize those dollars as a part of this formula and staff was criticized for not doing so.

Crum-Cano said she didn't want to put words into anyone's mouth but their model took into consideration retail sales only from the amount of spending that the project itself would do locally.

Dever said to construct the building.

Crum-Cano said to construct the building or operate the building. She said it took into consideration some retail spending by new households that were estimated to come as a result of the jobs. She said McClure mentioned that he disagreed with the number of jobs that were estimated to be created. It did not take into consideration the retail sales that a restaurant, a boutique or anything else from that project was going to generate. She said Heffernan had his own analysis and projections along those lines but their model did not take that into consideration. There were a lot of complexity to that type of data and, again, they had to look at what would really be net new retail sales and that would take a study in and of itself. If you did have those net new dollar amounts and felt very comfortable with those amounts, they could be put into their model.

Dever said that number was not in there and this was a discussion about sales tax on construction related items.

Crum-Cano yes but however because they were requesting an IRB to forego those sales taxes, it was basically added in and taken back out. She said it was a wash. She said without the IRB then it would have some impacts and revenues to the jurisdictions.

Dever said regarding the useful life of those buildings, he noticed in the packet they received, someone did a preliminary physical condition assessment or analysis of the properties

and all thought the ages of the properties were not stated in that report, he thought Heffernan indicated that those were built somewhere between 1950's and 1980's, depending on which section of the property. He said they had a total tax bill of around \$47,000 annually for the accumulated properties approximately.

Crum-Cano said approximately. She said that was what it brought in right now.

Dever said in the statements that were made and had some people ask him about was how did they justify giving an incentive to somebody who's not willing to pay the differential in the taxes short-term. He said his question was did they ever do a "but for analysis" and what did they lose by allowing those buildings to continue to become dilapidated or age out and finally meet their useful life and what impact that had on the community. He asked what kind of loss in real estate taxes and valuation would happen because of that. He said there was really no incentive to do this and staff made it clear that this was a difficult site. He asked about the no-build option, doing nothing, or let the market impact it. He asked if staff ever thought about how valuable this real estate might be to the City and how in the future, gain some benefit as opposed to letting it lie and hope that someone came along to do something with that real estate.

Crum-Cano said in terms of a comprehensive analysis on how the current properties were performing and what revenues that were generating, they could only use property tax. She said they could project out fairly certain in terms of keeping everything as it was, such as escalating the mill levy and possibly putting inflation back and they would have an idea over a certain period of time on how much revenue that property was going to generate. She said with a proposed project they were assuming that it would get billed, it performed, and at some point it was back on the tax rolls fully. At that point the City would be getting its payoff. She said with the 10 year 85 percent, with the estimated additional property tax they would pay the base and then on the 15 percent they wouldn't get, would at least be double of what they were getting now. It was a matter of perspective.

Dever said the City didn't do much analysis like that and it was really strictly opinion at this point in time. People frequently protested their taxes as the buildings aged out or became more in disrepair and they could argue their evaluation. He said they could actually lose taxes through Douglas County by then changing the assessed valuation by buildings getting older and thus not increasing in value, but decreasing because of their effective useful life was basically up. He said the owner could request a re-evaluation at that point.

Crum-Cano said that was her understanding how the properties were appraised.

Dever said the appraisals could be disputed and the City ended up losing out. The City didn't have a say in that matter and it was the County that did that assessment.

Amyx said the 5.6 million dollars under the recommended 10 year, 85 percent NRA, did not include sales tax figures collected from that site.

Crum-Cano said correct. It included the sales tax exemption on the construction materials for the IRB.

Amyx asked what the assessment was on the evaluation of that building when it was completed. He asked if the City went to the County Appraiser with pictures and the development plan to try and get an appraisal based on those plans.

Crum-Cano said staff and the developer met extensively with the County to do tax projections for this project. The County was very involved in helping the City with those projections. She said one of the complications was that most of the time the property was valued on an income method versus a cost method and she wanted to be very sure that whatever method they were going to use, that she was reflecting those property taxes similarly.

Amyx said when they used income approach that was how they would do all of their apartment units.

Crum-Cano said she understood that was primarily how they did most of their commercial projects.

Amyx asked what kind of approach they used for the residential portion.

Crum-Cano said she believed they used the income approach as well. She said, even though it was residential, the property owner was going to be receiving rents for commercial income from that portion of that project. She said to the County, this was a commercial project.

Dever asked if purchases made at the University of Kansas properties were subject to the identical sales tax rate that everyone paid in the City.

Corliss said they were subject to the same rate. He said there might be some exemptions on text books but they bought lunch at the Union, athletic tickets through sales tax. He said there was no sales tax on tuition, which was good, but the food establishments and if you bought a sweater, there was City of Lawrence sales tax.

Dever said there was no exemption.

Corliss said with their main line of business, there was no sales tax, but the functions of eating and selling clothes were subject to tax. He said there might be a special rule about text books.

Amyx said the comment that came up through discussion was that they had nothing to lose and everything to gain. He said the City's investment in this project was zero and the City would see an 808 percent increase by doing nothing. He asked about the City's investment.

Corliss said they obviously had staff time, and Planning Department Staff had been doing a great job as well, but as far as financial investment, they weren't putting any money into this project. He said he checked to see whether or not there would be system development charges on this property and the answer was no. This was a true in-fill project and there was not much in the way of City infrastructure. There was existing water and sewer lines, and they would be credited with those meters, and there won't be any of those charges unlike a green-fill development. He said there was no real tap on the City's infrastructure in that regard. He said they would be doing some work on Mississippi and 12th Street and Indiana but that was going to be their cost. The City wasn't involved in the financing of it. The City would have a performance agreement, similar to what they had done on other projects that would say if this

happens, and they do what they say they are going to do, then there was the property tax rebate that the City of Lawrence agreed to for this project, similarly for the industrial revenue bond issuances. He said there was no cost as far as the City's finances. He said staff just spent a lot of time on the City's budget and was not putting any money into this project.

Dever asked if the Commission addressed the question, if they were to agree to something whether or not the term would be 10 or 12 years and whether the rate would be 85 or 95 percent. He said if they were talking about considering any change, it would be good to know what they were considering. He asked if he could make sure he was clear on that since he saw both numbers.

Amyx said the request was 12 years and a 95 percent rebate and the IRB's which included the sales tax exemption. He said the recommendation from staff was 10 year at 85 percent with the IRB's.

Corliss said correct. He said the Vice Mayor served on the PIRC committee, and had those deliberations, but they considered it new. He said the City Commission received the PIRC recommendations but the City Commission could act on it accordingly, however the Commission wanted to direct staff.

Dever said he wanted to make sure the City Commission was focused on exactly what it was that the Commission was going to vote on.

Amyx said he suggested one of the two, or, one the Commission felt was appropriate.

Schumm said one of things the City Commission should be careful of was that in that area there had been substantial development and it appeared it was likely to continue. There was the Oread Hotel and, granted, it that had some incentives with TDD's but the Varsity House down to the north of that had no incentives that he recalled.

Corliss said correct.

Schumm said it was a rather substantial unit and they should be careful about that. Also, there was a huge industry in the Oread location for student rentals or rentals of any kind.

He said he was concerned to what happens when going down this road and started to incentivize those projects. He said obviously this was a huge project, and was very involved, but asked if they would be opening the door to many more incentives requests. He said McClure was right in that he didn't see this as serving any more net, new renters and would just come from somewhere else. He said he didn't see people moving to Lawrence, Kansas to rent a place in this facility and didn't see any retail shoppers driving to Lawrence, Kansas to shop in those retail facilities. He said he was torn as to doing this and what it presented for the future for them. The big question was would it get done on its own.

Farmer said, regarding PIRC, this was an unprecedented investment. They really didn't have anything within their formula to calculate whether or not something like this was good. He said Schumm brought up a good point about whether they were going to start down the slippery slope of subsidizing student housing and he thought back to the sizable investment this is at 75 million dollars and was it correct thing to say that this was the largest and single investment in Lawrence Kansas that they were aware of in Lawrence's history.

Corliss said he had been at the City for a while, and others had served longer, and honestly dollar amounts change with inflation and such. He said he couldn't think of a single project of this size, regardless he had some things that came pretty close, the investment at 9th and New Hampshire, all three corners, were probably close to that, but those were different buildings and uses. The North Project had not proceeded and was different over time. It was obviously not contiguous but that was probably in the neighborhood of 20 million dollars per building. He said the Oread was probably 35 million and there had been some sizable investments and there had been some large retail projects and maybe a few inflations adjusted such as Target or Wal-Mart Super Center which were large stores and did not know those dollar amounts. He said 75 million dollars was a very large project from a dollar standpoint and they talked briefly about that. Again, he was trying to think through the different projects that had come in the community and he was not hitting on any dollar amounts that were similar. Some of

the work out at Berry Plastics might but that happened in a number of different phases that included a lot of very expensive equipment inside. He said he was struggling to come up with a comparable.

Farmer said his question for the City Commission was that they really didn't have a tool. If they had another tool that perhaps took into consideration the mixed use zoning, throwing it through a filter of a 75 million dollar investment with 14,000 square feet of retail. This had been assumed that it was an apartment complex but it was the first mixed use that they ever zoned when their comprehensive plan stated that they wanted this kind of mixed use. He said like their governing document as the City's Comprehensive Plan suggested was this was what they wanted and needed. Years and years of community input went into that and they finally had a development that was the largest in the history of our community. He said he didn't know if they were starting down any slippery slope. If anything, he would like to suggest, as part of a motion, to refer to PIRC what sort of threshold would exist on a large scale development to qualify for some type of incentive and maybe run through a different kind of filter. The filter the city had was not adequate for this kind of project. He asked if it was over 50 million to 70 million dollars and they needed to take those on a case by case basis and do the process justice without doing the project an injustice by trying to fit a square peg in a round hole. He said he was extremely supportive of this project. He asked Schumm if they didn't do this project would it matter in which he said he didn't know. In terms of going half way, and meeting the developer, and Heffernan had done everything they had asked him to do. They bought Bell's house for \$600,000 when it was worth \$90,000. He said those were good faith efforts on the part of this group to show investment in the Lawrence community. He said he thought they would be a great partner for the city and was excited about the potential of this type of development, and appreciated this kind of investment in the community when the City had no skin in the game, and talking about a substantial increase in revenue solely on the basis of this, and couldn't justify that with just an apartment complex. He said this was truly a mixed use development.

The only thing he would like to see was a referral to PIRC perhaps on what they would do in relationship to large scale developments going forward to do justice to the process without doing an injustice to the process.

Dever said the only way he could wrap his head around approving something like this was to take Schumm's advice and think about what was going to go there if they did nothing and see what the market forces created from a site like that which was approximately 2.28 acres. He said they looked to the north and saw that a local person made a substantial investment in the community. But, what was the total price tag of that? They faced some of the same challenges by not near the same level of challenges from a topographic standpoint and it was more significant there. He said he looked at it as what could they put on that site if they just left it alone and stated, no thanks, we're not interested in a 25 million dollar development. He said fabulous, the city would receive taxes on that after a few years and when the next person came along and we passed up a 75 million dollar development where the City could get a 100 percent in 10 or 12 years, forego taxes and realistically assume someone was going to put an apartment complex in their for 25 million dollars. He said there was a 50 million dollar gap and had 6 years to make it up. He said the numbers did not play out. He saw this as a game of chess and when someone presented a large investment, which he believed if they were going to go straight apartment, they were going to spend about 25 million maximum on a site like this. He said it was a 50 million dollar gap that they had to hope came along in a short period of time so they didn't miss out on the incremental tax revenue that they would be foregoing even, in spite of the request, they would still see tax increases on this property for the initial 10 or 12 years. He said he knew how hard this site was going to be developed and knew how much money they were going to spend. He said he doubted there would be anyone quite as crazy that came along and spend 75 million dollars in this community.

Riordan said this was a difficult issue because he didn't see increased income to the City because of retail. He said what they were actually saying was that they couldn't build a mixed

use facility without tax benefits. He said he didn't know around the country if that was the case but he thought that was what they were saying. A mixed use had to be pretty good sized, it would cost a lot of money and had to be subsidized. He said the City wasn't going to have a lot of money in this so it was a very difficult thing for him, living in the Oread neighborhood, thinking that this would take people from his neighborhood and what would it do to that. How would it affect negatively the houses and structures that were at that location. He said he had a really hard time saying that they should have a 95 percent for 12 years because it sounded like an excessive amount to him. He said he would have difficulties with that and what it did to the rest of the City. He said he didn't know what it did but he had worries about what it did. He said he was still struggling with whether this was something they should do. He said he liked it in the fact that it was a huge investment, was very well constructed, and was extremely good to work with, but there were still some significant questions that he had.

Amyx said regarding the suggestion about returning to PIRC, he asked was that on this project or just as a policy.

Farmer said just as a general policy rule. He said the City's portion of the current property tax from Berkeley Flats was \$11,000. He said for him that was why it was so easy in his head to see those numbers play out. They were currently receiving as a City \$11,000 in revenue from that property every year. They would be abating, essentially, \$67,000 for 12 years.

Crum-Cano said if they were looking at the difference in the gap and divided that out over 12 years, it was \$67,000 and if it was divided out over 10 years, it was \$80,000.

Farmer said thinking the 12 year, 95 percent they had \$11,000 they were currently receiving in revenue and \$67,000 a year that they would be receiving that they would be abating, which was \$78,000 and would generate over \$100,000 each year in retail revenue. He said there was a net game for the City by virtue of having this property there even if they did the NRA at 12 years at 95 percent. The fact that they weren't giving up any money upfront, and the

fact that it was a win for them, even with that he was very supportive of this because they were in budget session and \$100,000 a year, even after 12 years it was going to be \$200,000 according to the projections, that was 2 police sergeants, a quarter of a mill. He said that was the mill levy increase for the library fund. He said they talked about the need for more revenues and here they had an opportunity to have a sizable investment to bring in more revenues. It was hugely important.

Schumm said Farmer was assuming the retail sales were going to be net new retail sales in order to get that tax.

Farmer said he didn't know what percentage was going to be net new versus existing but, following the logic of different retail developments they had going in town, this was certainly going to draw different type of crowds to different areas around the university in relationship to what they were going to have on the retail space. He said he didn't know how much was going to be that new but he did know, even with half that new, they were still going to be operating in a positive cash flow.

Dever said it was going to be \$3.50 per person per month and it wasn't new dollars. It was like an extra coffee which was Farmer's analogy.

Schumm said that meant that someone would go there and drink an extra coffee every day.

Dever said that meant someone might buy a coffee that they wouldn't have because they didn't have the opportunity to consume on your way to work.

Amyx said he appreciated the work that Heffernan and his group had done. He said he had a hard time looking at the difference between mixed use and apartments. He said he believed that housing was the largest part of this development. He asked himself over and over again whether it was appropriate for incentives to be used on residential portion of this project. He said there was a potential for precedence and looked at other adjacent properties that had been developed without incentives. He asked if those other properties were equal, not as far as

the dollar amount, but they're pretty good projects. He said 75 million dollars was a huge investment but he was not sure at this point if he could support the incentives. He asked if the Commission wanted to discuss separately either the 10 or 12 year and another percentage of the NRA or was it all or nothing.

Dever said the Commission would need a motion to approve the request and if it failed, they could try the other one.

Stoddard said the draft plan was drafted with 10 year, 85 percent.

Corliss said the City Commission had full authority to work whatever number they wanted.

Dever asked where in Ordinance 9021 those numbers were.

Corliss said it just referenced the NRA plan that was in those documents that had all that information. Corliss said staff would modify the plan accordingly.

Moved by Farmer, seconded by Dever, to approve Ordinance 9021 for a 95 percent rebate on a 12 year term. Aye: Dever and Farmer. Nay: Amyx, Riordan and Schumm. Motion failed.

Moved by Dever, seconded by Riordan, to approve Ordinance 9021 for an 85 percent rebate on a 10 year term. Aye: Dever and Riordan. Nay: Amyx, Farmer, and Schumm.

Amyx said this item would be sent to the County with no recommendation or no recommendation.

Corliss said there as a possibility the applicant could pursue that independent of the City's recommendation. The Commission also had the IRB resolution that would be appropriate to consider if they chose to.

Dever said it was a moot point.

Farmer said the 10 year, 85 percent NRA and IRB, the total package was 5.66 million or 5.67 million dollars, 12 year, 95 percent total package value 6.47 or 6.48 million dollars which was a difference of \$800,000.

Crum-Cano said correct.

Farmer asked what the difference was in the City's investment in those two numbers.

Farmer said the total package value for the 10 year, 85 percent NRA with IRB was 5.669 million dollars and three lines down was 12 year, 95 percent NRA with IRB was 6.476 million dollars which was a difference of \$800,000 dollars total package.

Crum-Cano said correct.

Farmer said what is the City's calculated risk of that \$800,000 dollars.

Crum-Cano said she did not have that number off hand and would need to go back through the model and grab that number.

Farmer said was it fair to say it was a third or less than a third. The point he was trying to make was that they were talking about a 12 year, 95 percent abatement which the City's portion which, over the course of 2 years, was going to be less than \$60,000 because most of that cost was with IRB at 2.4 million dollars and loss generated net values of property taxes. He said he was trying to get them there.

Crum-Cano said with the City's current mill levy they were about 24 percent of the entire property tax and it would be 24 percent of that \$800,000. She said she was just brainstorming that figure right now.

Farmer said of that \$800,000 the difference was \$190,000 over 12 years.

Crum-Cano said approximately.

Farmer said it would be \$15,830 a year.

Crum-Cano said that was the difference between the 2 packages.

Farmer said that was not a lot of money for a 75 million dollar investment. He said he felt so much more comfortable with that amount. He said the City's model was flawed in a sense that it didn't take into account any of those types of development and he didn't want to see the developer walk away because they didn't get the incentives they wanted and for the City to have to live with that only having a \$15,830 difference over 12 years.

Dever said the opposite worked to which they could walk away over \$12,000 a year. He said that was why he voted for both.

Farmer moved to vote for the 12 year, 95 percent NRA.

Amyx said there was already a vote and it would take someone from the opposition to bring up reconsideration. He said the 85 percent could be reconsidered if one of the Commissioners that voted in opposition would ask for reconsideration.

Farmer said he would reconsider the 10 year, 85 percent NRA.

Moved by Farmer, seconded by Dever, to reconsider the vote. Aye: Dever, Farmer, and Riordan. Nay: Amyx and Schumm. Motion carried.

Moved by Dever, seconded by Riordan, to approve Ordinance 9021 for an 85 percent rebate on a 10 year term, as recommended by staff. Aye: Dever, Farmer and Riordan. Nay: Amyx and Schumm. Motion carried.

Moved by Dever, seconded by Farmer, to approve Resolution No. 7075, authorizing the industrial revenue bond financing. Aye: Dever, Farmer and Riordan. Nay: Amyx and Schumm. Motion carried.

The City Commission took a break at 9:38 p.m.

The Commission reconvened at 9:48 p.m.

2. **Receive recommendation from the Public Incentive Advisory Committee and receive request from Hernly Associates for a Neighborhood Revitalization Area (NRA), to purchase City property at 1106 Rhode Island. Consider the applicant's purchase offer of \$90,000 for 1106 Rhode Island Street and a city-provided development grant for up to \$26,100.**

Stan Hernly said 1106 Rhode Island was the property that was the Packard repair shop for many years and before that it was the Dante Transport Company. It was in the south Rhode Island historic district. The house, barn and warehouse were all contributing to the historic district. He said their proposal was to purchase the property from the City that the City purchased through eminent domain. He said they were offering to purchase the property and rehabilitate the historic buildings that were on the site and then also include some new

construction as well. He showed pictures of the property. The inside of the home had gone downhill and had been cited long ago in 1985 by the City Commission as being blighted. He said they were ready to put the property back to a good mixed use including residential and office use. He said their plan for the property included historic buildings that they would be restoring. They would be building a single story addition on to the house and then a separate garage with an apartment above that. Basically the property would be 3 bedroom rental home, a 1 bedroom rental apartment over the garage and a 2100 square foot office space. The parking lot would come off of 11th Street. The office space would be using the larger portion of that for a large conference area and the barn would become a full, 2 stories with office space down stairs and upstairs and it would all be straight and plum when it was completed. In the house, and the apartment on the ground floor, what they were adding onto the house was a bedroom and bathroom, and upstairs would be a 2 bedroom with a bath. He said half of the garage was for the house and the other half for the apartment. The apartment upstairs was one bedroom. As part of the information that they put together for the economic development package they looked at. There were two parts, the project funding and then the cash flow which were the two parts that were hard to meet with this development. The overall cost of the development was projected at \$896,000 and 17 percent of that was coming from the investors. They would also be using federal and state historic preservation tax credits which equaled about 16 percent. They would be applying for preservation grants for about \$32,000 and they were requesting a \$26,100 development grant from the City which was a rebate of fees that they would be paying toward the City for the project, such as building permit fees, dumpster fees, sanitary sewer connection. The second part was the cash flow where the NRA came into effect. He said the property when it was rehabilitated would be valued based on the income it could produce. The problem in this case was what it would cost to rehabilitate the property was at a level that they could only get a bank loan for 80 percent of the income that it could produce, not 80 percent of what it would cost to do the work. He said that was where the development grant request came

into play. The “but for analysis” that they looked at for the neighborhood revitalization area, essentially what that showed was without a 10 year 85 percent tax rebate on the increment increase, the development wouldn’t show a net operating income for the first 8 years of the property being in service. The project could not fund itself because they could not charge enough rents to pay what it would cost to rehabilitate the property. The tax rebate was what helped kick start the project so that once it is up and running the cash flow would pick up and carry it along.

Riordan asked if Hernly would be happy with 10 years 85 percent.

Hernly said he would be ecstatic.

Britt Crum-Cano, Economic Development Coordinator, presented the staff report on the request, eligibility analysis, recommendations, additional project considerations, and the next steps.

Moved by Farmer, seconded by Riordan, to open the public hearing.

Mayor Amyx called for public comment.

K.T. Walsh, representing the East Lawrence Neighborhood Association, said if looking back at the archives for 29 years, they had corresponded with the City about trying to get this house back into living condition. She said those were brave and intrepid men and they very much supported the NRA for this project and look forward it to being alive and contributing to the neighborhood again.

Moved by Farmer, seconded by Dever, to close the public hearing.

Moved by Schumm, seconded by Riordan, to adopt on first reading, Ordinance No. 9022 establishing the Neighborhood Revitalization Area and approving the Neighborhood Revitalization Area plan. Authorize the sale of City property at 1106 Rhode Island for \$90,000 and a City-provided development grant for up to \$26,100. Motion carried unanimously.

3. **Consider recommendations from the Historic Resources Commission to designate the German Methodist Episcopal Church, located at 1000 New York Street, as a Landmark on the Lawrence Register of Historic Places (L-14-00028).**

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

Amyx asked about the bars that went across the top of the building and were they stabilizing bars.

Zollner said yes, it was part of the rehabilitation that the current property did as part of rehabbing the structure. Some of the rehabilitation was done before hand by a previous property owner when the property was converted to residential.

Amxy asked if that was why that western window was gone.

Zollner said it was to accommodate the interior arrangement of the structure as a residence.

Farmer asked if the New York School redevelopment needed to go to HRC.

Zollner said no that was already in process and under Chapter 22, it was the issuance of a building permit that would actually have that consideration for its impact on this property and it won't go to HRC but she had been working with the architect that was doing the addition for New York Elementary School and if it had to go through the review process, it would be approved because it was in conformance with the standards of this environs area.

Farmer asked if it would be administratively approved by Zollner.

Zollner said no. It would be a full Commission review if there was a building permit associated with it.

Moved by Schumm, seconded by Farmer, to open the public hearing.

Mayor Amyx called for public comment.

Dennis Brown, President of the Lawrence Preservation Alliance, said the Lawrence Preservation Alliance supported the nomination of the German Methodist Episcopal Church as a landmark on the Lawrence Register of Historic Places. The German Methodist Episcopal congregation which met in this structure from 1872 to September of 1917 was one of two German language congregations that met in Lawrence. The other St. Paul's Evangelical

Lutheran Church founded in 1870 met at the Turnhall at 9th and Rhode Island, until that congregation built a new church building in 1889 at 835 Illinois and that structure, as does this one, still stood today and was also used as a residence. The LPA would like to take some time to recognize Tom Harper for bringing this nomination forward and for his continuing work in rehabbing older structures in their core neighborhoods and was working on another on Connecticut Street. Harper was demonstrating that good stewardship of their cultural resources could also be economically viable.

Moved by Schumm, seconded by Farmer, to close the public hearing.

Moved by Schumm, seconded by Farmer, adopting on first reading, Ordinance No. 9019, for landmark designation of 1000 New York Street to the Lawrence Register of Historic Places. Motion carried unanimously.

4. **Consider recommendation to proceed with implementation of the ArtPlace project and place the project in the Capital Improvement Plan for construction in 2016 and consider authorizing staff to develop a Request for Qualifications for a design team to prepare the ArtPlace project plans, including a community involvement plan and an artistic streetscape.**

David Corliss, City Manager, presented the staff report.

Amyx asked if the design team prepared the Community Involvement Plan.

Corliss said it did but one of the things that would be the key to the success was that it was not something that was coming from outside consultants but there was very strong, grass roots, adjoining property owner, neighborhood participation which needed to be very strong. They wanted someone to help do that which was one of the values of the consultant.

Amyx said looking at the importance of 9th Street, not only to the community, but it divided East Lawrence and wanted to make sure that this community involvement should include the residents in East Lawrence and recognized as part of this plan.

Corliss said he thought that would be key.

Mayor Amyx called for public comment.

Janet Good said East Lawrence was very much a biking and pedestrian neighborhood. The complete street package was a positive, and we love art, and are looking forward to be active and involved stakeholders in this process. But, as you know, the neighborhood was the stakeholder that was going to be very impacted by this and she wanted to make some ground floor comments at the beginning of this process about the concerns they were hearing from the neighborhood. She said they had 50 people at their neighborhood meeting and they were a neighborhood that was low income. They were artists and musicians, trades people, and teachers and they tended to be very protective of that quirky, low income mix of people and judging was always a concern with redevelopment like this. They were not interested in being an artsy neighborhood where artists could not afford to live. She said that was a big concern and the other concern was the turning into downtown east. As an adjacent neighborhood to downtown they knew the downsides to that. In terms of a quiet neighborhood, limiting the noise and people wondering through neighborhoods being loud which they received some of that overflow already. They were a drive-way less neighborhood in general and they acted as de facto overflow parking for downtown already. She said those types of concerns were at the forefront of people's minds with going forward with this project. She said it was an exciting project, and there was enthusiasm for it, but they wanted to ask that the city, as stakeholders, take opportunities all along this process to mitigate those downsides for the neighbors, and to keep that mind, and keep things in mind that might come up along rezoning and those issues.

Tim Herndon, landscape architect, urban planner, said he would represent himself as being part of the Healthy Build Environment Work Group that was part of the LiveWell Lawrence Coalition. He wanted to congratulate everyone because that half million dollar grant spoke a lot to who they were. He said there were other groups, such as the Pedestrian Task Force, the Bicycle Advisory Committee, and all of the Arts community groups, they were all working directly, or indirectly, together to get to where they were now. Again, on behalf of the Healthy Build Environment Work Group a couple of things had been pointed out and discussed recently

within their subset and one of those was to make sure it was read into the minutes that those taskforces that were afoot really want and desired to be involved in this planning process as it continued to unfold and evolve. Another example of a more specific element that had been pointed out and discussed in a couple of forums that he had attended was the idea that this 6 block segment of 9th Street was to be a showcase of what complete streets were as well as what a boulevard, thoroughfare that embraced and enhanced their art and their ability to interpret and enjoy it. The showcase element was also going to be a pilot project for them in terms of the integration of multi-modal transportation on a very intimate level. Bikes and pedestrians, cars and public transportation. He said he can't emphasize enough on behalf of the Healthy Build Environment Work Group that this idea was fulfilled, and this concept was actually implemented, as the 6th block stretch was constructed.

K.T. Walsh said she was a supporter of accessible sidewalks, traffic calming, protected bike lanes, benches, native plantings and water features and she bet everyone in the room was too. She supported what the former speaker stated. She said she wanted to comment on a few other concerns as they moved forward on this big project. She said they had their monthly East Lawrence meeting and Schumm and Arts Center Director, Susan Tate, attended to explain and answer questions. The most important issue was having at least two East Lawrence residents on the design team rather than having a group of professionals. She said they also had to have some people on the team that called this place home. It was not only the right thing to do, but was more open and inclusive, and helped with the perception that outsiders, who were well paid, were planning or imposing changes on their neighborhood. The second concern was the name Free State Boulevard. She said she realized they were early in the process but there had been reaction to that name outside of their meeting and at their meeting. People pointed out that it was the name of two beers or two breweries. She said Brenda Nunez who was a 5th generation East Lawrencian and member of the Cultural District Task Force emphatically opposed the name having grown up under the Lawrence Jim Crow Laws that were in place until

the 1970's. The East Lawrence Bottoms historically housed black, Native American, working class western European immigrants, and Mexican/American families that moved north to work on the railroads. She asked why they could just call it 9th Street. She said east/west streets in the 1800's were named for people in the revolutionary war and 9th Street was named Warren and she believed it was named for Mercy Otis Warren who was a women who fought the against the British and wrote under a male pseudonym to fight for American Independence. The next concern was that those grants called for serious outreach to residents, neighborhood businesses and faith groups about what the East Lawrence community really saw as improvements or detriments for their daily lives. In particular, the poorest part of their neighborhood was 12th Street, south to 15th Street, Massachusetts east to the Burroughs Creek Trail. According to the most recent census the average annual income in that particular area was \$16,000 a year. This was the area with the most seniors living on fixed incomes. She said they were telling everyone to illustrate that there were people sprinkled throughout the neighborhood that were unschooled perhaps, didn't have a computer, and certainly not a smart phone, who might be intimidated by going to meetings, listening sessions, who might not be able to relate. Added outreach would be necessary if they truly wanted to hear every voice. She asked if some of the grant dollars be used to pay neighborhood people to go door to door and talk with people about their ideas like they did for canvassing or registering to vote. This would help neighbors meet neighbors, infuse a little income into the neighborhood, and bring back ideas that no one had thought of. Finally, she was on the Cultural District Taskforce and due to misunderstanding during the work of the Cultural District Taskforce, Treanor Architects were asked to meet with the taskforce and create a visual of what 9th Street might look like as a corridor to submit as part of their final report. The 3 East Lawrence Taskforce members felt this idea had to be brought back to the monthly neighborhood meeting for discussion. The neighborhood association unanimously voted that the taskforce should not work with the Treanor firm because of the disrespect shown to the neighborhood's historic preservation goals

and the North Rhode Island Street National Historic District during the Marriott Hotel process. When this news was brought back to the taskforce Schumm recognized the intensity of the issue and politely declined Treanor's pro bono services and now the City would put out a call for design team professionals and of course the Treanor firm had every right to apply. On the other hand they, could chose to just quietly observe this time and let this process move smoothly forward.

Amyx said this was a real opportunity but thought it was important to recognize that this Community Involvement Plan needed to be recognized as that and they did what they could to make sure they lived up to the expectations of East Lawrence because it would have an effect on that neighborhood. He said this was an opportunity and one that they could be proud of.

Schumm said he had attended the East Lawrence Neighborhood Association meeting where there were at least 50 people and they covered a number of topics. He said the association was very concerned about the gentrification situation and he indicated to the association that the Commission would try to do everything possible to keep that from happening regarding planning rules and rezoning's. Another issue was to keep the association involved in every turn they could to get their input as solidly as possible. He said he had made a statement at the meeting that his goal was trying to reach true consensus on all those points, how they were going to build this, and what it would be. It would be a lot of walking, talking and going to meetings but in the end it would be a valuable force to try and do it that way.

Moved by Schumm, seconded by Riordan, to authorize staff to proceed with the ArtPlace project and develop a Request for Qualifications for a design team to prepare the appropriate ArtPlace project plans. Motion carried unanimously.

F. PUBLIC COMMENT: None

G. FUTURE AGENDA ITEMS:

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

H: COMMISSION ITEMS:

Amyx thanked the Commissioners for their work during this tuff budget time. He said they heard difficult issues but as usual was very professional.

I: CALENDAR:

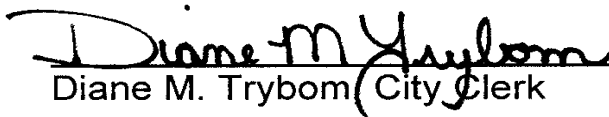
David Corliss, City Manager, reviewed calendar items

J: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Schumm, seconded by Farmer, to adjourn at 10:41 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON OCTOBER 7th.


Diane M. Trybom (City Clerk)