



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

February 12, 2013

The Board of Commissioners of the City of Lawrence met in study session at 4:00 p.m.; after a short break the regular session began at 6:35 p.m. in the City Commission Chambers in City Hall with Mayor Schumm presiding and members Amyx, Carter, Cromwell and Dever present.

A. STUDY SESSION:

1. Received the presentation on Water/Wastewater Master Plan.

After a short break, the Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m. in the City Commission Chambers in City Hall with Mayor Schumm presiding and members Amyx, Carter, Cromwell and Dever present.

B. RECOGNITION/PROCLAMATION/PRESENTATION: None.

C. CONSENT AGENDA

Mayor Schumm said that item number 8, regarding state legislation, and item number 13, regarding a Continuing Care Retirement Community (CCRC), would be pulled from the consent agenda for separate discussion.

It was moved by Amyx, seconded by Dever, to approve the consent agenda as below, minus items 8 and 13. Motion carried unanimously.

1. Approved the City Commission meeting minutes from January 22, 2013.
2. Received the Fire Code Board of Appeals meeting minutes of February 4, 2013; the Joint Economic Development Council meeting minutes of November 13, 2012; the Lawrence Cultural Arts Commission meeting minutes of January 9, 2013; and the Mental Health Board meeting minutes of November 27, 2012.



3. Approved claims to 183 vendors in the amount of \$1,756,090.06 and payroll from January 27, 2013 – February 9, 2013 in the amount of \$1,839,402.59.
4. Approved the Retail Liquor License for Parkway Wine & Spirits, 3514 Clinton Parkway, Ste: B.
5. Approved the reappointment of Chad Foster and Leslie Tuttle to the Historic Resources Commission, to additional terms that expires March 1, 2016; and the reappointment of Katherine Simmons, Kathy Porsch, Christie Dodson, and Mandy Enfield to additional terms that expire January 31, 2016.
6. Bid and purchase items:
 - a) Set bid date of February 26, 2013 for City Bid No. B1311, Project No. PW1318 - 2013 Microsurfacing Program.
 - b) Set a bid opening date of March 12, 2013 for Bid Number B1310 Electrical Preventive Maintenance.
 - c) Awarded design services for 6th Street and George Williams Way signal plans to BG Consultants in the amount of \$6,500.
 - d) Authorized purchase of one aerial and chip body for the Parks and Recreation Department from Altec Corporation for \$92,539.
 - e) Authorized payment in the amount of \$19,350 to Superior Electric Co., Inc. for electrical work at the temporary location of the Lawrence Public Library, 700 New Hampshire Street.
7. Adopted on second and final reading:
 - a) Ordinance No. 8831, amended Chapter 6, Article 12 of the City Code to revise the standards related to sidewalk dining to address umbrella height, railing materials, and amplified music and sound within sidewalk dining areas.
 - b) Ordinance No. 8834, established a Community Improvement District to utilize special assessments to fund underground utilities along Pennsylvania Street.
8. THIS ITEM WAS PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. Authorized the Mayor to sign letters to the Douglas County legislative delegation concerning local elections, the city's budget process, the regulation of the carrying of concealed handguns in city buildings and facilities, and local employee groups. Adopted Resolution No. 7005, opposing House Bills 2123, as requested by the Lawrence Police Officers Association and Local 1596 of the International Association of Fire Fighters.
9. Approved rezoning, Z-12-00325, of approximately 10.56 acres from RS7 (Single-Dwelling Residential) to RS5 (Single-Dwelling Residential) for Fairfield Farms East Addition, located SE of 25th Terrace and O'Connell Road. Submitted by CFS Engineers, for Fairfield Investors LLC, property owner of record. Adopted on first reading, Ordinance

No. 8835, to rezoning (Z-12-00325) approximately 10.56 acres from RS7 (Single-Dwelling Residential) to RS5 (Single-Dwelling Residential) for Fairfield Farms East Addition, located SE of 25th Terrace and O'Connell Road. (PC Item 1; approved 9-0 on 1/28/13)

10. Authorized the Mayor to execute an access and utility easement to Rural Water District No. 4 and the City of Baldwin as part of project UT1206DS – O'Connell Road Watermain Extension.
11. Authorized the City Manager to enter into a lease agreement with the Hertz Corporation, allowing the use of one parking space in city Parking Lot #4 for the Hertz On Demand program.
12. Authorized Iwig Dairy to operate as a mobile food vendor in the city's parking lot located on the southeast corner of 2nd and Locust, contingent on the applicant obtaining a city Mobile Food Vendor license.
13. THIS ITEM WAS PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. Authorized the City Manager to work with staff and/or outside legal assistance in establishing a 501(c)(3) non-profit corporation and to create bylaws for a Continuing Care Retirement Community (CCRC). Authorized expenditure of \$12,500 for the first phase analysis of creation of CCRC.
14. Authorized the Mayor to sign Subordination Agreements for Arthur and Shirley Tarp, 625 Lake Street and Catalina Narcomey, 120 Florida Street.

Regarding item number 8, letters and a resolution regarding state legislation, Schumm said the employee groups asked that this item be removed from consent. This also affected House Bill 2023, which should be added to the letter.

Mike McAtee, LPOA, thanked the commission and urged commissioners to vote for Resolution 7005. City employees had been able to meet and confer with the city for 30 years. The ability to continue with this was vital to allow employees to voice their opinions and help in the recruitment and retention of quality officers and detectives. The house bill in question affected the sovereignty of the City of Lawrence. He urged the commissioners to vote for the resolution and the letters regarding the legislation.

Ryan Hornberger, Local 1596, thanked the commission for approving this resolution. The relationship between employees and the city was a model for other communities. It was a strong mutually beneficial relationship. He thanked the commission for their support.

Amyx said he thought the City had a process that worked well for 30 years for the governing body, the people of Lawrence, and City employees. The opportunity to meet and confer had helped and he supported the resolution.

Moved by Amyx, seconded by Cromwell, to authorize the Mayor to sign letters to the Douglas County legislative delegation concerning local elections, the city's budget process, the regulation of the carrying of concealed handguns in city buildings and facilities, and local employee groups; and to adopt Resolution No. 7005, opposing House Bill 2123, as requested by the Lawrence Police Officers Association and Local 1596 of the International Association of Fire Fighters. Motion carried unanimously.

Regarding item number 13, a Continuing Care Retirement Community (CCRC), Commissioner Carter said the request itself was for the approval for the City Manager to prepare documentation to create a 501c3. The other part of the request was to authorize the expenditure of \$12,500 for participation in Phase I, which included a market analysis, feasibility study, a master plan, and a site selection review to see if this project was a go or no go. He said he was asking the City, County and other partners to kick in a nominal amount to get this item going. The task force for retiree attraction wrapped up in May 2012 which came with 3 immediate and 5 short term recommendation. The immediate recommendations were on page 6-7: create a staff position to maintain a community portal for retiree information; that position had essentially been created. The second item was a marketing campaign which was also underway, with Kern Marketing. The portal would also be done by them so the look and feel would be the same. The third recommendation was to create an advisory board. That had been formed. An enhanced Douglas County Senior Services Board would take that on. As a governing body they had followed through on those 3 immediate recommendations. One of the near term recommendations, number 3, was that the city and county work with other stakeholders to create an intergenerational housing community within 5 years which was pretty aggressive. This was a big deal and a game changer that needed someone to drive it. They

could differentiate themselves with this. Dennis Domer had been leading an initiative called New Cities, about doing things to make a difference in the lives of Baby Boomers. It was identified as something that was going to the next level with this issue. The University of Missouri had done something that had generated a lot of grant dollars. He said he had a drafted an affiliation agreement with KU to do something similar in Lawrence. They had met with stakeholders and this was something they wanted to do. On page 38-39, the impacts of successful retiree attraction on the community could be seen. The University of Florida did something similar and residents of the community had given a lot to the Endowment Association. It had serious economic impacts. LMH might have heavy interest in being involved as well. He said his hope was to get Phase I funding secured, create the 501c3, and get the feasibility study going. In the end, they could decide if it would go on its own merits. He wanted it to be clear that they were doing much more than just legal services with our initial investment.

Mayor Schumm called for public comment.

Laura Routh said she appreciated the impulse, but thought they were putting the cart before the horse. This didn't meet the real needs of our current aging population. East Village provided more tangible services and they would love to receive this kind of seed money.

Carter said this would be a CCRC with a housing development surrounding it. They thought they would go well beyond those services existing today.

Dennis Domer said he had been working with the Villages with their New Cities project. The retiring generation was so big that they needed to do a number of things. They had done a number of things studying Boomers and they thought they knew what they wanted. It was a very big problem and he welcomed the community conversation on aging. Just because they did one didn't mean they shouldn't do the other. Lawrence and this country were not ready for the number of retirements that were coming. There were 50 other Universities that had done this. The KU Alumni Association did a survey of KU Alumni about Lawrence as a retirement community. It was overwhelmingly positive, except that Lawrence didn't have affordable housing

options. They had to work on the Villages, on retiree facilities in other parts of the community. It was a very important issue to consider and they needed to have conversations. They appreciated the support and interest of a lot of people in the community.

Carter said there was discussion about whether this would compete with other nonprofits in town. This wasn't like anything that was offered locally and would create new demand for people to move to Lawrence. This was a rising tide that would lift all boats and could raise the level of Lawrence as a retiree destination and would be beneficial for all service providers.

Schumm said thanks to Domer and others.

Moved by Carter, seconded by Cromwell, to authorize the City Manager to work with staff and/or outside legal assistance in establishing a 501(c)(3) non-profit corporation and to create bylaws for a Continuing Care Retirement Community (CCRC), and to authorize expenditure of \$12,500 for the first phase analysis of creation of CCRC. Motion carried unanimously.

D. CITY MANAGER'S REPORT:

David L. Corliss, City Manager, presented the report.

Eileen Horn, County/City Sustainability Coordinator, presented a report on sustainability efforts in the city organization. City staff members Kathy Richardson, Steve Stewart, Todd Girdler, and Jeanette Klamm presented sustainability efforts in their work groups. Scott White, Sustainability Advisory Board, presented on city engagement and outreach efforts.

Schumm asked how many new community gardens there would be this year.

Horn said 2.

Cromwell said he appreciated the work of Horn and others.

Schumm said City staff that worked with Horn also deserved a great thanks.

E. REGULAR AGENDA ITEMS:

1. **Considered establishing March 19, 2013 as the bid date for the Lawrence Public Library Renovation project.**

David Corliss, City Manager, presented the staff report.

Schumm asked for an explanation of the bidding process.

Corliss said the city hired BA Green as the general contractor. They were working with the architects to keep the project in scope and budget. They were also working with subcontractors on the costs for the various aspects of the project. There would be about 25 bid packages. Staff would encourage local contractors but they wanted the best and the lowest prices. BA Green and Gould Evans would work to keep all those aspects within budget.

Mayor Schumm called for public comment. None was received.

Cromwell said he appreciated all the work to date on this project.

Moved by Cromwell, seconded by Carter, to set the bid date of March 19, 2013 for the Lawrence Public Library Renovation project, if appropriate. Motion carried unanimously.

2. **Received recommendation from the Lawrence Cultural Arts Commission concerning the proposed establishment of a cultural district in Lawrence (generally bound by 15th Street on the south, the Burroughs Creek Trail on the east, the Kansas River on the north and Vermont Street on the west) and considered establishing a task force to make recommendations related to the cultural district.**

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

Patrick Kelly, Chair of the Cultural Arts Commission, said a few months back they received a request from a number of parties for consideration of creation of a cultural district. Their Commission met in a number of meetings regarding a cultural district, and recommended to the City Commission the creation of a task force.

Mike Amyx said he knew Downtown Lawrence was involved, and this was a way to enhance the cultural district and add to downtown.

Kelly said that was correct.

Susan Tate, Lawrence Arts Center, said she appreciated the initiative in requesting designation of a cultural district. This puts Lawrence in its rightful position as a leader in cultural arts. This helps us have a common language regarding how to sustain a vibrant, mixed use

community. It adds no expense, no additional regulations. The Arts Center supports the recommendation.

Mayor Schumm called for public comment.

Josh Davis, President of East Lawrence Neighborhood Association, said their neighborhood had signed on and they were excited about the opportunity. They were already culturally unique in East Lawrence and downtown, they were just changing the name and he wanted everyone to keep in mind that they wanted to do this in a way that was respectful to people that had been in their community for a long time.

Schumm said he thought the boundary should be moved west to Kentucky to capture the library and the Carnegie Library.

Tate said she agreed.

Amyx asked about the process moving forward in establishing the district and if they were establishing it tonight.

Corliss said the idea was to create it tonight and also create a task force to work on its development. A motion to establish the district was sufficient. A task force would fill in the details.

Schumm said there were two ways to go. Appoint a task force and have the task force come back with recommendations, but his understanding was that the arts community wanted to create it first and then have the task force work through how it would function in the future, to open up some grant possibilities. There were no land use recommendations, so he didn't see how that was harmful.

Moved by Cromwell, seconded by Dever, to establish a cultural district in Lawrence (generally bound by 15th Street on the south, the Burroughs Creek Trail on the east, the Kansas River on the north and Kentucky Street on the west) and authorize establishing a task force to make recommendations related to the cultural district. Motion carried unanimously.

3. **Considered the request from Health Care Access for the donation of City services in support of the Kansas Half Marathon and a temporary use of public right-of-way permit for various City streets from 6:00 a.m. to 1:00 p.m. on Sunday, April 21, 2013, including the closure of the 900 block of New Hampshire Street.**

Jonathan Douglass, Assistant to the City Manager/City Clerk, presented the staff report.

Nikki White, Health Care Access, said this was the largest race in the community benefitting a local non-profit and they couldn't accomplish it without city support. The purpose of the race was to fundraise, and also support of healthy lifestyles. They had everyone from 4 to 90 years olds participate. The event was beneficial to both HCA and the businesses in town. They wanted this race close to downtown to help those businesses. They had been working to finalize the route since September trying to readopt last year's route, which was our most successful one to date. They were very pleased for the help from the police department. This was the first year they were hearing that this was a hardship for the Lawrence police to have the manpower. The lesser routes had less interest from runners because they didn't showcase downtown and KU. We would love for this to be a keystone event for the Lawrence community.

Schumm asked if White was okay with the alternate route submitted this morning.

Scott Sweetland, Health Care Access Board, said the money from this provided health care to a lot of people in the community. They were willing to help with the cost of the manpower.

Tarik Khatib, Police Chief, said he didn't want the police department to be painted as the bad guy. He wanted to take a global look at the situation. They had 50-70 events per year and had challenges providing the resources for those events. Within a month and a half, they would have St. Patrick's Shamrock Shuffle, NCAA tournament, Kansas Relays, and the Earth Day Parade. In looking at staffing needs, they could only afford 10 extra officers. Whether there were 10 or 30 required they were all going to be on overtime. They were not trying to be obstructionist, but could only afford 10 extra officers, and that would be possible on the route they supported.

Sgt. Bordman, Lawrence Police Department, said he drove the new route today and it could be staffed with 16 officers and volunteers at some of the intersections where they had police in the back. He wouldn't suggest volunteers if he didn't think it could be safely done.

Schumm asked if that was both KU and LKPD?

Bordman said just LKPD.

Carter asked if 10 officers were the number LKPD could provide.

Khatib said 16 would be pushing it.

Corliss asked if Khatib was saying they couldn't do it.

Khatib said he was confident he could do 10 officers.

Corliss asked about sheriff's officers.

Khatib said they could talk to the sheriff's office.

Schumm asked if there were other tweaks that could be made.

Bordman said the major staffing needs were on 17th and a few other intersections.

Schumm said he didn't want to alienate people trying to get home, to church and to the store and cause a drop in public support for next year. He said there were a lot of churches that used those north south streets as access. That was one of the critical questions. They recognized the benefit to the community.

Mayor Schumm called for public comment.

John King said he wanted to talk about this but not in the context just of Health Care Access. He had a long term concern with the consistency. The public didn't know what to expect. He said with the agenda item as it came up, his concern was that the runners wouldn't want to continue doing those routes. The trails weren't designed for races. They couldn't have spectators there that make the run enjoyable. The current route meant they couldn't have spectators. He understood resources, but the safety and traffic issues seem to be policy issues. They needed to have a policy stating that it was okay for people other than vehicles to use the streets. People should expect that those things would happen. They should be looking at a

policy that stated they were going to do this the same way every year. The safety concerns were overblown. He wasn't buying the concerns about intersections. He would like to see routes that showcased the community.

Don Gardner said he was a retired police officer. He had lived in Lawrence for 69 out of 74 years. He would be the first to volunteer to help with this run. He would promote it as much as he could.

Carter said with 10 officers and six volunteers for this route, he asked if they could pull this off?

Khatib said 10 officers and 6 deputies from the sheriff's office, and volunteers needed for a number of other intersections.

Kim Johnson, Health Care Access, said they expected to have over 100 course monitors. She said they had more monitors than last year. They felt confident they could provide what was needed.

Schumm asked if they would be happy if they approved the amended route.

Kim Johnson said they would be very happy.

Dever said this was instructive to him. He thought it was a bigger issue to discuss where the resources would come from for the 60-70 events per year. The route looked like a nice one and it was a happy medium. They needed to discuss what they were willing to pay for and what they could expect from event promoters in the future. If it was the money that was the issue or if it was the number of officers, they needed to discuss it. This shouldn't be that difficult if they wanted to have these events in the community. This event generated \$36,000 more with a better route and that took a burden off the city. It was important to do these events right.

Schumm said it's a great problem to have but it was a money problem.

Carter said he had asked that whenever any of those events came to the City, to include how many officers and the approximate cost. He said they brought on some officers way short of what the City was told was needed. He said it was not that Khatib wasn't service oriented,

but the reality was that the City was pushed to a point to make decisions, if they weren't going to staff up that department. He said it was only a department of 150 officers and at 30 officers it was 20% of that department. He said the City was running too lean to do too much. He said staff needed to track those cost to see the overtime. He said the City Commission was approving a race route, but they didn't know what happened behind the scenes as far as what the Commission committed the Police Department to do that was already short staffed. He agreed that they needed to start thinking about these issues and charging events, certainly for profit events, and set the City a budget of how much the City could do, just because it was a reality for staffing levels. If these events were requiring more staff, than revenues from the events could help off-set in getting staff.

Amyx said they had been talking about this issue and knew they needed to have this discussion sooner than later. He said the City's estimate for this event was \$6,000 and asked if that included the Police Officer that would be brought in.

Jonathan Douglass, Assistant to the City Manager/City Clerk, said the estimate was based on last year's event which was the actual cost that was reported from City departments.

Dever asked how many officers were on staff last year.

Khatib said last year, they had 30 officers, a supervisor, 10 police cars and the cost was \$8,200 just for the police department.

Schumm asked if there were police department costs for barricades.

Douglass said there were barricades that were dropped off, but the Police Department costs were much greater.

Schumm said the City did not have a policy in place and it was like what comes around goes around. The more the city did to benefit Health Care Access, the less they get asked to support their endeavor because they were engaged in the health of the community. He said in visiting with Health Care Access, their calls were up this year and there were costs associated

with that. He said until the City established a firm policy, he would like to back Health Care Access without charging anything for this service this time.

Cromwell said he agreed with the Mayor that this was not the time to spring those costs on Health Care Access. He said what this meant was basically the City was donating \$10,000 or more to whatever organization in order to help with fundraising. He said if the City decided to donate \$10,000, he suggested just donating \$10,000 to the organization and charge for the services. The City had a competitive process whereby a variety of worthy organizations come to the City to ask for money. Unfortunately, from time to time, when it was off the City's budget season and all of a sudden there was an emergency. He said it was like a continual emergency request with all those different groups in an effort to help their fundraising. He said that was not how the City should do things and needed to charge for the services the City provided and the organization needed to decide if it made sense from a fundraising point of view. He said quite frankly, if it didn't pencil out well for an organization, then they needed to find a different fundraising tool because it was not appropriate.

Carter said he agreed on going forward with this and then think through how they were going to address it in the future.

Moved by Carter, seconded by Dever, to approve a temporary use of public right-of-way permit for various city streets (the amended route) from 6:00 a.m. – 1:00 p.m. on Sunday, April 21, 2013, including the closure of the 900 block of New Hampshire Street and to approve the donation of City services. Motion carried unanimously.

4. **Received staff memorandum and revised curbside recycling proposals. Considered authorizing staff to negotiate with Hamm for Materials Recovery Facility (MRF) operations under a recycling proposal with the City collecting curbside recycling on a bi-weekly basis.**

Ed Mullins, Finance Director, presented the staff report.

Dever asked if Hamm was proposing to take the City's solid waste.

Mullins said yes. It would be a transfer station for recyclable materials with solid waste going to the landfill.

David Corliss, City Manager, said there were a number of variables to weigh. He said he and staff had a greatest level of comfort in the City providing bi-weekly collection and taking it to a facility operated by Hamm. He said there were high quality proposals and the City could not go wrong with any of the options, but the City needed to make a choice which was a challenge. There were a lot of details to be worked out. He said the next step would be to negotiate a contract with Hamm to meet all the City's needs and the Commission's desires with that contract.

Mayor Schumm called for public comment.

Mike Utz, Ripple Glass, said he wanted to talk about comingling of glass. They spent quite a bit of time in the mid-2000's working on their concept of bringing their operations to Kansas City. One of the best practices that became apparent was collecting glass separately. It's important to know that glass was a low value commodity, and keeping the contaminants out allowed it to work financially. Their experience with comingled material was not good. They haven't found any they had been able to use in their plant. Every time they tried to comingle single stream materials their quality control dropped off. In Rhode Island, they had gotten some public outcry recently, where the glass material didn't end up as being recyclable because it was contaminated to a great extent. He urged the City Commission to keep glass separate from other recycling streams.

John Ross, local business person, urged the City Commission to approve the city manager's recommendation as written. This was economic development at its finest. Hamm's was a local business that would buy a \$1,000,000 building, spend \$2 million to develop it, and hire 20 long term jobs. This company was recycling before it was cool, and should be rewarded for their innovation. This was the way to keep recycling services local with local control. It supported investment in the Lawrence Community. It generated tax dollars in Douglas County.

This issue had been studied enough. He strongly urged the commission to move forward with this proposal.

Charlie Sedlock, Hamm, said their proposal was the only one that accomplished all of the goals of the city. It kept Lawrence drivers and equipment here. It didn't outsource any jobs, which the other proposals would. Their proposal came with a viable option for existing recyclers. He said KU, Haskell, Hallmark, Vangent and others would all be able to be more sustainable by having a local facility. Our facility allowed a platform for future growth for other waste – construction, food, C&D materials going back to Habitat Restore in this community. They had the most sustainable and viable option for this community.

Carter asked Sedlock to comment on ways to increase the quality of the glass that was recycled, such as slowing down the belt, etc.

Sedlock said glass should be pulled as early as possible.

Carter asked if Sedlock if he looked at other glass recycling facilities and felt confident.

Sedlock said yes, they had visited many recycling facilities across the country and were confident in their abilities.

Bryan Neppel, Waste Management, said the City Commission had a daunting task. The first question to answer was whether glass should be included or not. If wanting glass in the waste stream, single stream was the most common way and more and more communities were going to single stream. The disposal diversion would pay for itself. Only two of the proposals included glass. In those proposals someone was promising to build a facility and add jobs in the community. He didn't want to downplay the importance of creating jobs, but said it was all speculation. There would be three MRF's within 70 miles, and someone was going to lose. He would hate to see Lawrence being the one that was not successful. Waste Management was the proven leader. They had been very transparent with their numbers and rates. They had the highest estimates on recycling rebates and were the most lucrative to the city. Our proposals were all very close. Look at the best, most economical solution to the residents and the city.

Paul Davis, on behalf of Deffenbaugh, said Deffenbaugh had upwards of 4,300 households subscribing to their service and they were proud of their efforts. They participated in the Solid Waste Task Force and heard loud and clear the desire for the city to maintain control over the collection of solid waste and recyclables. They had known for many years that the City's Solid Waste Division did a great job and didn't want to replace that. They wanted to partner with the city and wanted the city to have the ability to maintain control and outlet for its recyclables. The dilemma was where to take their recyclables if the city didn't want its own MRF. The market for was becoming saturated. Waste Management had built an MRF in Topeka. There were two single stream MRF's in the Kansas City area. He understood the city had a long term relationship with Hamm, but they were wondering how the math worked on the amount of tonnage Hamm required and what the city projected. They were not making a last ditch attempt, but this had been an evolving discussion. They had tried to put proposals on the table reflecting where the discussion had gone. There were concerns over the cost of transportation and had proposed a transfer station to address that issue. In transferring recyclables in a transfer station rather than a landfill, the costs would be reduced. They would save the city significant dollars if they wanted to use a transfer station for solid waste. It would be a \$250,000 saving for the city, not including fuel or other things. Savings could approach \$500,000. He said he was pleased that the gentleman from Ripple Glass was present because their experience with segregating glass was the same. Mike Clagett, Deffenbaugh, would talk more about that. He asked that the Commission allow Deffenbaugh to continue to be part of that discussion to try to find the best solution.

Mike Clagett, Deffenbaugh, said he thought Waste Management was clearly the huge recycler in this world. They had a lot more MRF's and process more tons. They believed that glass should be kept separated. However, in looking at four day a week collection, it suggested that equipment was orphaned one day per week. There was a way to collect glass separately if the city was divided in quadrants and collected glass in each quadrant once per month.

Schumm asked if Clagett was suggesting that each Monday, they would pick up glass, or once per month per household, and pick up the remaining every two weeks.

Clagett said yes. He said at his house, one time each month he dropped off his recyclable glass at Ripple's. If someone needed more capacity than that, they could keep the once per month collection, but put out another bin.

Sedlock said he had been a partner with the community for 30 years and a member of the community for 60 years. They were very committed to the community. This was not speculative.

Carter said there had been some changes to scale or staffing that allowed them to change their proposal.

Sedlock said the risk was Hamm's, not the city's. They did change the processing fee and rebate structure so there was less risk to the city and more rebated. They would go out and seek other communities as well. They had always brought competition to the waste management field and would continue.

Dever said he was confused by some of the information so he reached out to some other MRF's in the region. He had gotten a different story regarding glass and the ability to do single stream. There was a lot of old information out there. He thought there were a lot of facilities that were very productive that took glass. He said they bought equipment specialized to it and they were successful finding buyers. He asked them point blank if they had problems finding sellers for their glass due to contamination. These were facilities six within seven hours away, not on the other side of the country. He heard and understood the Ripple Glass argument and respected it. They would capture a lot more with single stream. The whole thing needed to be as compact and environmentally sustainable as possible, single pass and single stream. He said he was convinced they would work with a MRF on glass. If a MRF was built new, they might build it differently than Deffenbaugh did 5 years ago. They were in a unique position to

have someone who would take glass in a single stream. He said he had tried to get a third party perspective and they both said it was possible to get a good product at a good price.

Cromwell said he asked staff as well about glass processing and it was confusing. He saw lots of literature, and heard different things. The technology existed to separate glass. Whether it did it well enough for Ripple he didn't know. If they could accomplish keeping the jobs local and accomplish the recycling goals they had, that was important. There were two issues which were glass and expanding this into commercial. That offered the ability to have a dumpster behind a drinking establishment on Massachusetts Street. Look at the dumpsters they had now, it all ended up in the dumpster. If we have single stream with glass, they were being conservative, but their tonnage would be at 2000 tons in five years. Those tons were a tremendous amount of savings for the City. Lawrence had a reputation as a progressive community, and when people hear that Lawrence didn't have universal curbside recycling they were amazed. Being able to provide that to our citizens for less than three dollars was amazing. He said he felt an additional study wasn't needed. The public process had been tremendously inclusive and transparent. He said he was looking forward to this proposal and starting negotiations with Hamm. They had a year and a half waiting period but that would give the city time to put together a good program.

Carter said he was concerned more on the overall value than what was the least expensive option. He said he had discussions with Hamm about tonnage.

Dever asked Carter to explain how Hamm could reduce tonnage.

Carter said by adjusting hours and the scale of the plant itself which would be a slower ramp up, but they believed they would get to the higher tonnage in a few years. He said it was important that it was being sorted out locally especially if going commercial. It was not a minor deal that they were actually able to pull things out from local construction projects or demolition projects and repurpose those recyclable materials locally. He said keeping and adding jobs was an important factor. He said his main goal was to find the best proposal, but as long as it made

the city very competitive around the region, and this did at this price, he was comfortable with moving forward with negotiating with Hamm.

Amyx said he had a lot of time to look at this. He still had concerns with the small haulers. He said he hated to see losing those haulers, because they stepped up when the City wasn't recycling. He mentioned that Neppel had stated not to get hung up on the final price to the home. He looked at the final cost and they needed to recognize that there were people who would have a hard time with the utilities and recycling charges. He appreciated the Vice Mayor's work in calling other facilities. At this point, he didn't see harm in trying to negotiate with Hamm. He had gotten a lot of emails from people very happy with the service from Deffenbaugh and he was a little concerned. He said he still thought they needed to work the best deal. It's a tough call because it's the right thing to do, but he realized the limits families had financially. There was a cost involved and it's a cost per household.

Dever said he thought by taking this step they would create a protective barrier to how much it was going to cost to dump in the landfill. They were going to be managing how much goes to the dump. Moving this direction was more of a hedge. It guaranteed some of the rates. If our waste stream volume went up, the cost would get passed on to the consumer, so this provided a hedge. This was more, but would hopefully be more stable in the future.

Schumm said he thought glass was needed in the single stream. He appreciated Deffenbaugh's proposal, but if separating glass, people would have three containers. Putting out glass once a month was a little problematic. He suggested keeping it nice and easy and agreeable for everyone. He said he appreciated Dever's research. He liked the idea of the City having its own MRF partly in Douglas County. He just felt like he was going to back the staff recommendation for those reasons. He thought all four companies were solid but this was the best thing for us.

Cromwell said one thing to keep in mind regarding cost was the idea of a reduction of monthly cost by moving down to a smaller container. In his block, everyone had shifted to a

smaller container. He said when recycling, it limited what a person would throw away. They also had a program for elderly low income to help insulate a vulnerable population from cost increase.

Amyx said he was not going to stand in the way of negotiating with Hamm, but he was going to have to do some soul searching on the costs they would be placing on people. He said it's only \$16/month, but those were tough numbers for a lot of folks.

Moved by Cromwell, seconded by Carter, to authorize staff to negotiate with Hamm for Materials Recovery Facility (MRF) operations under a recycling proposal with the City collecting curbside recycling on a bi-weekly basis. Motion carried unanimously.

The City Commission recessed for a short break at 9:25 p.m.

The regular session resumed at 9:37 p.m.

5. **Considered the following items related to the Langston Heights Addition:**

- a) **Considered rezoning, Z-12-00229, approximately 6.491 acres from UR (Urban Reserve) to RM12D (Multi-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading, Ordinance No. 8836, to rezone (Z-12-00229) approximately 6.491 acres from UR (Urban Reserve) to RM12D (Multi-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended. (PC Item 3B; approved 6-3 on 1/28/13)**

- b) **Considered rezoning, Z-12-00231, approximately 9.122 acres from UR (Urban Reserve) to RS7 (Single-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading, Ordinance No. 8837, to rezone (Z-12-00231) approximately 9.122 acres from UR (Urban Reserve) to RS7 (Single-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended. (PC Item 3C; approved 6-3 on 1/28/13)**

- c) **Considered rezoning, Z-12-00232, approximately 6.48 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading,**

Ordinance No. 8838, to rezone (Z-12-00232) approximately 6.48 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive. (PC Item 3D; approved 6-3 on 1/28/13)

- d) **Considered rezoning, Z-13-00015, approximately 5.471 acres from UR (Urban Reserve) to RS5 (Single-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, as shown in the preliminary plat of Langston Heights Addition. Submitted by Landplan Engineering, for Langston Heights, LC, property owner of record. Adopted on first reading, Ordinance No. 8839, to rezone (Z-13-00015) approximately 5.471 acres from UR (Urban Reserve) to RS5 (Single-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive. (PC Item 3E; approved 6-3 on 1/28/13)**

Schumm asked that commissioners disclose their ex parte contacts on these items.

Amyx said he spoke with Mark Crabtree about this project. He had numerous emails from people, some he responded to and some not.

Corliss said the key was if there was any information from those contacts that wasn't part of the public record, it should be disclosed, so everyone had the same information.

Amyx said along those lines there was nothing discussed that wasn't already in the public record.

Dever said he spoke with Tim Herndon and heard a description and history of the development. He spoke with Andy Pitts today, just a conversation about the project.

Carter said he had spoken with Pitts and Herndon. There was nothing in those conversations that was not in the record, just more in depth perhaps. If anything came to mind that was new information, he would disclose it later.

Cromwell said he didn't have any ex parte contacts that had information that wasn't in the public record already.

Schumm said he spoke with Herndon, and had a lot of other emails that he had responded to by saying that he couldn't say anything more until after the discussion. He had nothing to add to the public record.

Sandra Day, Planner, presented the staff report.

Schumm said regarding the north south street that would eventually be built which would be Renaissance Drive, he asked where would that go to the north?

Day said it would curve around and tie into Ken Ridge Dr. The parcel to the north was undeveloped so they didn't have a site plan for area. Future development application for that would include some kind of connection.

Schumm said that's a given that someday it would carry traffic to the north.

Day said yes.

Amyx asked if this was part of the original Diamondhead Development.

Day said no.

Schumm asked the applicant for his presentation.

Tim Herndon asked how much time was allotted and heard they might have 15 minutes.

Schumm said they could have 15 minutes, but he hoped they could do their presentation in less time.

Herndon said it was a \$27 million dollar project which was all local revenue and cash flow. It would likely generate over \$2 million in taxes. It created roughly 70 jobs per unit over 5 years. Residual income after the 5 years build out was over \$4 million in local revenue, \$1 million in tax revenue. This was dependent on no TIF, no tax abatements, and no benefit districts. It's all the applicant's funding. The applicants were home town people investing in the community. Back in May or June they started working on this. At that time, their number one premise was to meet the comprehensive plans and other guidelines so it could be fully supportable. It was our intention and that was the kind of plan they crafted. There was push and pull from staff. When they initiated this work they expressly verified that 6 units per acre was their threshold for mixed use development in this area. A big issue was the traffic aspect, and making sure they didn't exceed the thresholds. He presented various iterations of the plan. He said he wanted to close by introducing Brian Sturm with Landplan.

Brian Sturm said he wanted to speak briefly about community design and how they treated the design of this community. He said Levittown, New York, was a famous community that was developed after World War II and was considered the genesis of “American Suburbia” and were seen as revolutionary in their ability to provide affordable housing of the masses. Since then, it had become, for good reason, vilified as a symbol of homogenous suburban sprawl and what not to do in the design of residential communities. He presented a map of West Lawrence which was comprised of the most recent residential development in this city. He said with 50 years removed from development of places like Levittown, they could see that Lawrence was certainly striving for something more than straight suburban homogeneity. While West Lawrence was dominated by large pockets of single family residential development, it also harbored significant pockets of multi-family housing and commercial development, generally adjacent to busier streets. There was also a greenway system that used open space for providing connections between uses as diverse as single-family, multi-family housing, institutional and even light industrial uses. It was within the geographic and historic context that the development group designed Langston Heights Addition. He said the City and County through Horizon 2020 had developed standards to which they believed residential neighborhoods should be upheld. It was with those standards in mind that Langston Heights had been designed. He said this development sat at the crux with very divergent land uses with the SLT to the west, a highway that would carry more than 20,000 cars per day when it was completed all around the south and east side of the City. On the north side there was a vacant piece of land that was zoned RM24 which was the densest piece of multi-family housing in West Lawrence and on the east was an existing subdivision, Diamondhead, of single-family of detached homes. This development responded to all those uses by providing transitional zoning. The zoning request reflected a need for transition in that area. The character and appearance of existing residential neighborhoods would be preserved by this plan and extend westward via compatible architecture and covenants. He said Ms. Day touched on nodal plan

which called for the majority of residential uses to be low density single-family. He said given what had been put forward at this time, it was clear Langston Heights design could conform to this plan, facilitated and executed the plan by providing single-family as well as multi-family as a buffer against the SLT. Horizon 2020 further clarified what was to be defined as a neighborhood. Langston Heights was developed to comply with all the density and other standards of the code which included setbacks, sidewalks on both sides of all streets, and pedestrian non-motorized route that would take people to the SLT rec path. He said there had been discussion about West Lawrence being dominated by single-family, but when traveling around the arterial routes there were pockets of transition whether it was in RM12, RM12D zoning, Industrial, Planned Commercial, Planned Residential, etc. He said when inserting Langston Heights into that pattern it was clearly appropriate in how it fit into the fabric of West Lawrence zoning. In terms of the transition it would provide from the SLT, eastward to the existing Diamondhead neighborhood. He said the look of the homes was predicated on covenants and would be submitted and recorded with the final plat. He said he wanted to make clear that those covenants spell out the architectural guidelines that would create those homes. He said the developer wanted to start from that point and create a product that was just as nice and certainly compatible with everything else seen in West Lawrence. He said he wanted to emphasize that this project was a revision for the better based on everything that was put forward for this development either in 2006 or the past couple of months. There was a development before the City Commission that provided an unprecedented reduction in traffic impact on the Diamondhead neighborhood. This development would send fewer trips through the Diamondhead neighborhood than anything that had been put forth previously which included the 2006 plat. There was an addition of a 50 foot landscape buffer up against the SLT that wasn't at that location before, a provision of sidewalks on all sides of the street, a connection to the SLT rec path which was the only connection between 6th Street and Clinton Parkway, a design of the street network that would calm traffic, a design that promoted the extension of low

density residential land use to the south as prescribed by the area and neighborhood plans, removal of all construction traffic from the Diamondhead neighborhood, extension of Renaissance Drive to Bob Billings Parkway, removed duplex lots that were once platted to be adjacent to the Diamondhead neighborhood, increased buffering from the SLT to the west and from the RM24 district to the north, and proposed a decrease in diversity of housing types and economic levels. Additionally, the plan to extend Renaissance Drive provided relief of congestion associated with Langston Hughes Elementary School. The school district had the ability to provide a second access to that school to this drive, eliminating congestion that currently plagued the Diamondhead neighborhood. The project came to the City Commission with a 6-3 vote for approval by the Planning Commission and the City staff's full support.

Dever asked who owns the land south of the development.

Sturm said Alvamar Incorporated and USD 497.

Dever asked about building a road on someone else's property.

Sturm said there was a memorandum of understanding for the construction of that road at the time of the development of the SLT/Bob Billings interchange.

Mayor Schumm called for public comment.

Andrew Pitts said his family lived on Palisades Dr. This development was better than when it started. Both the developers and neighborhood have important roles. Neither was evil. More communication could occur. He wanted to talk about RS5 zoning. They heard about low density. RS5 did not qualify as low density. It was not consistent with the character of the neighborhood. What happened to the south as well as the north? This development sets precedent regarding what developed to the south. He asked if there was potential for the southern part to change to RS7 or RM12D to the north. They had heard a lot about the design intent and how it would match the character of the neighborhood. He was confident that the developer could build a quality product, but the size of the lot and the homes was the question. They encouraged development and wanted to ensure the level of the quality, but didn't have the

answer on how to do that. He would welcome continuing dialogue between the neighborhood and the developer after tonight.

Erica Gudenkauf said she was going to discuss the traffic patterns and behaviors. There had been statements in past meetings with the developer that connecting Renaissance Drive to the south would alleviate any traffic behaviors given the majority of Lawrence land areas to the south. Traffic studies were done with formulas and algorithms that the traffic study came from. However, they failed to account for actual human behavior and how a person would act in their daily life getting to where the amenities were. She said without Renaissance Drive connected to the north, as a stipulation for the development of the RM12, Crystal Lane would still get all that traffic that went from the north on a daily basis as a regular part of living. She showed a map of two routes to get to the north which was the route going through the Diamondhead neighborhood on Crystal Lane and the other map was going south and taking the bypass. She said grocery, gas stations, restaurants and the quickest way downtown was to the north and down 6th Street. She asked the Commission to think about if living in this neighborhood which way they would go. Another aspect to think about was to get to George Williams Way on 6th Street from Langston Heights was Crystal Lane which was .65 miles and going south it was 1.28 miles taking Renaissance Drive down south.

Michael Whittlesey said one of the expectations they would like to see was alleviating the traffic connection from the higher density neighborhood into their neighborhood. The comp plan discouraged designing traffic flows from high density through lower density. The new development did not meet all portions of H2020 and he would ask the City Commission to consider that. If the Commission approved this rezoning, they would like the Commission to condition that on Renaissance Drive to be connected to the north and south before construction began. Also, develop a construction road for construction traffic. If they increased traffic near the school, it would be a major safety issue. They wanted assurances that developers construct a construction road to the south before beginning construction.

Eric Boedeker said before building they referenced all the existing documentation, including the 2006 plat. That was the basis for their understanding of the type of neighborhood they were moving into. The applications significantly alter the plan they were moving into. Staff had made recommendation that the plan before you should be approved, but the plan called for low density single-family with a small portion, medium density. This did not have a small portion of medium density. The transition zones from east to west were all in a small area. They would like to know specifically what would go into the neighborhood. They would request some kind of planned development. The covenants should match Diamondhead. They would like to see traffic calming devices.

Mark Crabtree said he would like to say they were not there yet, but they were close. They left the Jan 28th meeting with unanswered questions for the neighborhood and for 3 of the Planning Commissioners. He said RM5 didn't have any conditional zoning and needed some help with answers. He said it might be that they return to the 2006 plat which was RM7. They appreciate eliminating the 4-plexes and access to the south. He said they didn't know who would build the roads to the north and south. They would like to see some phased developed. Maybe the row houses aren't completed until Renaissance Drive was connected. If they could have phased construction, maybe they could avoid people cutting through the neighborhood. Conditional zoning could keep the neighborhood very palatable to the existing neighborhood. The neighborhood had four requests: Access to the north and east, less density, conditional zoning, and phased construction.

Schumm asked about RS5 zoning and where that was seen around town.

Day said there were several areas around town, some in the older portions with smaller lots.

Schumm asked if staff had seen this in new developments.

Day said on consent tonight to the east in Fairfield Farms.

Schumm asked if the Planning Commission talked about requiring the road to the north to be complete prior to the development of this project.

McCullough said they discussed it with the applicant and they didn't really have the commitment from the owner to the north.

Schumm said that could not be forced.

McCullough there was an agreement at the Planning Commission level not to make it a condition of approval, understanding that it would need to be obtained through the City's eminent domain process. He said they didn't talk in that type of detail, but they were accepting of the discussion that there was some commitment to the south, but not to the north.

Amyx asked if the compromise at Planning Commission happened after public comment.

McCullough said yes.

Amyx said after the public comment was there general discussion about the compromise that had been reached, but without further public comment.

McCullough said as he recalled there was an agreement to public comment after that. During public comment there were at least 2 plans presented by the neighborhood and this came close to the plan Mr. Pitts presented with RS7 and the compromise was RS5.

Carter said from a traffic standpoint, could you elaborate on how single-family zoning generated traffic compared to multi-family.

McCullough said typically multi-family produced less traffic.

Carter said it was different than what most people thought.

McCullough said the city accepted the traffic study because the local roads could handle the traffic. If it had all developed together they probably wouldn't be having this discussion because the roads were designed to handle the traffic.

Carter said with Renaissance Drive being completed to the south versus going to the north, he asked if that was a reflection of the willingness of the people on the south to talk to Herndon.

Herndon said the people at the southernmost that Vice Mayor Dever asked about was a cooperative project between KDOT, the school district, and Alvamar which was one leg of the completion of that road. The next leg of the completion of that road would be directly south of Langston Heights Addition. Although the property was presently owned by Alvamar Inc., RSR had the option to purchase it and first right of refusal. That completed that roadway segment. The roadway to the north was owned by another entity that was presently not interested in developing, selling, and not within the reach or purview to work something out.

Herndon said with the original plat submittal without a north or south street, was fully vetted and reviewed and approved by the city. It was strictly a subjective response to negotiate with disparate property owners off-site for an extra half mile of road. Finally, the old plat that was referred to by the neighbors regarding the type of traffic they thought would be generated when they moved in. He wanted the Commission to very carefully consider this fact. Through their own permutations in response to changes by the neighbors, the plat today generated less traffic through Diamondhead neighborhood than the plat that was approved in 2006 and expired in 2008 and certainly less than the early iterations of the plat they had discussed with the city, all of which had approved traffic studies and maintained the level of service, safety levels, and were endorsed by the School District. Their provision, by entering with the School District to extend Renaissance Drive to the south, made possible that connection from Langston Heights to Renaissance Drive that would further alleviate the existing traffic problems on the front of Langston Hughes on George Williams Way which were of no making of this application.

Schumm said the original plat that didn't get filed had 85 units on it.

Herndon said the original plat had 102 units.

Schumm said he counted each duplex as one, but they were one lot. Without the row houses there were 89 units. Once the road was built to the south, it was going to take a lot of the traffic out that way. Did the 2006 plat require the road to the south?

Day said no.

Schumm said so the traffic would have gone through Diamondhead.

McCullough said yes.

Amyx asked if there was developable land to the south.

Herndon said yes. Bear in mind when Renaissance Drive was extended to the south, the dynamic of traffic from Diamondhead through this neighborhood would probably be far more pronounced.

Dever asked if anyone present lived on Diamondhead Drive. No one responded affirmatively. Dever said there were 50 households immediately adjacent to the neighborhood on the east and asked if those households had an impact on the neighborhood? He said he was trying to figure out how those people drive and flow through the neighborhood.

Pitts said one of the early discussions, with traffic through the local streets from the medium density, was that there was direct connection from that multi-family directly to the collector. That traffic directly exited onto Bob Billings.

Dever said those were important points, and the developer asked if those had an impact. There was already a similar neighborhood on the neighborhood traffic grid. He asked if those had an impact on traffic through your neighborhood. In his estimation from knocking at every door in that community two years ago, he didn't see much impact.

Pitts says a lot of it stems from the row housing and duplexes. There were concerns for rental traffic, which was a different kind of driver than a single-family driver. There was a discussion whether the single-family versus multi-family traffic counts were different in our town than others.

Dever said it was more complex than it appeared.

Pitts said correct. He said in looking at the 2006 plat it was more than just the traffic, it was also the implication of the type of zoning that was applied within that plat and was primarily RS7 which was mostly single-family with a few duplexes.

Schumm said someone said that they all relied on this plat. Where did you get the plat if it never was filed?

Pitts said he called LandPlan. He did research based on what he knew what was out there. He thought others relied on their builders.

Amyx asked if they had any trouble with RS7.

Pitts said no.

Amyx asked about the row houses on the west.

Pitts said most of them had come to an agreement that there needed to be some sort of a buffer to K-10.

Amyx said that's right and as long as Renaissance Drive was extended to the south at this point, they were fine.

Pitts said the discussion had been with the idea of connecting it to the north end to the south would be the ideal situation.

Amyx said right not they might not have the possibility to connect to the north.

Pitts said correct.

Amyx said the problem was with the RS5 and the RM12D.

Pitts said his specific issue was with more of the RS5. He said with the RM12D in thinking about the mix in trying to create the buffer from the row houses in.

Amyx said looking at the plan, moving RM12D to north and south and single family in the middle would be RS7.

Pitts said yes.

Amyx asked what the change in the density was.

Pitts said he thought it lost 4 lots on each block.

Amyx said 4 lots per block.

Someone in the crowd said 1 lot per block, 4 lots total.

Schumm asked what Pitts didn't like about RS5.

Pitts said the issue he had with the RS5 was the size of the development that would occur on that lot and the potential to change the character of the existing neighborhood. He said there was a possibility that with the smaller lot size it would potentially change the property values of the neighborhood. He said it was maintaining the level of quality that the developer had outlined both within the covenants and the renderings that that would be carried through. He said they could setup a set of covenants that they had so much materials on the front of a structure, but what was the actual structure going to become.

Schumm asked if Pitts was afraid the size would be considerably smaller than the adjacent neighborhoods.

Pitts said they were going from lots that were roughly 74 to 80 feet wide to 51 foot wide lots. He said it would be a significantly smaller house.

Amyx asked if Pitts was afraid it would be more of a rental property.

Pitts said his concern was whether it changed the character of the neighborhood and the property values.

Schumm said there was a double row of similar homes as a buffer. He was not convinced that RS5 had that much of a negative influence, and if that RS5 zoning did, it would be still separated by two rows of houses.

Carter said regarding the Mayor's comments, he said if they were that concerned with RS5's impact on home values, he thought there should be more concerns that right adjacent to that, those RS5's about RM24, the most intense district. He said they were putting RS5 and RS7 to buffer from RM24 and RS5 and was more attractive to the boomer. They were not looking for a huge footprint and maintenance. Covenants protect the quality of the homes. Assurances regarding the roads, and the covenants, were big steps. A slow transition approaching the highway and RM24 was appropriate. He said he didn't question the traffic study. One Planning Commissioner did, but they vetted the studies. Multi-family actually generated fewer trips. There was no question that the traffic would increase no matter what was

built, but it's not an issue especially with the road to the south. Things to the north might build quicker anyway with Rock Chalk Park going in. The averaging of the six units was consistent with H2020 as well. RS5 wasn't as scary as people were thinking due to the covenants. There was a smaller footprint and probably a lower price to attract younger families or retirees.

Cromwell said he appreciated the neighbor's quality presentation. He appreciated the neighborhood and developer tossing iterations back and forth and he saw this as progress. Now they were seeing something that no one was 100% happy with. He said this was a very small project in the grand scheme of things to have so many different types of housing in it. It is a creative solution to buffering from the highway and the RM24. It was always hard when they were adding from a vacant field to housing. Traffic's going to increase, but he said he stood by the studies. He said he was okay moving forward.

Amyx said the only difference was with the RS5 taking Renaissance Drive to the south would be a trip all the way around and traffic would probably go to the east instead. If they changed the RS5 to RS7, he was okay.

Dever asked how that could be done. He asked if Herndon could comment on any further reduction in the number of lots, and the need for the small lots (50x125).

Herndon said with the new development code that was adopted in 2007 there was the addition of RS3 and RS5, two single-family detached zoning districts that did not exist. If they keyed that back into the earlier presentation and Levittown, countless, nameless, faceless suburban sprawl, and single family homogenies neighborhoods that the comprehensive plan encouraged that they get away from and encouraged more transition, it was the RS5 that was the vehicle that enabled them to do that. That did get them from the single family lots further west toward the SLT. He said Diamondhead's lot sizes were 70 foot wide lots. There were a couple of lots in that subdivision that deviate from that. The strip of single-family RS7 adjacent to them, that they were building closer to the freeway, was 74 and 78 foot lots. They were taking their covenants and building upon them. He encouraged everyone to take a look at the

review of the draft covenants that were submitted, but not recorded yet. He said they took Diamondhead's covenants and build upon them, thereby assuring the integrity and character was preserved. The elevations on the streets scape seen, pertained to the RS5 lots, those were 50 one foot wide lots. Old West Lawrence was inundated and every plat was 50 foot lots. The idea of getting rid of those because of some other perception didn't seem feasible after 4 plan changes. There were a couple of rows of duplex that they were asked to consider taking those duplexes out and installing single-family which they did. He said that they did it in a way that promoted that diversity, gave them the transition, which led them to the freeway. He said if they did go from RS5 to RS7, they would be cutting out two RS5 lots one each side of the street. He asked what good was that for anyone.

Carter said as conditions of this conditional zoning, he asked if Herndon and his client would be acceptable to say that Renaissance Drive to the south was completed before row houses were done.

Herndon said that was already a condition of approval

Carter said conditioned that those covenants be filed or submitted.

Herndon said he would not let that get in the way of proceeding.

Amyx asked about the size of the house that could be built on RS5 versus RS7.

Herndon said there was almost no limit to the size that could be built because the building envelope could be 2800 square feet. Referring to the covenants might alleviate some concern. A one story dwelling could be no smaller than 1400 feet. He said for Langston Heights they were saying 1500 feet, so they had increased their minimum. As far as RS5, our covenants say the minimum was 1300 for one story and 1500 for two stories. He said for RS5 those were only 100 square feet less than the RS7 in Diamondhead.

Carter said just from a timing standpoint, first of all he appreciated the effort to get covenants already because he knew it was well ahead of time, but that was just one of the big concerns which was from a quality standpoint. He said he was hearing Herndon say that they

would build on the covenants of Diamondhead. He said the RS5 wasn't a concern to him anyway. He said certainly if they could assure from a covenant standpoint, they would be at least as stringent as Diamondhead. He said this was a preliminary draft of the covenants and didn't know if anyone else had an interest in making that a condition, but it might be one way of alleviating concerns of the neighbors.

Herndon said he would not let that come in the way of proceeding.

Amyx asked about the size of a house that could be built on RS5 as compared to an RS7.

Herndon said there was almost no limit to how big it could be because the building envelope on a RS5 lot was 2800 square feet. He said someone could buy one of those lots and build a 2800 square foot rancher with no basement and no second floor. He said it might alleviate concerns by referring to the covenants.

Amyx asked if those conditions would come back to the City Commission for final approval.

McCullough said covenants and conditions were one of those things that the City wasn't typically a party to. He said he believed, with the applicants volunteering of the conditions, staff could see to it that they were filed with the plat and they could be reviewed to assure the filling of those conditions was meeting the intent of what was being represented. He said staff typically wasn't a party to the revisions in the future. Staff regulated the City's code, but not private covenants.

He said he thought the city had a firmer position in requiring a construction access road, but the expectation that staff was out there monitoring construction traffic through the existing subdivision would be a high expectation. There would be any number of contractors and subcontractors coming and going and they would find their own ways to the construction sites. Certainly if there was a road there for the heavy construction and the construction of the roads,

they were more apt to see construction traffic move through a construction road, but pass that there was no reasonable or practical way to monitor that.

Schumm said he drove around out there and there are quite a few homes under construction, so it's going to be hard to monitor whose truck was whose.

Amyx said regarding conditions, if Herndon's client wishes to sell the property, he asked if that future buyer had to follow any conditions that would be placed on this property.

McCullough said they were governed by private means.

Amyx said he believed the applicant would follow everything they said they would do, but his concern was future buyers and how that would be protected.

Herndon said the development group was reputable and their interest was a marketable, sellable product. Secondly, once the covenants were recorded with the final plat, and one individual bought a lot with those expectations, that was a tort or civil action.

Matt Gough, Barber Emerson Law Firm, said they were talking about restrictive covenants and it existed on the theory of record notice. He said any buyer would have record notice of the fact that those covenants had been recorded and it has not, to date, been the City's practice to get involved in the particulars of those private covenants, except in very limited circumstances that did not apply to this.

Schumm said he understood, but the developer was offering those covenants, but how would they make sure?

Gough said the answer was whether the City Commission would make that a condition or whether they would agree to it. He asked if the City Commission wanted to look at every paragraph in those restrictive covenants or would they be back some other day at midnight arguing about one particular thing or another, or were they mostly concerned about square footage.

Dever said they were mostly concerned about the quality of the building and protecting the neighborhood.

Schumm said it was their client who offered that this was going to happen. He said if they accepted it as a condition, would there be a problem.

Gough asked what the condition would be.

Schumm said that you couldn't sell any lots until it was filed.

Gough said as determined by staff.

Schumm said yes.

Gough asked if it would be a confirmation that restrictive covenants had been recorded in a manner substantially similar to those recorded in the Diamondhead district.

Corliss said he would suggest that Gough and others were good at drafting those documents. He said the City Commission could set those out and as a condition of the filing of the plat that they be recorded within 30 days after the plat was recorded and no building permit would be allowed until those restrictive covenants were on file. He said if staff saw something that was substantially different from what had been represented, staff would be back before the Commission to talk about it.

Carter said it was the same thing with the Planning Commission and he was always in favor of conditional zoning only "if" and "when" the developer was comfortable in saying yes that that was a part of it.

Rainey said they were only responding to what the neighbors wanted.

Gough said for example, he had not read those covenants and did not know if the covenants required a particular type of roofing material, but without seeing the covenants, he could tell anyone whether there would be any changes as to that type of requirement. He said were they talking about square footage and basic materials.

Schumm said what he heard was the applicant held up a copy of the Diamondhead Covenants and those covenants would be close to those.

Herndon said they were not going to be a problem.

Schumm said they could put construction road as a condition.

McCullough said the Commission could give staff direction and they could tie that into the final plat.

Schumm said that he didn't want to see a gravel road forever.

McCullough said it was a construction access.

Dever asked if it could be the same road path as the road would be eventually.

Amyx said their goal had been that the development to the west worked and blended into the neighborhood to the east and the agreements made him comfortable with the RS5. The covenants were an important tool for the expectations of the city and neighborhoods. As long as they had the conditions and the road put in, he was fine with the RS5 and development as presented.

Schumm said he would entertain a motion for approval with a temporary construction road signed, and covenants recorded with the plat.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-12-00229, of approximately 6.491 acres from UR (Urban Reserve) to RM12D (Multi-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended, and to adopt on first reading, Ordinance No. 8836. Motion carried unanimously.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-12-00231, of approximately 9.122 acres from UR (Urban Reserve) to RS7 (Single-Dwelling Residential), located north and south of Crystal Lane and Palisades Drive extended, and to adopt on first reading, Ordinance No. 8837. Motion carried unanimously.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-12-00232, of approximately 6.48 acres from UR (Urban Reserve) to RM12 (Multi-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, and to adopt on first reading, Ordinance No. 8838. Motion carried unanimously.

Moved by Carter, seconded by Cromwell, to approve with conditions the rezoning, Z-13-00015, of approximately 5.471 acres from UR (Urban Reserve) to RS5 (Single-Dwelling Residential), located along the east side of K-10 highway south of W. 6th Street and along the west side of a proposed street known as Renaissance Drive, and to adopt on first reading, Ordinance No. 8839. Motion carried unanimously.

F. PUBLIC COMMENT: None.

G. FUTURE AGENDA ITEMS:

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

H. COMMISSION ITEMS: None.

I. CALENDAR:

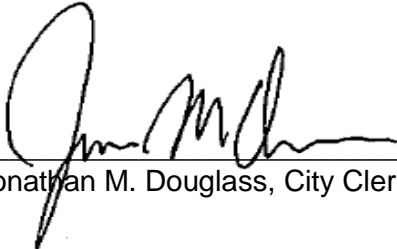
David Corliss, City Manager, reviewed calendar items.

J. CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Carter, seconded by Amyx, to adjourn at 11:26 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON MARCH 12, 2013.



Jonathan M. Douglass, City Clerk