



City of Lawrence

CITY MANAGER'S OFFICE

DIANE STODDARD
INTERIM CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
MIKE AMYX

COMMISSIONERS
LESLIE SODEN
STUART BOLEY

J. HERBERT
LISA LARSEN

December 1, 2015

The Board of Commissioners of the City of Lawrence met in regular session at 5:45 p.m., in the City Commission Chambers in City Hall with Mayor Amyx presiding and Commissioners Boley, Herbert, Larsen and Vice Mayor Soden present.

A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. None.

B. CONSENT AGENDA

It was moved by Vice Mayor Soden, seconded by Commissioner Larsen, to approve the consent agenda as below. Motion carried unanimously.

1. Approve City Commission meeting minutes from 08/18/15, 08/25/15, 09/01/15, and 09/08/15.
2. Receive minutes from various boards and commissions:
 - Lawrence-Douglas County Bicycle Advisory Committee meeting of 10/19/15 and Attachment
 - Building Code Board of Appeals meetings of 08/13/15, 09/09/15, and 10/08/15
 - Sustainability Advisory Board meeting of 10/14/15
 - Lawrence-Douglas County Health Board meeting of 09/21/15
 - Public Transit Advisory Committee meeting of 09/08/15
 - Historic Resources Commission meetings of 09/17/15 and 10/15/15
 - Lawrence Parks and Recreation Advisory Board Meeting of 11/10/15
3. Approved claims to 287 vendors in the amount of \$3,783,591.87, 11 manual checks in the amount of \$16,815.30, and payroll in the amount of \$2,002,790.06.
4. Approve licenses as recommended by the City Clerk's Office.

Drinking Establishment

Ted's Taphouse
Drakes Snack Shop LLC
1006 Massachusetts St.

Expiration

November 13, 2015

Chili's Grill & Bar
MMG Kansas LLC
2319 Iowa St.

December 9, 2015

Sidewalk Dining & Hospitality-Renewals



Jackpot Bar, Jackpot LLC, 943 Massachusetts St.
LeRoy's, Lawrence 2013 LLC, 729 New Hampshire St.
Papa Kenos, HPK LLC, 1035 Massachusetts St.

5. Approve appointments as recommended by the Mayor.

Joint Economic Development Council:

Appoint Melinda Henderson to a term that expires 12/31/18.

Human Relations Commission:

Appoint the following:

- Katie Barnett to a term that expires 09/30/18.
- Caleb Stephens to a term that expires 09/30/18.
- Mike Machel to a term that expires 09/30/18.

Social Service Funding Advisory Board:

Appoint Scott Criqui to a term that expires 12/31/18.

6. Bid and purchase items:

- a) Award Bid No. B1546; Water and Wastewater Treatment Chemicals for 2016 to the bidders marked by a triple asterisk (***) on the attached bid summary.
- b) Authorize the Interim City Manager to Execute Engineering Services Agreement with Professional Engineering Consultants in the amount of \$54,217.00 for the El Dorado Drive Waterline Replacement Project UT1517.
- c) Authorize the sole-source purchase of three replacement ABB Variable Frequency Drives from Logic, Inc. for the combined total purchase price of \$109,020.20 for Utilities Treatment Plants.
- d) Waive bidding requirements and approve the purchase of four (4) dump trucks, plows and spreader combinations for \$636,588 and adopt Resolution No. 7146 in the amount of \$159,147 for the purchase on (1) dump truck, including spreader, plows, feedback hydraulics, and dump body.
- e) Authorize the Planning and Development Services Department to purchase one (1) compact SUV from Laird Noller Ford for the amount of \$23,444.00 following the city's one percent local preference purchasing policy.
- f) Approve sale of surplus equipment on GovDeals.
- g) Approve the low bid provided by Laird Noller Automotive Inc., for two F-350 trucks and one F-450 truck for the Parks and Recreation Department, at a total purchase price of \$114,762.
- h) Authorize the Solid Waste Division to purchase (1) Automated Side Load Refuse truck from Downing Sales and Service for the net amount of \$187,747.00 through the HGAC cooperative purchasing contract.

- i) Authorize the installation of hearing loop in the City Commission to help aid individuals with hearing difficulties. Authorize \$6693.00 to Kansas Audio Visual for the hearing loop and \$13158.16 to Carpet One for carpet installation.
7. Adopt on first reading, the following ordinances:
- a) **REMOVED FOR SEPARTE DISCUSSION.** Ordinance No. 9181, to rezone (Z-15-00427) approximately 2.96 acres located at 1501 Learnard Ave from RS7 (Single-Dwelling Residential) District to IL (Limited Industrial) District with conditions to limit certain uses. (PC Item 3; approved 8-0 on 11/16/15)
 - b) Ordinance No. 9178, to rezone (Z-15-00463) approximately 11.855 acres from RM12D (Multi-Dwelling Residential) District to RS7 (Single-Dwelling Residential) District and OS (Open Space) District, located at 5800 Overland Dr. (PC Item 4; approved 8-0 on 11/16/15)
 - c) Ordinance No. 9179, to rezone (Z-15-00469) approximately 14.756 acres from GPI (General Public and Institutional) District, RM12 (Multi-Dwelling Residential) District and RS40 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District, located at 5200 & 5300 Clinton Pkwy. (PC Item 6A; approved 8-0 on 11/16/15)
 - d) Ordinance No. 9180, for a Special Use Permit (SUP-15-00468) for an *Active Recreation* use, an indoor/outdoor Fitness & Tennis Facility, located at 5200 & 5300 Clinton Pkwy. (PC Item 6B; approved 8-0 on 11/16/15)
 - e) Ordinance No. 9182, for a Text Amendment (TA-15-00443) to the City of Lawrence Development Code, Chapters 4, 9 and 17, to define and create an *Event Center* use. (PC Item 8; approved 8-0 on 11/16/15)
 - f) Ordinance No. 9183, for a Text Amendment (TA-15-00391) to the City of Lawrence Land Development Code to modify the *Personal Convenience Services* and *Personal Improvement Service* uses and to amend Articles 4, 5 and 17 to address modifications. (PC Item 9; approved 8-0 on 11/16/15)
8. Adopt on second and final reading, the following ordinances:
- a) Ordinance 9166 establishing a Yield Sign for northbound traffic on Bauer Lane at Bauer Farm Drive.
 - b) Ordinance 9164 establishing a Stop Sign on 18th Street at Vermont Street.
 - c) Ordinance 9163 establishing Yield Signs on Ohio Street at 5th Street.
 - d) Ordinance 9165 establishing Stop Signs on the 23rd Street Frontage Road at the access point west of O'Connell Road.
9. **REMOVED FOR SEPARTE DISCUSSION.** Receive request from Menard, Inc. for economic development assistance to aid in establishing a manufacturing site on 90+ acres in Lawrence VenturePark, refer request to Staff for analysis and the Public

Incentives Review Committee (PIRC) for recommendation, and establish January 5, 2016 as a public hearing date on the request.

10. Authorize the Interim City Manager to execute right of way license agreement with RG Fiber for installation of fiber optic facilities.
11. Authorize staff to request proposals from consulting firms for updating of the Parks & Recreation Department Comprehensive Master Plan.
12. Authorize staff to increase 2016 golf fees at Eagle Bend Golf Course and authorize staff to adjust future fees at Eagle Bend Golf Course as needed to maximize operational efficiency.
13. Authorize the Mayor to sign the Release of Mortgage for Robyn Brecheisen, 1504 East 21st Terrace.

Commissioner Larsen removed item number 7(a) from the consent agenda for separate discussion, regarding Ordinance No. 9181, rezoning approximately 2.96 acres, located at 1501 Learnard Ave from RS7 district to IL district.

Commissioner Larsen: My question is, well, it's not a question; my concern is that we are attempting to rezone a residential area into a limited industrial area. The project, from what I've read and understand of it, is that it's predominantly put together for the Sunrise Grain Project, which I think is a really good project for it. However, what goes along with that is what I have concerns about. A tofu factory, I believe, is going to be part of it, as well as a seed manufacturing plant, I think, a small one. I'm concerned whether this is really a good idea to change a zoning to this extreme, smack dab in the middle of a neighborhood.

Mayor Amyx: Okay.

Mary Miller:
Planner I would like to have, actually, a presentation, but I have some slides I will show you to answer that question. You're right, the property is in a residential district, and as you'll see, the nursery has been in this location. It was developed in the mid-1920s. It uses crop agriculture and agricultural sales. It was annexed into the city in the mid-1950s and it was rezoned to residential, which made it a non-conforming use. A non-conforming use is a use that was legally established, but that no longer conforms into zoning regulations. Once a non-conforming use is abandoned, you either have to develop the property with a use that is allowed in that district, or rezone to an appropriate zoning district. The agricultural sales that were a part of this nursery, it's allowed only in some of the larger commercial districts, C3 and CR and CS which would not be feasible in this location. They're allowed in the IL and IG or the general industrial districts. That would be the reason we selected the IL district. It wouldn't have been necessary if they had come

forward and said we want to remove the nonconforming status of our nursery before it was abandoned. We would have had to have recommended the IL district at that time. This was also done maybe a year ago at the 12th and Haskell, we had a recycling facility that had formerly been the Auto Repair Service turned into a recycling facility. It was going to be reused as a Struct/Restruct construction yard. The IL district with limitations was seen as an appropriate district for that and it's worked very well to maintain the compatibility with nearby residences. There'd be very minimal physical changes, but I understand you're more concerned with the actual zoning. These are the uses that are associated with the project. The whole project would involve crop agriculture with a lot of greenhouse use, hoop houses, gardens. Personal improvement there'd be educational classes teaching people about raising and using local foods; a minor amount of general retail sales with accessories and storing uses for the crop agriculture. Then, the limited manufacturing and production which would be tofu facility and they're also looking at perhaps a boutique kitchen which would use local foods and make prepackaged dinners out of those. That use may not come to be. It may be another use is in that building. Those were both being planned for 2,400 square foot buildings. Then, the light wholesale storage and distribution that's being planned is a mail order seed company. They'd receive deliveries once a year by semi-truck and then they distribute those through the mail throughout the year, so it's a very low intensity use. Then, we looked at the possible future uses to be use that the zoning included all of those. They may be interested in administrative and professional office, maybe a Social Service agency, fast order food which would be coffee or bakery and possibly a health care office or a holistic health care. In looking at all the uses that would be involved with the project, some of these would be allowed outright in the RS7 or the RSO, that's single dwelling/residential office. That's a district that's very compatible with single dwelling residential uses or the CN1 that's inter-neighborhood commercial. That's also very compatible with residential uses. The uses in the project that would be allowed in these uses are the ones that are recommended for approved just outright with the standards. Most of them have standards limiting the size. The two that require the IL zoning, staff is recommending that those be allowed only when approved to a special use permit process, which is a process very similar to this rezoning. It'll go to the Planning Commission. There'll be a public hearing and then it comes back to the City Commission for approval. That way we can ensure that those uses maintain the character that they're looking for with this property which is the local food/urban ag uses and also make sure they stay compatible with the residential area. Then, the Planning Commission, as I noted, they just recommended approval. I didn't want to give you a presentation, but I guess I did.

Scott McCullough:
Planning & Development
Services Director

Commissioner, may I interject as well, that as we conditioned this zoning there were several protections we built in to the conditions. One, Mary mentioned is the special use permit, so if this rezoning gets adopted they don't get the right to do the tofu facility. They have to go back through the special use permit process, make an application, go to Planning Commission, and come to this body for approval. The other thing we did is condition it that all site plans submitted for all the other uses come to the City Commission on standard and major development projects, not the minor stuff, so instilling those protections within the zoning itself.

Commissioner Larsen:

With this zooming here the tofu factory and the other aspects of it has to still go through the special use. It's not a given that this is part of it?

Scott McCullough:
Planning & Development
Services Director

It's an allowed use with the special use permit approval, so it gives them the opportunity to go through that process, but the special use permit is a discretionary item in front of the City Commission. We don't have an accompanying special use permit with this application. Is that right?

Mary Miller:
Planner

That's right.

Scott McCullough:
Planning & Development
Services Director

There's another step after this zoning is approved that opens the door for the applicant to pursue a special use permit for the tofu processing facility.

Commissioner Larsen:

That's something I didn't understand.

Scott McCullough:
Planning & Development
Services Director

That's where we get to look at the scope and the scale of it and mitigate impacts such as truck traffic and noise and smell and that sort of thing.

Commissioner Larsen:

What we're voting on is to change the zoning to IL, but it would not include anything to do with a factory.

Scott McCullough:
Planning & Development
Services Director

What we're employing in this particular application is what we call conditional zoning. Zoning occurs in a couple of different ways. One is open-ended where all the uses in our development code are permitted. You're either permitted by right or permitted via the special use permit process. In a situation where the context of the property demands some special conditions usually striking out certain uses that aren't compatible with the neighborhood we employ what we call conditional zoning. On the screen here, this is within the Ordinance itself, permitted uses are limited to only these listed. There are a number of uses allowed in the IL zoning district that are not in this list that frankly we deemed to not be compatible with the residential character of the neighborhood.

What Mary was trying to convey was that a lot of these uses are allowed on RSO zone and even CN1 which are deemed to be compatible with residential uses and so things like Social Service agency, the crop agriculture? What we tried to do is match up the request, the menu of uses that the applicants said these are the things that we're looking at as possibilities for this site to try to get them in this list where appropriate and then prohibit the other uses in IL that aren't appropriate in this district. It's just a zoning tool we have at our disposal. The Condition B on screen requires the site plans come to this body, so there are future decisions that need to be made on this property. The first decision is whether the zoning will accommodate any of the uses requested.

Commissioner Larsen: Okay.

Mayor Amyx: Other questions?

Commissioner Larsen: Not right now.

Mayor Amyx: Thank you. Do you have any questions? Okay, is there any public comment on this item?

Jane Gibson: I live in the Barker Neighborhood and have for the last 20 some years. I live outside the 200 feet. I would argue that putting a factory in a neighborhood changes the character of that neighborhood and that many of us will then be affected because the quality of life in our neighborhood will be altered by the presence of a factory. I want to underscore that that really is what this proposal is about. You have before you a list of prospective tenants. Do we really rezone property on the basis of perspective tenants to whom the owner or property owner has absolutely no legal obligation either now or in the future? There's no reason why we should change a property to light industrial when we can change it to residential since it is in a residential neighborhood. That protects the neighborhood from any unknown future uses or any uses in the present. Factories simply don't belong in neighborhoods and that really is what this is about. This project has received support because there's been a pretty important and significant public relations campaign by the Sunrise Project. That is an interesting project, but there is nothing to say that the owner has an obligation to put them in there or to keep them there or that they have an obligation to stay. That is window dressing for what is fundamentally a proposal to put a factory in the neighborhood. Why we are having this conversation is beyond me really. It seems to me that the zoning code exists for the purpose of segregating incompatible uses. That what we have here is two fundamentally incompatible uses. We have an industrial use and we have a residential neighborhood. We have a Planning Commission who has, with all due respect, worked very hard to

get to yes without really considering that the core of the project is actually counter to what the zoning code is for. If we can just tailor make zoning in any neighborhood property because a developer wants to put a factory in that property what's the zoning code doing? Is it actually something that is applied fairly and equitably? Is it something that we can predict, that we can rely on? I don't think so. I think that we have a real issue here with the process, with how conditional zoning is being used and with the fact that fundamentally we're trying to put a factory in a neighborhood. There's all this noise around that bottom line that really will affect the quality of life in our neighborhood. I'd like to urge you to vote no on this project. Thank you.

Mayor Amyx: Thank you. Other public comment.

Dennis Brown: I'm speaking for myself. I've done some painting work at the current site of the tofu place. I sure wouldn't call it a factory. It's a kitchen with some areas for stock. It's a very low intensity use where it is right now. I think it would continue to be that way. The place where it's going is not a residential facility. It's been a commercial facility. I would guess that the tofu part of the project, I don't understand the whole Sunrise Project, would have less noise and impact on the neighborhood than the greenhouse did. I would not use the word factory to describe this use. Thanks.

Mayor Amyx: Thank you.

Commissioner Larsen: Thank you.

Mayor Amyx: Other public comment. Any other public comment?

Jim Carpenter: Evening Mr. Mayor, Vice Mayor, Commissioners. I also live in the Barker neighborhood. I've been following this project since I heard the first rumors of it. I just want to point out a couple of things in the staff report that seemed logically inconsistent with the recommendations. They're talking about the golden factors that are from the court case Golden vs Overland Park in the last '70's which is used consistently now in evaluating rezoning projects. One of those is how long it's remained unused in its current zoning. This is RS7 now because of the abandonment of the nonconforming use. It was marketed as a nursery. It was marketed at \$750,000 which is an absurd price for residential zoned property. Another is compatibility with the existing neighborhood, but this is surrounded by RS7 and this distinguishes it from 12th and Haskell project that was brought up earlier. The 12th and Haskell to the north and west are both City property which were essentially being used in light industrial fashion. It's now for storage and gas and such things. The last was some vacant property railroad tracks and it only has residential properties to the south. That property was a

nonconforming use gone badly. It went from what it was supposed to be and turned into a salvage yard. Neighbors complained for seven years about it and it took KDHE involvement until anything actually happened. That is the risk of nonconforming uses. In fact, that happened with the Sunrise, with the nursery, Pence's and before that. The original nursery was expanded to the borders to the south. It expanded beyond what its original nonconforming use was. I also argue that one thing that's not taken into account here is the East Lawrence neighborhood it is directly across the street. They've got properties within the 200 square feet. It notes in the report that Barker does not have a neighborhood plan which is correct. There's no reference to the East Lawrence Neighborhood Plan and what East Lawrence might feel about this. They are impacted by this. Just another impact that is creeping toward East Lawrence neighborhood right now is KDHE's been out there and they have found ground water contamination and some swale contamination which is probably going to require some monitoring wells. There was chemical storage, diesel fuel storage which is creeping east-northeast towards the intersection. This does have an impact beyond that. It is, like I said, what's asked tonight is to zone what is currently RS7 as an island of light industrial in a neighborhood. That greenhouse was there before the neighborhood, but we first came, we first had zoning, it was found to be a nonconforming use not compatible with residential property subject to elimination if it was ever abandoned. This is consistent with the telecommunications tower, the Verizon tower that was asked for along Bullene Avenue, along the Burrows Creek Trail. The City was actually was willing to go to court against Verizon over denial of that because under the plan that was put in place partly with the control Brook Creek, East Lawrence, Barker neighborhood that that light industrial along that street was, the hope is, it would be phased out and become residential. The City was willing to follow that plan. The current plan says this is residential property. If there's some other way to get to not allowing the applicant to do what they want we should explore that thoroughly. Which brings me to the use of conditional zoning; conditional zoning is a slippery slope. I found today in a Journal World article from 2009 to discuss it for the first time when the County wanted to use it. Then, Planning Director Linda Finger objected to it. The League of Women Voters objected to it because it could show favoritism. What we have now is with conditional zoning without a specified method for getting to that point. We just have vagaries in our code that says we can put conditions on things. We have no application that can be applied equally to every applicant. The problem back then and still exists is what we brought up was the problem of showing favoritism. What we have here is you pick and choose pieces of different categories and essentially create a unique and individual zoning category for an applicant.

I don't know that we'd be doing the same if it was a different applicant. If it wasn't an applicant that wanted to make the uses they are, but the law's not supposed to pay attention to who's in front of it. It's supposed to apply the law fairly and equally to anybody who that comes up before the decision making body. I don't think that's happening with the conditional zoning anymore and I think that we need to look at that and perhaps put in some better safeguards or a different process if we're going with that. Mary Miller has been very helpful in explaining these things to representatives from the neighborhood and she stated that in a worst case scenario the greenhouse could be torn down and what we could do is end up with three acres of 3,000 square foot buildings stretch across that all subject, of course, to special use permit. Once you got one what's to stop the next one from coming in? That's consistently used as an argument in favor in zoning is where it's rounded. Like I said, that is the very reason not to agree to this zoning request tonight. If the Commissions not willing to vote no to the change in the zoning then I would ask that you defer this matter and thoroughly examine and establish some coherent policy of conditional zoning that we can go through and also examine some other options. This has been nonconforming use as stated before there's nothing in the Sunrise Project or anyone else that requires light industrial accept for the new limited manufacturing and that's beyond what was there before. What's actually asked for tonight is going beyond the use that was there for all these years as a nonconforming use. This is not simple just saving the building which I also note as you looked at your materials tonight that the Historic Resources Commission or the Director has said that this would not be a suitable building because it lacks historical integrity. All the notes in the staff report talking about reuse and saving a historic property I think are nullified by the fact that Historic Resources Director says it doesn't have the integrity to meet those criteria. With that, again, I'm asking you to vote no on the rezoning request or if you're not going vote no at least defer this until we have a further discussion about conditional zoning. Thank you.

Mayor Amyx:

Any other public comment?

Emily Hampton:

Good evening Commissioners. I'm the Executive Director of Sunrise Project, the nonprofit that supported this site. I just wanted to quickly just express how much support, although I do completely understand. We have been very understanding of the concerns about this zoning. I believe that it's all the issues have really been addressed on a number of occasions by Mary Miller. We just wanted to let you know that we've gotten nothing but an outpouring of support from most of the neighbors and especially those neighbors that about the property. There's a lot of excitement around it and lots of support. Given, from what I

understand that the green had not only the tofu facility needs the limited industrial zoning, but also the greenhouses. There's a lot of interest in keeping those greenhouses there, keeping it in the same usage that it's been used for in the past. I would ask you to support it so we can, not only do the tofu facility in our nonprofit, but also continue the use of the greenhouses, the seed company that wants to be there and all of the positive community efforts that would like to be on the site. Thank you for your time.

Mayor Amyx:

Thank you. Any other public comment?

K.T. Walsh:

Good evening Mayor and Commissioners. I'm speaking only for myself. You know East Lawrence has been allowed to use conditional zoning in a lot of projects in the last few years. It has worked very well for us. Our concern, as always, like some of the Barker neighbors how do you check on people? How do you make sure they're adhering to what has happened? There needs to be some sort of check system. The term factory obviously is problematic. The tofu facility is very small, like Mr. Brown said, it is a kitchen. I understand the neighbors' concerns, but I see this as a huge benefit to the community. I worked for the Millstein's for 10 years and I just know zoning's not supposed to have to do with people, but they are such upstanding, respectable members of our community and have done so much historic preservation and provide so many jobs. Those are the people that the community would be working with. Thank you.

Mayor Amyx:

Thank you. Any other comment? Any other public comment; back to the Commission. I do have a question about the allowed uses and one that jumps off the number 12, the telecommunication tower when approved by special use permit. Is that something that is part of the original uses and how would that would be specific to this site? A use allowed at this site because one of the things that we got into with the former site if that thing were to fall there's no way to put it on a place unless it's 10 feet tall that it's not going to hit another building outside of its property line.

Mary Miller:
Planner

Yeah, there a few uses in that list that aren't associated with this project. Religious institutions and the telecommunication tower and those are covered under different kinds of State laws and regulations. It may be possible to completely exclude them. We'd have to work with our City Attorney, but he said if we required a, as far as a religious institution, that can't be excluded. The telecommunication tower there's certain requirements that you can't exclude those from zoning districts. He said we may be able to work out a way to exclude it; however, with the SUP it's not actually permitted at this time. They'd have to conform to an SUP and you'd have the option to

approve or deny it at that time. It's only being added because we didn't go through the steps to find out if legally we could exclude it.

Mayor Amyx:

The only thing that I'm thinking is every time that we have an application on a tower and we talk about denial we somehow end up in the court battle. It seems to me that that would be something that we just don't want to get into here.

Scott McCullough:
Planning & Development
Services Director

Mayor, we feel there have been some federal acts working on those two particular uses. I might also add that the use of limited manufacturing and production is a code defined use. It's an establishment employing fewer than 20 people. Uses are typically bakeries, bottling and beverage, manufacturing operations, small scale operations, so factory has a lot of connotations. This is a very small limited use within the code just for your information.

Mayor Amyx:

It seems to me that one of the questions you have to ask here that are the uses appropriate for what's being requested here for the change in zoning to happen? If it is and that development is to occur is our conditions for special use permit to happen and site planning to happen are they strong enough to take care of the concerns that Jane and Jim brought up earlier? That's the thing that I think we have to answer.

Commissioner Larsen:

That's what I worry about. This sailed through Planning eight to zero I think it is.

Scott McCullough:
Planning & Development
Services Director

Commissioner, there were two public hearings on it and at the end of the day their conclusion was unanimous vote, but it wasn't an easy one. I think there was a lot of discussion. In fact, we had before us the Urban/Ag text amendment that had to play into the discussion to see if that could help and the conclusion was it couldn't help. It would help some of the uses, but not all of the uses. I think it was a healthy discussion in the Planning Commission.

Commissioner Larsen:

I was at that first Planning Commission when it came up and I didn't hear a lot of discussion from the planners themselves at all. There was one gentleman on the end that discussed it, but I just didn't see a lot of discussion from the planners to Mary or the applicants themselves and so that was concerning. Another concern was that the process was that the neighborhood got the notification, the actual full staff report, four days before the Planning Commission meeting which seems extremely short for a neighborhood to gather and actually try to understand what this entire report's all about. Again, I was there at the meeting and the reason it got deferred was because the applicant allowed it to get deferred. I don't know if that would've been the case if he would not have allowed it because the only

question I saw from the Planning Commission was that did staff follow the rules of notification? Staff said, "Yes, we did" and that was good enough for them. That just seems awfully shortsighted for the neighborhood to me.

Scott McCullough:
Planning & Development
Services Director

I think the Planning Commission is used to seeing these protections go into any framework that we were trying to provide because it really is a multistep process here. The applicant's taking all the risk, the time and the money and the cost to get there if this doesn't give any entitlement to the limited manufacturing and production use.

Commissioner Larsen:

The neighborhood takes a risk.

Scott McCullough:
Planning & Development
Services Director

The neighborhood takes a risk as well.

Commissioner Larsen:

A huge risk. I mean there's risk on both sides. I just didn't feel like the neighborhood really got a good chance to decipher this. I think this was what, about a 20 page document or so? Four days to do that. They did get the extension which was good for them. It just seems to me that the use of it, I think the Sunrise Green part of it I think what they do is wonderful. I've gone to their fundraisers before. However, this intensifies use of that property from what it was and that really concerns me, the potential.

Commissioner Herbert:

Yeah it's comes back to I think Jim said it really well. You're comments that ultimately when you're looking at a rezoning issue there shouldn't truly be a face to the rezoning. That ultimately while the Sunrise Project might be wonderful eight years from now is that going to be there?

Commissioner Larsen:

Is it going to here next year? We don't know.

Commissioner Herbert:

Right, do we create a scenario where we go out of our way to bring one product in and in the process create an environment for a lot of negative product to creep in a bad situation? That's a tough deal because it's a good program and K.T. your points are well founded too that this is a good group. That the people we're working with this isn't like somebody who dropped in from another world and is infiltrating Lawrence, so to speak. These are good people, but ultimately I think Jim's point is very valid that you can't, in a rezoning, you can't have a face on that. It's got to be what do we want the property to be in a seemingly permanent fashion?

Commissioner Larsen:

Yeah, as far as the tofu, I went and visited the tofu, the manufacturing plant off of Haskell. Mr. Millstein gave us a tour several months ago. It was a nice small, little facility and I didn't see anything extremely overtly adverse to it, but it's is, I'm

sorry. I think it's a little factory. It just is.

Mayor Amyx: The question before us tonight is whether or not to approve a change a zoning from RS to IL. But, here again, we know what those uses could be. We know the one that's being asked for and here, again, it's appropriate in this district. The one thing that we have to ask ourselves is our code designed to be able to out restrictions of conditions on an SUP or a site plan that is going to take care of the concerns that you may have? I believe, quite honestly, our code does that.

Commissioner Larsen: Okay.

Mayor Amyx: We may have difference of opinion, but our code is pretty thick. That's all I say. I think it's hard to beat.

Commissioner Herbert: Here we get to that, you said we don't know it'll be there tomorrow and I said eight years from now. The reason I put that period of time on it is I think all of the five of us have a pretty good intention for what we want that property to be. Very realistically, when you change the zoning when it gets to a point of that property turning over the five of us may not be here. We have to make policy not for Sunrise, but make policy for what that ground to be. Does that make sense?

Mayor Amyx: It all makes sense. It really does.

Commissioner Boley: I have a question.

Mayor Amyx: Sure, please.

Commissioner Boley: Do we have to change all the 2.96 acres to IL zoning to accomplish what the applicants are interested in doing or could we do a subsection of that 2.96 to IL and leave the rest where it is? They would have a limited ability to develop that property.

Scott McCullough:
Planning & Development
Services Director

For a few different reasons we would recommend zoning the whole property. We think split zoning on a property presents some problems as they seek financing for example. It also creates some conformity/nonconformity issues on the property for the stuff that's left as a remainder. It really needs to be zoned to something other than either developed to the RS7 standards or developed to a use permitted in RS7 or zoned to something that allows the uses. By the way, we completely agree, we zone property; we don't zone people, that's one of our sayings. I think what the real question is, is this list in the Ordinance of uses if you're comfortable that that list of uses, regardless of who operates those uses or owns the uses, is compatible in the neighborhood or is compatible upon the process of a special use permit and you find in favor of that compatibility then there should be support for the project. If you

find that those uses aren't compatible then the zoning is not supportable.

Commissioner Larsen: I know we've been working on the urban/agricultural overlay or zoning.

Scott McCullough:
Planning & Development
Services Director Right, it's for use.

Commissioner Larsen: I know that's discussed here a little bit in the report. Do you see that as being feasible any time down the road, because I think this would be a perfect project for that type of a ...?

Scott McCullough:
Planning & Development
Services Director That's what, Commissioner Larson, I think. I don't know that you stayed at that Planning Commission meeting, but we took that text amendment up shortly after this project. Part of the deferral that the Commissioner shared later was that he wanted to see if the urban/ag text amendment would help this project. As we discussed that text amendment, we found that it's not going to do the things that support some of the uses including the manufacturing use on this property. They would still need to rezone to this package of conditions.

Commissioner Larsen: Would it support the Sunrise Green and what they're trying to do with the nonprofit?

Scott McCullough:
Planning & Development
Services Director It would support many elements of that. It wouldn't necessarily support if there's seed storage facility that wants to go there. I'm not sure it supports that. It doesn't support the tofu production facility.

Commissioner Larsen: Okay.

Vice Mayor Soden: Is this area one plat? Is it just one?

Scott McCullough:
Planning & Development
Services Director I think it is one development parcel, yes.

Vice Mayor Soden: If we wanted to separate it into separate plats for zoning we could initiate that and that way the applicant wouldn't have to pay for the charges to do that, right?

Scott McCullough:
Planning & Development
Services Director They would have to plat the property into different lots and there's a cost associated with that survey work and doing that, that's typically borne of the applicant.

Mayor Amyx: The goal there would be to allow some of the use to happen?

Vice Mayor Soden: As Stuart was saying or Commissioner Boley, if there's a way

possibly to make into separate parcels and that way zone appropriately instead of the entire plat. I'm getting a lot of feedback off of this. I don't know if we're turned up too loud or what, but it's an interesting idea to explore.

Mayor Amyx: You guys, I tell you I believe that there are things I suppose that are listed as uses that I would have a question about the telecommunication towers and things that you just don't need in there, that is just don't think are flat appropriate to allow this to happen. Here again, I think that you've got to put some faith in the City Code that deals with the land use and how these development codes go together and the restrictions that we can place on SUP's and site plans.

Vice Mayor Soden: Would the SUP be an annual review?

Scott McCullough:
Planning & Development
Services Director No, the way that typically it's done is it comes with its own list of mitigating conditions. Let's say it's to install certain exhaust filters for odor or something. Those conditions get implemented at right time whether it's through the permit process of something. At any time, if a condition isn't being met by the applicant we can bring it back to the City Commission for a hearing. We typically don't put time limits or annual reviews on it because they're open at any time to review by City.

Mayor Amyx: Scott, with the Vice Mayor's question, could a condition of an annual review by staff and recommendation happen?

Scott McCullough:
Planning & Development
Services Director It could be a condition that we would inspect the facility annually.

Mayor Amyx: I think that there's just things that you can do that you can add onto if you have concerns that something's going awry somehow.

Vice Mayor Soden: I think that's another idea to explore is perhaps an annual review. It doesn't need to be annual forever, but perhaps just the first few years to make sure that the neighbors are still happy. They still seem compatible with the residential next door.

Mayor Amyx: Do you have another question, Matt? You're sure; don't leave them on the table now

Commissioner Herbert: I'm not sure I'm really excited about an annual review process. I think at that point we go out of way creating a whole lot of bureaucracy to try to squeeze in one little thing into an area where perhaps it doesn't fit. That ultimately for a very, very long time we had a greenhouse there, apparently about 100 years, but ultimately for the last, what, 60 years of that that wasn't

even meeting the zoning. It was grandfathered in. it was allowed to stay, but for essentially the last 60 years we've said what is there isn't what we want to be there. Suddenly, we're at a point where that property is abandoned. We actually have some ability to act upon this statement we've made for the past 60 years that what is there doesn't fit with the neighborhood and doesn't fit with want there. We have the opportunity now to actually act on that and it seems we've gone quite the opposite direction. Instead of acting upon that we've said how can we zone it to make it bigger and les fitting? Boy, it sure does feel like we're swimming backwards here.

Mayor Amyx: Any other feelings along that line?

Commissioner Boley: I can't remember were you Mayor when they rezoned that?

Mayor Amyx: No.

Commissioner Boley: I don't know what they were thinking when they were zoning that because it was grandfathered in.

Scott McCullough:
Planning & Development
Services Director

I might remind the Commission of process at this point. You've got a recommendation for approval from the Planning Commission, so by code to go contrary to the Planning Commission if you don't support the zoning you need four out of five votes. You can send it back to the Commission with specific instructions on looking at certain elements of the project, of the request, by a three to two vote and then, when it comes back to you from the Planning Commission you can do as you wish either way with a simple majority three to two vote. I just wanted to remind you of that process of our code. You can't deny it with a 3 to 2 vote tonight. You can deny with a 4 to 5 vote. You can support it with a 3 to 2 vote or send it back to the Planning Commission with a 3 to 2 vote.

Mayor Amyx: Time to count noses then. Ladies and gentlemen, we have, Scott just said, I'm on that I can support the IL District. That discussion, here again, I guess the one thing that I would ask is that we take into consideration the removal of that tower. Here again, I just don't think it belongs there. We do need to get recommendation from legal staff on whether or not we can actually do that, so that's fine. That could be on hold while the Ordinance is going through its process of second reading. That being said, what do you feel? It's up for approval. We can't deny it. We can send back. Are there other things that you want the Planning Commission to look at if you're thinking about sending it back?

Commissioner Larsen: At the very least, I'd want it to be sent back.

Mayor Amyx: One of things that we need to know, Commissioner, is what

would you ask the Planning Commission to be looking at?

Commissioner Larsen: Whether or not there can be restrictions or removed from that anything to do with the manufacturing which it didn't seem like there can be.

Commissioner Herbert: That's the thing. I understand there are three options in theory, but in reality there's the way I see it, maybe I'm making to too small, but I think there's really two options. We either let it happen or we don't.

Commissioner Amyx: Yeah, it's approval or denial.

Commissioner Herbert: If we don't have four votes to not let it happen, so is there a way we could informally count noses here.

Mayor Amyx: We have a motion made and second to approve the zoning from RS7 to IL and essentially approve Ordinance Number 9181 on first reading and concur with the Planning Commission's recommendation.

Commissioner Boley: Does that include your tofu kitchen and tower provision?

Mayor Amyx: You're going to pull that out or asked to have it.

Commissioner Boley: If we could do that, yeah.

Mayor Amyx: Ask to have that looked at. Is that okay with your second?

Vice Mayor Soden: Mm-hmm (affirmative).

Moved by Commissioner Boley, seconded by Vice Mayor Soden, to adopt on first reading, Ordinance No. 9181, to rezone (Z-15-00427) approximately 2.96 acres located at 1501 Learnard Ave from RS7 (Single-Dwelling Residential) District to IL (Limited Industrial) District with conditions to limit certain uses and removal of the telecommunications uses from the ordinance (Section 2, A xi and xii). Aye: Mayor Amyx, Commissioner Boley and Vice Mayor Soden. Nay: Commissioner Larsen and Commissioner Herbert. Motion carried.

Vice Mayor Soden removed item number 9 from the consent agenda for separate discussion, regarding a request from Menard, Inc. for economic development assistance to aid in establishing a manufacturing site on 90+ acres in Lawrence VenturePark.

Vice Mayor Soden: I'm really excited about this, obviously. I think it's going to be great. There's been some concerns raised about environmental regulations and so I thought it might be good just to let people know that we do have things in our performance agreement that would address something like that. If you could speak to that that would be great.

Diane Stoddard:
Interim City Manager

Yes, Vice Mayor, what we typically would do with these projects is we do have a development agreement that's also a performance agreement with companies that receive incentives so that would be something that you all would be considering at a future date as this project would proceed and come back to you. As a standard provision in those agreements one of the things that we typically would include is the fact that the project will need to be operated in a manner that would be congruent with all applicable rules and regulations and laws. That's pretty much a standard provision. Again, that would be something that we would be discussing with the company, but we have that in our agreements as a standard practice.

Vice Mayor Soden:

Thank you.

Mayor Amyx:

I'll tell you, just like the Vice Mayor said; you talk about an exciting time. It really is to be able to set the standard pretty high in our new Venture Park with The Menard Company coming to town. I think that that's just incredible and being able to sell property and be able to use that in a way that it'll be used like that forever. Being able to reestablish that as an employment center is something that we can all be proud of as a community, making sure that this happens in a big way. Anyway, a special thank you to the Menard family for considering Lawrence, Kansas. It's a pretty special deal anyway. Other questions? Public comment on this item. (None) The item before us back to the Commission then is to receive the request from Menard Incorporated and to refer this item to staff for analysis and the Public Incentive Review Committee for recommendation and establish the January 5, 2016 as a public hearing date on the request and enter that motion and receive the request.

Diane Stoddard:
Interim City Manager

Related to the item that we just discussed I did just want to note for those who may interested the Public Incentive Review Committee we would look at scheduling that at 2:00 PM next Tuesday, December the 8th in this room. People are interested in attending that and staff would also echo our comments about excitement about the project and seeing it go forward through the next steps.

Moved by Commissioner Boley, seconded by Vice Mayor Soden, to receive the request from Menard, Inc. for economic development assistance to aid in establishing a manufacturing site on 90+ acres in Lawrence VenturePark, refer request to Staff for analysis and the Public Incentives Review Committee (PIRC) for recommendation, and establish January 5, 2016 as a public hearing date on the request. Motion carried unanimously.

C. CITY MANAGER'S REPORT:

Diane Stoddard, Interim City Manager, presented the report regarding Emerald Ash Borer Update; Internship with KU/Haskell Universities; American Recycles Day Celebration in Lawrence; Surfacing of two playgrounds get makeover; Planning and Development Services update on several City projects; and, important dates from the Solid Waste Division.

D. PUBLIC COMMENT: (None)

E. REGULAR AGENDA ITEMS:

1. **Conduct public hearing to consider the vacation of right-of-way described as Lots 6, 7A, 7B, 8, and 9 on Quarry Lane, in the Rockledge Addition (aka 3100 Block of Bob Billings Parkway, 2133 Terrace Road, 2131 Terrace Road, and 2129 Terrace road), as requested by property owners, Robert and Elizabeth Lichtwardt, Susan Brosseau and William Kalinich, and Kylee Manahan.**

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

Mayor Amyx: The replat that we did in recent past, the access for that comes from the north off of Terrace Road, right? That it's a total deal. That's where it comes.

Chuck Soules:
Public Works Director Yes.

Mayor Amyx: Okay, we didn't land lock anybody?

Chuck Soules:
Public Works Director No, nobody's landlocked. They all have access off Terrace Road.

Mayor Amyx Okay, sounds good. Other questions? Thanks Chuck. I would entertain a motion to open the public hearing.

Moved by Commissioner Boley, seconded by Commissioner Herbert, to open the public hearing. Motion carried unanimously.

Brittan Shipley: I really have more of a question. Are you able to vacate it entirely all the way to Iowa, at this time?

Mayor Amyx: Vacate Terrace Road?

Brittan Shipley: Uh-huh (affirmative). See it goes around through some other properties there.

Mayor Amyx: I think some of the people own properties might have a little bit of a problem with that.

Brittan Shipley: I'm only aware of two of them particularly, but yeah.

Chuck Soules:
Public Works Director In order to do that, if somebody's interested we would need applications from new property owners and do another process. We haven't notified anybody that that was going to

be on the agenda.

Mayor Amyx: Okay. Have you been approached by, if you could come back up? Have you been approached by somebody that would be interested in that?

Brittany Shipley: I don't represent them officially at this exact moment, but two of the property owners, the church and then the house next to it, it kind of bisects those properties. Really, eventually, the theory is they'll be re-platted together as one property. We'll just have to come and have this conversation again, so I just thought since you were already on it, to avoid wasting your time, would it be possible to do that? That's all I wondered.

Mayor Amyx: It's never a waste of our time. We'll see you again soon. Okay, is there any other public comment on this item? Any other public comment? Thank you for your comment. I would entertain the motion to close the public hearing?

Moved by Commissioner Herbert, seconded by Vice Mayor Soden, to close the public hearing. Motion carried unanimously.

Moved by Commissioner Boley, seconded by Commissioner Herbert, to approve the vacation of right-of-way described as Lots 6, 7A, 7B, 8, and 9 on Quarry Lane, in the Rockledge Addition (aka 3100 Block of Bob Billings Parkway, 2133 Terrace Road, 2131 Terrace Road, and 2129 Terrace road) Motion carried unanimously.

2. **Receive recommendation from the Public Incentive Advisory Committee on Industrial Revenue Bond financing for a redevelopment project at 800 New Hampshire Street and adopt Resolution No. 7135, authorizing the issuance of up to \$7,800,000 in industrial revenue bonds for the 800 New Hampshire Street project for the purpose of obtaining a sales tax exemption on project construction materials.**

Britt Crum-Cano, Economic Development Coordinator, presented the staff report.

Bill Fleming, General Council for Treanor Architects and representing the applicant, presented the applicant's request. After his presentation, he asked if there were any questions.

Commissioner Herbert: I have two of them, actually. They reference specific slides, so if you want to go to them, that might be helpful. First question comes from slide number 16. One of the comments you make in that, the 5th bullet point there. Most of tax benefit flows to the State of Kansas - retention of dollars in community permits more affordable rents. What are the rent prices that you're talking about for those units?

Bill Fleming:
General Council for Treanor
Architects They'll range \$1.40, \$1.50 a square foot, in that range. That's consistent with-

Commissioner Herbert: What is that on a two-bedroom apartment? What are we talking about?

Bill Fleming:
General Council for Treanor Architects Well, if you had a 1,000 square foot apartment, then it would be \$1,200 a month, in that range.

Commissioner Herbert: Okay. My second question comes from slide 23. On slide 23, I believe that's the slide where you were justifying that the necessity, even though you say in the presentation that you don't have a "but for" clause because it's not required, but in this slide you're talking about the necessity for it. One of the reasons you said it was necessary was that parking costs with infill can be prohibitive. Certainly, but this project does not have any parking. Is that correct?

Bill Fleming:
General Council for Treanor Architects That's correct. That's more of a general comment about infill development, why it's expensive and it's-

Commissioner Herbert: Okay, but none of the IRB money would be used in any way for parking?

Bill Fleming:
General Council for Treanor Architects No.

Commissioner Herbert: Okay.

Bill Fleming:
General Council for Treanor Architects Well, we have 8 spaces or something like that in parking that we're providing on this project.

Commissioner Herbert: That's all my questions.

Mayor Amyx: Other questions.

Vice Mayor Soden: I was going to ask about rents as well, so you already hit my question.

Commissioner Larsen: I had a question on the LEEDs. I know you're not going for full certification on that.

Bill Fleming:
General Council for Treanor Architects Right.

Commissioner Larsen: But you were already tracking that? Is that correct?

Bill Fleming:
General Council for Treanor Architects Right, yeah. That's what this basically shows. This is kind of a pre-checklist that we do that provides all the LEED factors and then kind of provides a scorecard at the bottom for how many points we would generate. This is the type of project that

scores pretty well with LEED because they really encourage adaptive reuse of buildings. When you have an existing building like that and you're not tearing it down, that's good for LEED. If you have a project that doesn't involve a green field site where you're going and putting in the urban sprawl type of deal, I guess, that's really good for LEED as well because those are the types of projects that LEED wants to encourage to support, is that adaptive reuse of our existing infrastructure and existing buildings.

Commissioner Larsen: Is that something that's filed with the city, or is that just something you maintain in your files?

Bill Fleming:
General Council for Treanor
Architects I'm just providing it to the city. I'd be happy to provide to you or provide it to the city as part of our process.

Commissioner Larsen: I mean as the project's completed.

Bill Fleming:
General Council for Treanor
Architects It's part of your development application on this. It basically says, "Are you getting LEED certified? Are you designing it to LEED standards?" is what your application provides. If you would like to have this information, I could do a final scorecard for you when we're done.

Commissioner Larsen: Yeah, I think that would be nice to see it because it's something that I think is really important to Lawrence is to encourage this type of design and development, make sure we are doing everything we can to be stewards of the environment.

Bill Fleming:
General Council for Treanor
Architects I would agree with that, and we see that in a lot of communities too. We see a lot of the LEED certification. I think if you go to Chicago you have to build LEED buildings. I'm not saying we're going to go that far, but there are a lot of communities that have gone that far because they want to really encourage the LEED process.

Mayor Amyx: Any questions of Bill? Just one real quick, and again, the item that is before us tonight, is for the sales tax exemption for the IRBs. The effect on the City of Lawrence total is \$74,000 and some change.

Bill Fleming:
General Council for Treanor
Architects Correct.

Mayor Amyx: You're suggesting paying a pilot of \$75,000 for the Affordable Housing Trust, correct?

Bill Fleming:
General Council for Treanor Correct.

Architects

Mayor Amyx:

Okay. It has nothing to do with the building. All of that, that has all gone through the process. It has nothing to do with parking, per se, other than when we talk about parking at this point, how does the property here not have to go through a parking requirement similar to the 901 building? I assume just because of the zoning.

Scott McCullough:

Because the city zoning does not require on-site parking per projects. The city provides parking on the surface lots. The parking we've seen downtown is out of a design element of the desire of the applicant and the project's requirements, not the city code requirements.

Mayor Amyx:

Okay. The only reason that I bring it up, is those are the questions that I've gone through today. Folks wonder why the parking's not required in these particular cases, and why is it required in some ways and not required in others? Obviously, the downtown district is pretty special.

Bill Fleming:
General Council for Treanor
Architects

The whole issue of downtown parking may be a good discussion for another day. I don't know we probably want to have that tonight, but we're obviously part of that community as well. We're going to have to work with everybody in that area to come up with parking solutions that work for people, so we're going to be good neighbors and we're going to make sure that we come up some solutions. We have to because we're trying to rent our apartments to people, so we're going to have to have some good solutions for that.

Mayor Amyx:

One of my suggestions is going to be, and I'll invite you now if the commission will agree to go along with this, I think that we really need to have a discussion about parking solutions in the downtown. At the same time, I think it is something that this commission needs to talk about. If there is going to be a change in the public incentive policy, we need to have that discussion right after the first of the year, and I believe separate from this. I don't want to bring that up right now, but I think it's important. This is one that was in the pipe and I understand. I think it's a great project, but I keep hearing all this stuff about change. Well, the policy's gotten us a long way and we've done some pretty good things in our community. If there's time to discuss change, let's talk about it. Let's clear the air.

Bill Fleming:
General Council for Treanor
Architects

That's great.

Mayor Amyx:

Thanks, Bill. Any other questions? Okay.

Bill Fleming:
General Council for Treanor
Architects

Thank you very much for your time, and I want to say thanks to Britt because she's really very helpful to me in doing everything and Diane and everybody else, so I just want to make sure that we acknowledge them for everything they do too.

Mayor Amyx:

Yeah, thank you. Okay, Britt?

Britt Crum-Cano
Economic Development
Coordinator

Mayor and commissioners, one of the actions tonight is to receive the recommendation from the Public Incentive Advisory for this particular request. The PIRC Committee did meet on August 4th to consider the request, and a motion was made to recommend authorizing industrial revenue bond financing for the project to access a sales tax exemption on construction materials. The motion passed five to zero, so I wanted to officially-

Vice Mayor Soden:

At Perk, four – one.

Britt Crum-Cano
Economic Development
Coordinator

Was it four – one?

Vice Mayor Soden:

Because I voted against it and I was at PIRC.

Britt Crum-Cano
Economic Development
Coordinator

I'm sorry. Was it five – one?

Commissioner Herbert:

It's four – one.

Britt Crum-Cano
Economic Development
Coordinator

Four to one. Okay, sorry.

Vice Mayor Soden:

Well, Jeremy called in, so I'm trying to think in my head. It might have been five – one.

Commissioner Herbert:

The minutes said four – one, but it did mention that Jeremy Farmer had phoned it in.

Vice Mayor Soden:

He did. That was D-Day.

Commissioner Herbert:

It might have been. Inappropriate, sorry.

Mayor Amyx:

Okay. Any other questions of anyone at this point?

Commissioner Larsen:

I just want to make sure I understand the two things that I was ... The LEEDs part of it, and then also the \$75,000 for the Housing Authority. That is all part of this project. Is that correct?

Vice Mayor Soden: It's through the trust fund, not the housing authority.

Commissioner Larsen: I'm sorry. The trust fund, yeah. So that will definitely go there.

Diane Stoddard:
Interim City Manager

What I might suggest is that you have a resolution of intent in front of you this evening, and then remember with these bond ordinances you have the resolution of intent is the first step and then later as the project proceeds and the project costs are more solidified, then there'll be a bond ordinance, first and second reading that you'll consider. Really, this is a key step because after this action, if it's approved this evening, that's when we apply for the sales tax exemption. That said, I would suggest that if you would like to add any provisions to the approval this evening, including the \$75,000 that was mentioned by Mr. Fleming and any requirements on LEED certification, or perhaps if you just want to require them to submit an architect's certification or something about LEED certification, that I would suggest just be added to the resolution that's in front of you this evening, which you could just handle by a motion, and we'll make sure that that gets added before the mayor would sign the resolution.

Commissioner Larsen: Yeah, I think that the format that Mr. Fleming was showing us was adequate because they sign off on that and they do the scoring.

Mayor Amyx: Any other questions of staff or anybody right now? Okay. Public comment? Is there any public comment on this item? Anybody?

Katherine Harris: My comments do have to do with parking. Well, I'm going to frame it in my own experience. I live in the 900 block of Rhode Island. Port Fonda just opened and our parking has already be being affected by that restaurant, and that's just one business. I don't know what the occupancy of it is, but all of 9th Street all the way down to Connecticut is full on both sides, and then we're parking onto our block and it's affecting our ability to park near our house. I'm really concerned about putting that many apartments into that space without adequate parking. I'm happy to hear that that's an issue for them. If they build, which it sounds like they will, but if they build, then to rent their apartments they'll have to come up with parking solutions. I looked at the report on parking that indicates that northeast quadrant having lots of empty spaces. That has to be just the parking garage, because in the evenings when I'm out, the parking is full there in the 800 block of Rhode Island between New Hampshire and Rhode Island by Cielito Lindo and those restaurants. That's always full in the evenings. It's full all the way down 9th Street now. I just think that I'm going to tie this into the sales tax, but that if we don't collect the sales tax, the

city is going to incur costs having to do with dealing with parking. I know the neighborhood has talked about going to some kind of permit parking. Well, then that requires somebody to check that and that expands parking control into the neighborhood. I'm just really concerned about this project pushing that much traffic and parking into the neighborhood. Thank you, Mayor and Commissioners.

Mayor Amyx:

KH, thank you. Frank? Sorry, I didn't see you behind the pole back there.

Frank Janzen:

I first want to correct ... Not really correct, but Mr. Fleming mentioned the \$100,000 social service they got. In the community, we understood that to be basically a payoff so social service would not oppose the 900 block of New Hampshire project, so they would sit back, "We'll give you this money and repair your building if you don't oppose this project." The parking issue, I believe there's a commissioner on the commission right now who some time ago mentioned the problem of the current code in the city downtown not requiring parking, and that that should perhaps be changed, as you say, in the future. It can't be done now. The other suggestion regarding the parking in the East Lawrence area, I'm sure you know that many other large cities have restricted areas, so people in those different areas on Rhode Island, for instance, would have stickers that they can park there and nobody else could. That'll be something you can think of in the future. Otherwise, how many people here would not mind parking a block away from where they live? How many of you wouldn't mind parking a block away from where you live? That may be the problem here with the Pachamamas building with people parking far away. Thanks.

Mayor Amyx:

Thank you. Other public comment?

KT Walsh:

Good evening, Mayor and Commissioners. I represent seven homeowners and one long-term renter in the 700 and 800 block of Rhode Island. I hope you will cut me a little bit of slack. I'll talk fast. Just firstly, I wanted to remind this present city commission that the last city commission voted to have a full deep corridor study about Vermont and New Hampshire Streets as we rapidly develop these streets. They are changing so quickly rather than just being reactive to whoever comes forward to have an idea about how tall we want things, scale and mass, what downtown truly needs in terms of services, what the full community needs. There was a short kind of superficial report done during the Marriott thing, but they did vote. You may remember this, Mayor Amyx, but then they never directed staff to do it, so I would ask this commission to consider that. I think it's time to look at Vermont and New Hampshire. That said, Pachamama's: 55 bedrooms,

8 parking places. They'll have 3 permanent employees, so 3 of those spaces will presumably be for them. These 55-plus tenants will have boyfriends and girlfriends, if they're lucky, and they'll bring more cars to the area, so there's parking issues. Directly across New Hampshire from the project is Callahan Creek, Cindy Maude's big advertising public relations firm. They have 63 to 68 employees. She moved that business to Lawrence from Topeka. Most, not all, but most commute from out of town so they rely on parking there. I'm sure you've heard from her. There have been questions, "What will happen to the farmers' market?" They have a year-to-year agreement. I realize they're building restrooms. Farmers' Market needs some parking stalls. The riverfront mall on the city lot north of 7th on Rhode Island Street is often empty, but even when the public library was using the Borders building and our wonderful Brad Allen, the director, tried to get all his employees to park north of 7th Street, still they spilled out all over the neighborhood. Let's see. Right now the people who are in the old Charlton Manley building where Mike Dever's office is at 8th and Rhode Island, they tow constantly anyone who parks in their lot. Mr. Trainer and Mr. Compton own the Borders building and they're using some of it for staging, but they also are towing anyone who parks in the places they own near the Borders building, so there's already parking pressure. It's also assumed that whatever goes into the Borders building will need all those adjacent spaces. The plan is recommending that the future tenants use the underused lots north of 7th, but as Frank said, people will be schlepping their groceries and their kids. It might be older people living there. It seems unlikely. Also, the Turnhalle, whoever owns it, is required to have a community use on the main floor, which is part of the ownership agreement and they too will need parking. They talked about the 3 permanent employees will make an average of \$35,000 a year, and then later in the application it says, "But only 33.33% of the employees will receive this wage," so that's just a contradiction in the application that I don't understand. Back to parking, if they are allowed to put this added parking pressure on downtown businesses, workers and customers and on the adjoining neighborhood, I think they should be required to provide real and needed benefits to the community. The \$75,000 contribution is lovely, but I think that what we really need, these are all market-rate apartments. \$1,200 a month is the monthly salary of a lot of the people who live in East Lawrence. That's not market rate for blue collar people. Tenants to homeowners, and I've talked to them recently; continue to say they would be thrilled to have a presence downtown. They would love to build out some of these apartments. They would pay for the build out. Its federal funds coming to our community. We need permanent affordable housing in our community, and I know that's a goal of this commission. I think if they aren't going to provide any

parking, couldn't some of these apartments be low to mod, or if they're building to the lowest LEED level, why not require them to build to the highest LEED level? Set the bar a little higher, which would take us a step closer to the city's environmental goals. On the IRB policy criteria, they did talk about all the community organizations they support and help, and what Frank said, of course, is true. We met with the board and they said they had no choice. They had no money to fix their building. They had to go for this deal, and what they done to the Social Service League building are wonderful, but they had to be tweaked. We had to come to city commissioners and say, "Hey, they're not doing anything. Would you please call them and ask them to get off the dime?" Then when it went over and the Social Service League had to stay in their temporary quarters, they asked the Social Service League to pony up three months' rent, which of course the Social Service League didn't have. Yes, they support them, but no, they don't support them. That just needs to be on the public record. One of the things they say is that their project will enhance downtown by adding density, but truthfully, this is creating a lot of problems for downtown. Yes, it's dense, but dense with no parking. Let's see. Oh, I wonder will the cleaning crew be making that \$35,000 a year, or will they be just contractees making minimum wage or a little bit above? I just wanted to ask. Finally, it's really interesting on the application at the end, it says, "The estimated sales tax savings," which is backwards. It's actually lost to the city, county, and the state. These are tax dollars we'll be losing and we have some pretty serious social service needs in our community, so why do we continue to give incentives to multimillionaires when we need these taxes in our community? Thank you.

Mayor Amyx:

Thank you. Questions? Other public comment? Anyone else? Okay, back to the commission. Questions, comments?

Commissioner Herbert:

I'd be happy to start if you'd like.

Mayor Amyx:

Please, Commissioner.

Commissioner Herbert:

Just a couple things that I'll address. First of all, I think that the first thing that comes out, and I know we don't want to have our conversation about parking this evening, we've made it clear that we will have that conversation in the future, but I think an aspect of that conversation has to be had. If I'm doing my math right, which is a highly risky thing to say, we're looking at 55 units, 23 studios, 16 one-bed, 16 two-bed. I add that up as 71 beds. Is that correct? The studios are 1 bed? Is that correct?

Commissioner Herbert:

Okay, so I add that up as 71 beds. KT, I like your comment, "If they're lucky enough to have a boyfriend or girlfriend."

Presumably, we have a minimum of 71 people; potentially there's a multiplier there, so you're talking about 71 vehicles, presumably, and 8 spots. That's a problem. That's not necessarily related in any way to the IRBs, though. I think it needs to be noted that that's a problem. A lot of times, IRBs are requested for infill, as was pointed out by Mr. Fleming's presentation. They are requested for infill specifically because parking costs can be so prohibitive. I get that. When we talked about, I believe it was the Marriott, where there was some incentive money given for the purposes of an underground garage, that makes sense. In infill you have to have parking, and so the government's going to subsidize for the creation of this parking, but there's not a single dollar of this subsidy that's going towards parking. Not a single dollar of it. We've identified that a problem exists, we're throwing a bunch of money at the problem, but we're not actually addressing the problem. That, to me, is a problem. Secondly, and actually, again, Mr. Fleming's PowerPoint brought this up; IRBs have been used historically quite often for senior housing. In fact, I think I sat in this room, not as an elected commissioner, but just as an excited participant, and watched the night that you granted IRBs to Pioneer Ridge. That would be an example of senior housing. I find it really hard to believe just in my experience with seniors that there's going to be a lot of people excited about the concept of walking several blocks to get to their car when they're elderly. I don't see this as being in any way a senior housing development, so that brings us to the next question. Is it an affordable housing development which would also have a benefit to the city? At \$1,200 for a 2-bedroom rent, this is in no way near affordable housing. That comes to \$600 a bedroom. I own a property management company. We own single-family homes. Obviously it's not infill development, I get that, but I don't have a single property, not a single one, that's that expensive per bedroom. This, I would say, may exceed market rate. If not market, it's certainly not affordable. There's no benefit to the community there. They're welcome to charge whatever they want in rent and they're welcome to make as much money as they want in rent, but I think if we're handing out sales tax incentives, there ought to be a community benefit, which brings us to the last possible way there could be a community benefit. When we talk about infill, we particularly talk about blighted areas. The Eldridge, for instance, received an IRB because we looked at the Eldridge expansion and we said, "Here's a pile of rocks that's been here for 40 years. We'd kind of like to see it be something other than a pile of rocks at some point," so an IRB was granted. When we talk about the Pachamamas building, we're not talking about a pile of rocks. In fact, 7 months ago this was one of the most elite restaurants in Lawrence, Kansas, so to call that a blighted area I think might be a wee bit of a stretch. Finally, and I understand the way the code's

written that there is not a “but for” clause for IRBs, but the reality is this: to use a poker analogy, they’ve shown their hand. They’ve said that they’re going to build regardless, so if we vote to issue the IRB, essentially what we’re saying is we know you’re going to build it either way, but hey, here’s \$316,658 for really no reason. Granted, some of that is not ours, some of it’s the City of Lawrence, or a very small portion of that’s the City of Lawrence, but ultimately, it’s still an amount of sales tax that will be generated for the State of Kansas, and we have pretty good reasonable expectation that it’s going to be generated regardless of whether or not we issue the IRB. I don’t see a whole lot of reason to issue it.

Mayor Amyx:

Okay.

Vice Mayor Soden:

I agree with Matthew, or Commissioner Herbert. Sorry, I keep saying first names tonight. Sorry, guys.

Commissioner Boley:

Well, I’m real interested in infill development. I think in the review of Horizon 2020, one of the low areas of the current plan is infill development. It’s really important for our city with our tax base to try to maximize the property tax dollars per every foot of street and every foot of sewer. Infill development is also more environmentally sustainable than building the same equivalent units on the outside of town. One of the things that we also have to look at is the extension of fire and police services. That is something that has cost to the city when we go further and further out. I think Lawrence needs to consider how we can balance historic preservation with growing up, and that’s a key topic I think that we’re going to have to address in the next several years. In this situation, there is no “but for” clause. The applicant has chosen to commit to contribute \$75,000 to the Affordable Housing Trust Fund. That’s a very important goal of our commission that, frankly, we did not fund in our 2016 budget, so for those reasons, I’m in favor of the application.

Mayor Amyx:

Okay.

Commissioner Larsen:

I just have to ditto on what Stuart said. The building to LEED standard I think is extremely important, something we haven’t emphasized enough in Lawrence, and that \$75,000 money for the housing is, to me, the icing on the cake on that. That’s money that’s going to go directly, I believe, in a lump sum amount to the project, for the project, so for that reason, I’m for it, and the infill too.

Commissioner Boley:

Is building to the LEED going to happen with or without the IRB?

Commissioner Larsen:

It could.

Mayor Amyx:

Both sides of this bring up pretty important points, but let me give you a little bit of history lesson, okay? I've spent a lifetime, an adult lifetime, on this commission. One of the reasons that I ran, I think in 1983, was we had been faced with suburban shopping, as it was, and a cornfield mall at the time. I think that's what Bill brought up a little while ago. One of the things that was important to me is to make sure that, as I look at downtown and the importance of having a strong downtown, being able to do things that made sense to be able to build up, to be able to have more density in downtown, to be able to have people live in the downtown area, be able to support the businesses that sell goods and services that are important to their needs and obviously the needs of other residents of our community. Just the fact that we have an identity and that's really kind of defined by our downtown and being able to do things that are important. Commissioner Herbert, am I concerned about the parking? Absolutely. I am absolutely concerned about the parking, but the truth of the matter was, is, when you stop back and look through time, we had a number of big businesses in downtown that left for a number of reasons. We used to have Maupintour downtown, a big business. My wife worked at Maupintour, had a great number of employees, and we were dealing, I think, with about two-thirds less parking than we are today. Reuter Organ, who provided a lot of its own parking, but had a great number of people. KT, you know better than anybody there was a lot of people that worked at Reuter Organ that I'm sure parked at other places that had an effect on the neighborhood in East Lawrence. We had the same thing with Allen Press, provided a lot of great jobs for a lot of families in this community, but probably, obviously, helped a lot of problems with parking problems that we have in and around, but we were able to get through that time and our downtown has become stronger and stronger and is something that I'll continue to support. As I look at this thing, Matt, you're right. You're absolutely right. The amount of total sales tax is \$316,658. Our part of the deal is \$74,325. As somebody like you, and as other members of this commission, we're trying to come up with ways to figure out how to help with affordable housing. I think it's a kind gesture. Are there other things that we can attach to this? There probably are, but this is kind of a wash, the way I see it, for the City of Lawrence financially. Can the state use the money? Yep. I don't know how much say the state has in the way that their money is considered. I don't think any. Once we wave the wand over it, it's pretty much the decision is made. I think in this particular case at this particular time this project is good for the community, but I think that we must have that session to be able to talk about parking and public incentives, and KT, I'm here to tell you if we want to talk about a plan that we look at Vermont Street and New Hampshire, that's fine.

Bill, we need to have the discussion about that grocery store building. We need to have that and we need to make sure that we have a grocery store at the site of the Borders building. We absolutely have to. I think that is key and we can't put all these people down here and think that they can't have a place to go buy groceries, so we need to have that discussion also, and that's serious.

Bill Fleming:
General Council for Treanor
Architects

Absolutely.

Mayor Amyx:

Okay.

Commissioner Larsen:

If apartments are going to be on that grocery store building, I would like to see them potentially go to affordable housing, some of them to affordable housing.

Commissioner Boley:

That would be good.

Mayor Amyx:

You bet.

Commissioner Herbert:

Mike, I agree with everything you said. I don't think we should kill the project because of parking. I just point it out as a concern, I guess. The one thing I just ask all four of you to think about before you vote is what part of all the goodness in this won't happen if you don't get the IRB? The good parts of this project happen with or without that IRB. He said himself it's going to happen with or without.

Commissioner Larsen:

Matthew, you're right. Bill did get up here and say that they're going to do it. Here's the deal. We do have a policy. We have a written policy that says that we want people to look at these kinds of projects in our downtown. They're following our process. It's written out there. One of the things that I want the commission to have the opportunity to say, "Okay, if we're going to make some changes, let's talk about this." Are things going to be done differently in the future? Yeah, maybe they are, but right now, my plan is to move ahead on this one, okay? Anything else? Okay. The item then that's before us is to consider adoption of Resolution No. 7135. Were there other items that we wanted to have, conditions placed in this? Lisa, you brought up something about the LEED certification.

Commissioner Larsen:

Yeah. I think it was going to be after.

Commissioner Boley:

It is part of the resolution, isn't it?

Commissioner Larsen:

Part of the resolution?

Diane Stoddard:
Interim City Manager

We don't currently have that in the resolution, but if that's something that the commission would like to add, and if

there's any other requirements such as the-

- Commissioner Boley: The \$75,000-
- Diane Stoddard:
Interim City Manager ... \$75,000, then it would be appropriate to include that in the motion as an addition to the resolution. Then what we'll do is make sure that language gets added prior to the mayor signing.
- Mayor Amyx: Anything else we want to add? Okay. If not, I would entertain a motion to adopt Resolution No. 7135 as amended with the LEED certification and the \$75,000. Mr. Fleming?
- Bill Fleming:
General Council for Treanor Architects I just need to make a point in clarification on the LEED certification. It's designed to meet LEED's requirements, but it's not LEED certified. It's an important distinction that I want to make sure that everybody understands so there's no confusion about that. I think Commissioner Larsen understands that, but I want to make sure everybody understands that.
- Mayor Amyx: Sure.
- Bill Fleming:
General Council for Treanor Architects That that's what your policy requires. It's either LEED certified or designed to meet LEED certification.
- Commissioner Boley: Lisa, what are we requiring in our resolution?
- Commissioner Larsen: They use just a standard format that they use to make sure they're going through all the process, each of the items, and then they have to sign off on that or at least-
- Commissioner Boley: So you want that report, then?
- Commissioner Larsen: Yeah, yeah.
- Commissioner Boley: Yeah, okay.
- Diane Stoddard:
Interim City Manager We would suggest language that would be something that would be an architect certification that the project would meet LEED certification.
- Mayor Amyx: Motion to adopt Resolution Number 7135 as amended to include the language about LEED certification.
- Commissioner Larson: And the 75.
- Mayor Amyx: Okay, and then the \$75,000 to the housing fund. Okay, entertain that motion.

Moved by Commissioner Boley, seconded by Commissioner Larsen, to adopt Resolution No. 7135, determining the intent of the City of Lawrence, Kansas, to issue its taxable industrial revenue bonds in the amount not to exceed, \$7,800,000 to finance the cost of acquiring, constructing and equipping a commercial facility for the benefit of 800 New Hampshire, LLC and its successors and assigns with the condition that the project meet LEED requirements and the developer contribute \$75,000 to the City of Lawrence Housing Trust Fund. Aye: Mayor Amyx, Commissioner Boley and Commissioner Larsen. Nay: Vice Mayor Soden and Commissioner Herbert. Motion carried

3. **Consider the appeal of the Historic Resources Commission's determination per 20-308(g) of the Land Development Code for the installation of a metal arch associated with the sidewalk dining area located in the public right-of-way adjacent to 1012 Massachusetts Street.**

Randy Larkin:
Senior City Attorney

Good evening, Mayor and Commissioners. I'm Randy Larkin with the City Attorney's office. We are hearing an appeal from the Historic Resources Commission. In so doing, you sit in a quasi-judicial capacity, so it's necessary before we have the hearing to disclose ex parte communications so that everybody has the same information from which to make a decision.

Mayor Amyx: Lisa, do you have any ex parte communication?

Commissioner Larsen: No. On this subject?

Mayor Amyx: Yeah.

Commissioner Larsen: No.
Vice Mayor Soden: I don't think I got any correspondence.

Mayor Amyx: I haven't had any at all.

Randy Larkin:
Senior City Attorney:

Okay. I don't know if we've had any appeals before, but just to give you an outline as to what your role is. You'll basically be stepping into the shoes of the Historic Resources Commission, reviewing the evidence, applying the downtown design and guidelines to the proposed project and then make your decision. If you have any questions, I'm here.

Mayor Amyx: Questions? Okay. Do you have one, Lisa? I guess not. The applicant is here this evening?

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

Victor Allred:

Good evening, Mayor, Vice Mayor, gentlemen and gentle lady of the commission. I'm grateful to be here today. I'm the owner of Jazz, A Louisiana Kitchen. I have a prepared statement which you all have copies of that I'd like to read. I'm writing in reference to the planned patio arch that will be attached to the patio fencing outside of 1012 Massachusetts

Street, the former Buffalo Wild Wings location. This space has been leased by Jazz, A Louisiana Kitchen, best described as a French Quarter café, a full-service restaurant, and bar serving the finest in Cajun Creole cuisine with locations in Kansas City; Lubbock, Texas; Columbia, Missouri; and Omaha, Nebraska. Decorative wrought iron is a large part of the décor in the theme of our restaurants. Similar to the French Quarter, the exterior fencing is decorative and artistic in nature. The arch that has been proposed is attached to the fencing surrounding the patio. It provides a gateway into the restaurant entry area where the customer is transported to the sights, sounds and smells of New Orleans. The gateway, coupled with a decorative remake of the patio fencing, is an essential part of the patio design. It is beautifully crafted with artistic iron castings and is a considerable upgrade over the existing fencing. As I look up and down the street and review the denial that had provided by the Historic Resources Commission, I find it impossible not to view the upgrades that we have done, particularly to what was a previously approved storefront to the building, as greatly enhancing the storefront and that of Massachusetts Street. I would argue that items 2, 3, and 5 have been met and actually have exceeded the expectations of the existing area, particularly with our neighbors to the south and to the north. I would equally argue that 4.4 have been met as the archway is made of ornamental wrought iron and meets the qualifications of the rule. Lastly, I would argue, and this is the most important, is that the archway is not a railing or a fence as described in the denial. It is an arch designed to be a gateway to and from the entrance of the restaurant. A railing or a fence is designed to be a barrier to either keep something in or prevent something from entering. The arch simply does not fit the description of fencing or railing. In fact, it is exactly the opposite. Therefore, the language of 4.4, I believe is being applied incorrectly. In conclusion, I respectfully and prayerfully request that a waiver for any height issues be granted. The beauty of the patio fencing, archway and wrought iron furniture is a perfect design complement to the red brick façade of the building. Its landlord approved. It will be reasonable to glance at the patio and to think of the French Quarter, exactly the effect that we desire, while preserving the ornamental nature of historic Massachusetts Street. I will give you 2, also 3, exhibits. The first one showed that the condition of the railing when we first took it over and you can see the yellow and black just posts. We removed basically half of those and have brought in ornamental castings to make that just a lot more impressive of a fence and add to the ornamental nature of the building. Then, I would say the second one, which you already saw also in Lynn's presentation, is the actual arch itself. It is a piece of art. It has already been crafted. We put it up there

just so she could see it, but that picture is kind of not really representative of what it is because it doesn't show how it's connected to the actual patio railing. Lastly, the third one then is a current picture of the front of the restaurant. You can see that the arch would just sit right in and be congruent with the actual physical railing that is there. I would argue that the archway is not a fence, it's not a barrier, and in fact, it is just the opposite of that. We believe that we have met all of the requirements through the application process and we believe that this not only is a beautiful piece of work, but we believe it enhances historic Mass. Street. We're very happy to be here. We've spent a considerable amount of resources to build out that store. I employ over 40 people at that location. That location was empty for over 8 months before we came in. There was no revenue being generated by the city or the state or the county and now we've remedied that, so again, I would respectfully ask, because I believe, unfortunately, that the code does not actually accurately reflect any of the legal description of an arch, and therefore, I believe it is being applied incorrectly, and I would ask for a variance on that. I'm happy to answer any questions.

Commissioner Herbert: I realize this isn't the permanent installation of the archway here. You said it would be a little different tied in to the railing.

Victor Allred: Correct.

Commissioner Herbert: When it is permanently tied in, will it in any way restrict north/south flow on Massachusetts for pedestrian flow?

Victor Allred: No. No, absolutely not. It's exactly congruent with the face of the rail.

Commissioner Herbert: Okay, thank you.

Mayor Amyx: Other questions? Okay. Don't go away, Vic.

Victor Allred: Vic: Okay.

Mayor Amyx: Thank you very much. Public comment?

Dennis Brown:
President
Lawrence Preservation
Alliance

Good evening, commissioners. I was at the HRC meeting where this agenda item was deliberated and gave testimony at that meeting for the LPA. The HRC did vote unanimously to deny this application feeling that it doesn't meet the downtown design guidelines and is not compatible with the existing character of our downtown historic district. Dining enclosures, I think they're going on about 20 years now in downtown, and I remember how it started. First 1 or 2, and then it seemed like within a year or two, everybody had to have one. I think that's instructive when we consider changes to our policy here or allowing an exception or a waiver, the

fact that everybody had to have one. The design guidelines for the dining enclosures were actually ... it was a very long process initiated by the city commission and involving a lot of members of the public. I think it probably took over a year to really get that ironed out to where these other dining enclosures could come along and follow the first 1 or 2 that happened. I think the process actually worked out pretty well. What's happened over time is basically a level playing field where everybody has certain sets of guidelines, railing heights, the square foot of the enclosures based on their frontage of the property, and I don't know that anyone really has one advantage over another. It seems like a fairly democratic process that has happened. This is something a little different where an enhanced structural entry is meant to draw attention to this particular location over another. It's a beautiful arch. Guidelines don't really relate to art and beauty, they relate to heights and mass and scale and setbacks. Art really isn't something that the HRC is going to concern them about when they're looking at guidelines. If this was to go through, what would be the consequences in terms of what other folks would want? I think staffs point to the visual aspect, you have a railing that's about like so, and then all of a sudden here's an arch like so. It happens one time, well, that violates the guidelines according to HRC. If it happens 5 times or 10 times or 20 times, I could see a real issue with what's happening with our downtown historic district. Our downtown design guidelines for sidewalk dining enclosures are working well and there's no need to tip the balance. We welcome this restaurant to our city, wish them all the success, but their success or failure isn't going to depend on whether they can install this archway or not. It's a solution that maybe doesn't have a problem, but would that solution cause us a problem? I think the thing to do, and LPA would urge the city commission to stand by the unanimous decision that was reached by the Historic Resources Commission.

Mayor Amyx:

Thanks, Dennis.

Frank Janzen:

Can I see that photograph you've got? There's one of the arch in front of the ... This is the one I saw up on the screen. I guess you would say it would be in front of the railing. Is that correct? Not in front of the railing?

Mayor Amyx:

Frank, talk to us, please.

Frank Janzen:

I walk downtown in 10 minutes and I know the guidelines. I've actually been confronting people at BurgerFi who had that little sign out in front of the railing and I said, "No, you can't do that. The city, the law is you have to keep it behind the railing." Anything outside the railing is in the right of way. I guess that's behind the railing. The issue has to do with as

referring to as Mr. Chad Lawhorn, who is perhaps the 6th City Commissioner, has said the same thing that these people here just said. Once this goes in to the restaurant there, everybody up and down the street is going to want the same thing. They'll be here every night to get another arch. Thanks.

Mayor Amyx: Okay. Other public comment? Any other public comment on this item?

Victor Allred: I would just like to point out that I definitely disagree with the gentleman who said the arch should not be considered. You make exceptions all the time to wonderful art that's put all over the city, and particularly down the street. This is no different. This is a beautiful piece of ornamental wrought iron. It's a piece of art. It is what it is. I apologize that the scope and complexity of my problem today is not comparable to some of the great things that we've listened to today, but this is an issue. It's part of our concept. Arches are a big part of our concept and wrought iron is a big part of our concept, and I wouldn't want to try to determine if that is singularly going to keep us from having success or not. I think that's an irrelevant comment. However, I think that the artistic value of this piece of art is much warranted in the discussion. I'll leave it at that unless there are any other questions.

Mayor Amyx: Any other questions? Okay. Thanks, Vic.

Victor Allred: Thank you.

Mayor Amyx: Any other public comment?

K.T. Walsh: This is an interesting crossover, then. Perhaps the Director of Arts and Culture needs to weigh in on this or it will need to go through that process. Also, I love New Orleans. New Orleans, god, they've done an amazing job with historic preservation. They were the first as far as I know to get on it. The reason New Orleans is awesome is because it's authentic, and the reason Lawrence is awesome is because it's authentic. We're not New Orleans, we're Lawrence. I think the archway is beautiful, but I agree with the Lawrence Preservation Alliance. I think it needs to go inside the restaurant. Thank you.

Mayor Amyx: Anyone else? Back to the commission.

Commissioner Herbert: Why not? I'm on a losing streak tonight. Here we go. Let's go for 3. If I read the tea leaves, this will make me 0 for 3 on the night. 2 comments I'd make. About 2 hours ago I sat in this chair and watched us give approval to put a manufacturing facility in the middle of a neighborhood, but now we're going to tell a guy he can't put an archway in front of his business?

Wow. When I think of downtown, I think downtown is wonderful and I think downtown is great, but when I think of downtown I don't think of guidelines, I think of what I actually see. There are 2 things that I want to say. First of all, I wish Buffalo Wild Wings the utmost success at their new location. Having been there, I think they're having the utmost success at their new location, but I'm really glad they're not downtown anymore because Buffalo Wild Wings to me is not downtown Lawrence. There's nothing historic. We talk about downtown as the number 1 tourist destination in Kansas. Nobody's coming for Buffalo Wild Wings, right? They have 840 restaurants across the United States. Mr. Allred, I honestly applaud you. I appreciate your investment in downtown Lawrence. I'm glad that you're there. I'm glad that Jazz is there and not Buffalo Wild Wings. Let's call it what it is. I think you fit better there than an 840-chain restaurant. Quite frankly, it doesn't obstruct pedestrian walkway in any way, shape or form, not one bit. If we're willing to put a manufacturing facility in the middle of a residential neighborhood but we're about to tell Mr. Allred he can't hang up an ornamental piece of art in front of his business ... You want to talk about why Lawrence gets that rap of being anti-business, here it is. Here it is right here. We have a guy investing in downtown in a facility that was vacant for 8 months. He wants to put up an ornamental piece of art and we're voting potentially not to let him do that. It was mentioned Chad Lawhorn is our 6th city commissioner. Well, let's talk about Chad Lawhorn. He wrote an article where he talked about the massive vacancy rate in downtown Lawrence. I tried to find it a minute ago. It was 28-1/2%. Thank you for filling a vacancy in downtown Lawrence. I appreciate you being here and I look forward to supporting you this evening.

Victor Allred:

Thank you.

Mayor Amyx:

Anyone else?

Vice Mayor Soden:

I do agree with the concept that this could create a precedent in downtown Lawrence, as mentioned, is important because it is authentic, so I find that to be a very compelling argument to not have the arch, but I thank you for coming in here and opening up your restaurant.

Commissioner Larsen:

I do think it is art and I think it is a beautiful arch. I really do. I would go with Matthew in saying if we're going to put a manufacturing plant and a facility in a neighborhood, why can't we let this guy have some art?

Mayor Amyx:

Stuart, you got anything?

Commissioner Boley: I have to side with the Historic Resources Commission. I respect the work they do. I think they've called this one right.

Mayor Amyx Okay, Randy. Again, tell us. We've got to put on the shoes of the Historic Resources Commission, right?

Randy Larkin:
Senior City Attorney Correct. You basically step into the shoes of the Historic Resources. They just made a decision. You make a decision. You're not bound by their recommendations, so what you do is apply the downtown guidelines to this project. If you believe it's within the intent of the guidelines, you should approve the project. If you think it's outside the intent of the guidelines, then you should deny.

Mayor Amyx: Okay, so then if I see that there's a situation here where the height restriction between 36 and 45 inches is a standard here, but if I want to look at the arch as being something other than an arch, is that outside what the HRC had to deal with? I'm trying to find reason to be able to support this and be able to meet the requirements that you're placing on us.

Randy Larkin:
Senior City Attorney If you believe it's a railing or a boundary, its 36 inches, and if you believe it's not, then it may not apply. It's for the city commission, for you guys to determine what those guidelines mean.

Commissioner Herbert: Do you think that archway is going to stop you from entering that building?

Mayor Amyx: I doubt it.

Commissioner Herbert: I would say it's not a railing then.

Commissioner Larsen: Or a barrier.

Commissioner Herbert: Or a barrier.

Mayor Amyx: Yeah. Is that what this is down to?

Randy Larkin:
Senior City Attorney It could be, yes.

Mayor Amyx: I do want to thank you for your investment in downtown, and I have the greatest respect for the Lawrence Preservation Alliance and Dennis Brown. I absolutely do. This is one of those times where I may have a difference of opinion. If it was something that jutted out and would stop the progress of foot traffic up and down, I may have concern. I don't see people coming down here lining up and wanting to do this. I really don't, but if so, then maybe there's something to be said about our ordinance. Anyway, I don't think that this

impedes me from going in there. I really don't. I do appreciate the work that our HRC does also.

Lynne Zollner:
Historic Resources
Administrator

If I may, Mayor, in your deliberations and specifically in your motion, would you please include how you think the project meets the design guideline so that if there is an appeal to district court we have that documented for the record?

Mayor Amyx:

Okay. The appeal to the district court comes from anyone?

Lynne Zollner:
Historic Resources
Administrator

It just says any person aggrieved by the decision.

Mayor Amyx:

Okay.

Victor Allred:

Sir, if I may, I have no intention of filing a law suit if you don't let me have my arch.

Mayor Amyx:

Okay

Commissioner Herbert:
Mayor Amyx:

That's two guys tonight that had showed their cards. So we go to talk about how it meets the guidelines or how it does not?

Commissioner Larsen:

I think it adds to the uniqueness of downtown. Folks were talking about New Orleans and so forth. I think it adds to it.

Commissioner Herbert:

I think if we want to argue semantics, if this thing gets to court somehow. In my opinion, I'm not an attorney, but I think it's a pretty easy argument to be made that this is not a barrier and it's not a railing. No archway is going to stop me from entering, exiting or jumping up and down.

Mayor Amyx:

Commissioner Boley brings up a point in the information that was presented to us by Mr. Allred, in the last paragraph on the first page, he states that the arch simply does not fit the description of fencing or railing in fact, it is exactly the opposite. Therefore, the language in 4.4 is being applied incorrectly.

Scott McCullough:
Planning and Development
Services Director

Mayor, if I may inject, because I think an important point of this discussion is that we have applied that standard consistently throughout downtown sidewalk dining to produce the outcome you see as you walk down downtown. I think one of the implications in your decision tonight is that we will view your direction as guidance to how we view the downtown guidelines. Future applications that come in with any verticality at the gateway feature, as a gateway feature, can have this verticality taller than this 36 to 42 range, and I think we have real concern that you will start seeing a

different character downtown than what we have consistently practiced over time.

Commissioner Boley: What you're saying is it's going to affect the street view as you walk down the street.

Scott McCullough:
Planning and Development
Services Director

Scott: I think what you're going to see is, right now we have a very low railing and gate entryway on the public right of way. It is the public right of way; it's not on private property. I understand that this is, it's a great project, by the way, it's a beautiful restaurant inside and out, but the sidewalk dining really needs to be viewed as a complete system downtown. That's why we have standards in terms of material and height and how you enter and what materials. We go down to the utensils and type of glass out on the sidewalk. My point is that over time, we have used the guidelines to produce the outcomes that don't have verticality at the entrance as is proposed. If you want that downtown, then I think this tells staff, well, let's start approving those permit requests for things, if it's at the gateway entrance to the sidewalk dining area, then don't view it as a railing. Then the guide goes up I'm not sure how tall, because we use that 36 to 42 range now, and this exceeds that guideline. The HRC has been charged with looking at it, as a system view, not a specific project, but in context of how we have practiced years' worth of developing sidewalk dining downtown.

Victor Allred: If I could just make a comment, sir.

Mayor Amyx: Sure, please.

Victor Allred: There are many awnings that have been approved. An awning starts from a storefront and then extends out perhaps even as far as the patio area. This is only about one and a quarter inches thick. As it goes up vertically, the awnings that have been approved are far more restrictive in terms of the sight line up and down the street than this small, one and a fourth inch thick archway will be.

Commissioner Herbert: He's got a good point.

Mayor Amyx: Got what?

Commissioner Herbert: Got a good point.

Mayor Amyx: He does.

Vice Mayor Soden: The awning is really for the weather. It's not the same thing. No offense.

Commissioner Herbert: That's not the argument. The argument is the sight line,

whether it's for weather or not.

Mayor Amyx: The awning is to keep the sun out of my eyes in the afternoon.

Vice Mayor Soden: The awning is so that people can walk downtown when it's raining or snowing and protect them. It's not the same as an arch.

Mayor Amyx: If we give direction to make this change, you're going to apply this new change to every new request that comes along, correct?

Scott McCullough:
Planning and Development
Services Director I think that's the implication, that as our final decision body on what the guidelines say and how they should be interpreted, it has implications for future projects.

Mayor Amyx: I got to think about this. I'll be a better thinker if I defer this item.

Vice Mayor Soden: Dennis has a comment.

Mayor Amyx: Dennis, please, yeah. No, but go ahead.

Dennis Brown: Awnings are a traditional historic part of our downtown, for years and years. Scott is making my point better than I did. I think we could really be opening up our sidewalk enclosure guidelines to where they actually just have to be revised, and some pretty significant visual, not barrier, visual changes to our historic downtown main street.

Mayor Amyx: Thanks, Dennis.

Vice Mayor Soden: Are you interested in deferring it to develop standards instead of setting a precedent?

Mayor Amyx: No, I'm interested in deferring it so I can study it farther. I just don't want to create a monster for our staff. This gentleman should be allowed to have some form of artsy arch; I believe that, but anyway...

Commissioner Larsen: Would it have the same effect if you put that arch right up against the building?

Victor Allred: No, it's the design. It would require structural changes and then it would also hit against the sign, which is neon.

Mayor Amyx: Would the Commission feel comfortable in granting me a week's deferral of this item?

Commissioner Herbert: Yes.

Mayor Amyx: The final decision?

Commissioner Boley: That's fine.

Vice Mayor Soden: Sure.

Mayor Amyx: I would make a motion to defer this item for one week.

Moved by Mayor Amyx, seconded by Commissioner Boley, to defer the item for one week. Motion carried unanimously.

4. **STAR Communities Briefing and Energy Efficient Retrofit Proposal.**

Eileen Horn, Sustainability Coordinator, presented the staff report.

Vice Mayor Soden: Is it time for comments or just questions?

Mayor Amyx: Time for questions. Diane, it sounds like a neat idea. Are we ready to take this on and commit for to take this on?

Diane Stoddard:
Interim City Manager

I think as Eileen indicates in one of her slides, a lot of times, the energy efficiency projects result in savings that then can be used to pay for the project. I think what we've talked about internally is opportunities to finance that internally. I think the data that we would get from a report would help us be able to lay that out and look for that opportunities but also to quantify those so we know what we're dealing with that we could then have those considerations by the City Commission in the budget process. I think, again, these things would be competing with other priorities that you all have and other projects that we need to look at. We probably will not be making any additional progress unless we have good data on which to make decisions, because we really have hit a lot of the low-hanging fruit, and we have done those things, financed internally to this point.

Mayor Amyx: Anyone else? Public comment? Thanks, Eileen. Any public comment? Back to the Commission. Now, it's time for comment.

Vice Mayor Soden: I remembered. I don't know if it was our first or second City Commission meeting, me as a City Commissioner pulled off of the claims, the quarter of a million dollar payment that we were doing for West Star that time, and just blurted out basically, "What are we doing?" dragged Chuck up there, I knew Chuck could answer the questions appropriately. I had faith in Chuck. This is just a continuation of that. This is something that beats very close to my heart, so I'm very interested in anything that we can do. I think it's important for the City government to be a leader as well in things like this. I

think it's going to be awesome.

Commissioner Herbert : Mike, I'm looking at you sweat over there. I got some low-hanging fruit; I think we ought to unplug that space heater, that's where we can start our energy conservation. We need to-

Vice Mayor Soden: It's actually barely raining tonight-

Commissioner Herbert: It is 100 degrees up here.

Vice Mayor Soden: ... So that is not our fault. It's barely raining today.

Mike Amyx: Thanks, Commissioners.

Commissioner Herbert: Too bad. That's real money right there.

Vice Mayor Soden: I have to say, it is nice and balmy in here for a change.
Mayor Amyx: Balmy, that's a word for it. That's right.

Commissioner Larsen: It's not on right now.

Vice Mayor Soden: It's just blowing.

Commissioner Larsen: It's just barely.

Vice Mayor Soden: It's not ... Anyways.

Mayor Amyx: Anybody else have comments about this?

Vice Mayor Soden: I do want to say the space heater conversation that we're having that no one out there in TV land understands is that we have frozen behind here for months now, and so we finally got a space heater.

Commissioner Herbert: Careful with the "we" part.

Mayor Amyx: That's right.

Vice Mayor Soden: That's because we asked for it. I didn't know to ask for one. We have it, which is great, but it certainly points to the age of our facilities and that they are not built for today's standards. Reminds me of an article just the other day that was out that said most thermostat policies are set it for men, which is 60-something degrees. I think it's really important to finally address these bigger ones with our facilities.

Mayor Amyx: This energy management is going to come back and say, "Turn it off."

Vice Mayor Soden: Hopefully. That could be a goal.

Mayor Amyx: Layer up.

Commissioner Larsen: I do agree with Leslie that we need to take the lead on this, government does. I know they have been in some areas. I've talked to Eileen before and I'm all for this. We really need to move hard and strong on this.

Mayor Amyx: Eileen, I want you to know, my question of Diane was not to question your recommendation at all, but just to make sure that we're all on the same page. It sounds like we are.

Commissioner Boley: I just want to say I appreciate the work that's been done at this point. It sounds like we need more data to be able to move forward in a reasonable way, and that's what we need to get.

Commissioner Larsen: We have to beat Wichita.

Commissioner Herbert: It starts with you, that space heater.

Mayor Amyx: The item that is before us then is to authorize staff to issue a request for qualifications, an RFQ to select an energy management company to assist City staff with the energy analysis and calculations of savings and project implementation.

Moved by Vice Mayor Soden, seconded by Commissioner Larsen, to authorize staff to issue a Request for Qualification (RFQ) to select an energy management company to assist city staff with energy analyses, calculation of savings, and project implementation. Motion carried unanimously.

F. FUTURE AGENDA ITEMS:

Diane Stoddard, Interim City Manager, outlined potential future agenda items.

Vice Mayor Soden: On December 15th it says on the consent agenda "boundary ordinance." What is that?

Diane Stoddard:
Interim City Manager Every year, we are require by state statute I think, to publish a boundary ordinance, which is just all of the boundaries of all the property that is in the city limits. It's a very lengthy legal description, multiple pages, don't want to necessary read it verbatim, but it does outline what our boundaries are, and it's something that we always have on a December meeting for you all to approve.

Mayor Amyx: Have we had any annexations this year?

Vice Mayor Soden: We did.

Mayor Amyx: No, we haven't. I didn't think we did.

Vice Mayor Soden: I thought we approved one a month ago.

Commissioner Herbert: What about over by Free State High School?

Scott McCullough:
Planning and Development
Services Director We initiated the process.

Mayor Amyx: We haven't gotten there yet. There's a push, we need to get that done, right?

Scott McCullough:
Planning and Development
Services Director Not this month.

Mayor Amyx: Not this month, okay. The item from the Housing Authority on the acquisition of 1725 New Hampshire Street has been the juggling ball. Do y'all want to hear that item?

Vice Mayor Soden: Yeah.

Commissioner Herbert: We have to, don't we?

Vice Mayor Soden: Yeah.

Mayor Amyx: I'm just asking though, just making sure.

Commissioner Boley: We need an answer.

Commissioner Herbert: I think we have to.

Mayor Amyx: What?

Commissioner Boley: They need an answer.

Mayor Amyx: I know. I know. Got it, just wanted to make for sure.

Vice Mayor Soden: What did we add the 18th today?

Mayor Amyx: Yeah, we will. Let's have that discussion. On the 18th, we now know the time that we have to hold our executive session, beginning at 12:00 noon, correct?

Diane Stoddard:
Interim City Manager Yes, correct.

Mayor Amyx: That works for your time frame?

Commissioner Herbert: You bet. I'll be here.

Mayor Amyx: Stuart, that works in your time frame?

Commissioner Boley: That's going to work.

Mayor Amyx: Everybody else?

Vice Mayor Soden: Mm-hmm (affirmative).

Commissioner Boley: Do we have a depth timeline?

Mayor Amyx: I think you have a ...

Commissioner Boley: I just need to know. That's all.

Mayor Amyx: No, we don't at this point.
Diane Stoddard: We will-
Interim City Manager

Commissioner Boley: As soon as we get one, I'd appreciate you finding out.

Diane Stoddard: Yeah, we'll definitely identify that, and that'll also be of course in your agenda on the 15th, you'll have a recess for that that carries over to the 18th and it'll have a note about timing there as well.

G: COMMISSION ITEMS:

Commissioner Herbert: Yes, I do have one. Pardon my brief preface on this, to give you an explanation of where this is coming from, but my very first day on the job, when I met with, at the time, City Manager Corliss, and we went through the budget line by line, the first thing that ever jumped out at me as an aha moment was, City of Lawrence spends more money in forcing downtown parking than we make on downtown parking tickets. I thought, "That's a very strange thing." I've spent the last seven months basically trying to figure out a solution to that. Don't worry, Mike, I'm not going to recommend spiking the ticket price here on you. What I've noticed some other communities have done, particularly around holiday times, is they've offered alternatives to paying. Their \$3 ticket could be a donation to a food bank. A lot of communities do that, but they do it only around holiday times. The reality is that hunger in our community is not seasonal. It's not specific to Christmas or specific to Thanksgiving. What I would like to propose, and obviously this would have to come before the whole body, what I would like to propose that we look at as an alternative, not as in get rid of the parking tickets completely, but as an alternative form of payment, providing the option to individuals to make food

donations to local food banks as an alternative to their \$3 parking ticket. As it stands now, parking tickets are not a revenue generator for us, they're a revenue loss. I don't see that it would hurt us in terms of a budgetary situation. I think it could be a great thing for our community and those in hunger. I would offer that up as a future, hopefully, agenda item to be discussed.

Mike Amyx: You want to have that discussed this holiday season?

Commissioner Herbert: That's the thing; I don't want it to be tied to holidays. I want this to be a program.

Mayor Amyx: Good. We can do this right after the first of the year then?

Commissioner Herbert: You bet no arches involved.

Mayor Amyx: Thanks. Diane, if you could provide to us, I know that there was a memo recently, but if you could provide to us all of the revenue commitments that we have from the parking meter fund, and tickets and everything, that that goes to help, I know, pay for the courts and everything else, so if you could just give us all that information to see what kind of effects that would have on our budget, I'd like to have that.

Commissioner Herbert: Definitely.

Mayor Amyx: Thanks, Matthew.

Commissioner Boley: If there are other communities that do this, it might be interesting to know what other communities' experience have been, so if you can reach out and try to identify some of the places, I think it would be a good idea.

Commissioner Herbert: From what I've read doing research on this, there's a lot of communities that do it, but every single one I've read about ties it specifically to a holiday, "Let's do a Thanksgiving food drive, so every ticket from November 1 to November ... " To me, that's a shallow approach when hunger is a year-round thing.

Mayor Amyx: Any other Commission items? Do you have some?

Commissioner Boley: I just want to give a shout-out to all the folks that work and volunteer at Lawrence Memorial Hospital. Our community is really fortunate to have a wonderful hospital as we do. The reason that it's as good as it is because the people there are skilled, they care about what they do, they work hard, and because the community supports them, and I just want to say thanks.

Mayor Amyx: I was out there yesterday morning as a matter of fact. Any other Commissioner items? (None)

H: CALENDAR:

Diane Stoddard, Interim City Manager, reviewed calendar items

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Vice Mayor Soden, seconded by Commissioner Larsen, to adjourn at 9:07 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON FEBRUARY 2, 2015.



Brandon McGuire, Acting City Clerk