



City of Lawrence

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CITY COMMISSION

MAYOR
ROBERT J. SCHUMM

COMMISSIONERS
MICHAEL DEVER
HUGH CARTER
MIKE AMYX
ARON E. CROMWELL

February 19, 2013

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.

A. RECOGNITION/PROCLAMATION/PRESENTATION:

1. Recognized Helmut Scheewe for his dedication and service with the Sister Cities program with Eutin, Germany.
2. Recognition Yoshimi Tomita for his dedication and service with the Sister Cities program with Hiratsuka, Japan

B. CONSENT AGENDA

Schumm asked that the sidewalk dining license for Shots, under item number 4, licenses, be removed from the consent agenda for separate discussion.

Moved by Amyx, seconded by Dever, to approve the consent agenda as follows, minus the sidewalk dining license for Shots. Motion carried unanimously.

1. Approved City Commission meeting minutes from 02/05/13.
2. Received minutes from various boards and commissions:
 - Electrical Code Board of Appeals meeting of 11/19/12
 - Historic Resources Commission meeting of 12/20/12
 - Lawrence Cultural Arts Commission Retreat meeting of 02/03/13
 - Parks & Recreation Advisory Board meeting of 02/12/13
3. Approved claims to 168 vendors in the amount of \$1,821,543.53.
4. Approved the following licenses recommended by the City Clerk's Office (SIDEWALK DINING LICENSE FOR SHOTS WAS REMOVED FOR SEPARATE DISCUSSION AND WAS DEFERRED):

Retail Liquor License
Jayhawk Discount Liquor

Expiration Date
New License



Jayhawk Discount LLC
701 West 9th

Caterer License

Culinaria Food & Wine
Cullinaria Food & Wine Inc.
512 East 9th

New License

Cereal Malt Beverage License

Terrebonne
Gregory Renck
805 Vermont

New License

Sidewalk Dining License

3 Spoons Yogurt
715
8th Street Taproom
Aimees Coffeehouse
Aladdin Café
Buffalo Wild Wings Grill & Bar
Chipotle Mexican Grill
Einstein Bros Bagels
Fuzzy's Taco Shop
Genovese
Henry's on Henry Street
Intorno
Jackpot Bar
Jeffersons
La Parrilla
Mexquisito
Noodles & Company
Pachamamas
Papa Kenos
Sandbar
Signs of Life
Tapas
The Bourgeois Pig
The Burger Stand
The Mad Greek
Wa Restaurant
Zen Zero
Z's Divine Espresso

732 Massachusetts
715 Massachusetts
801 New Hampshire
1025 Massachusetts
1021 Massachusetts
1012 Massachusetts
911 Massachusetts
1026 Massachusetts
1115 Massachusetts
941 Massachusetts
11 East 8th
801 Massachusetts
943 Massachusetts
743 Massachusetts
814 Massachusetts
712 Massachusetts
8 West 8th
800 New Hampshire
1035 Massachusetts
17 East 8th
722 Massachusetts
724 Massachusetts
6 East 9th
803 Massachusetts
907 Massachusetts
740 Massachusetts
811 Massachusetts
10 E 9th

5. Approved the appointment of Tamara Cash to the Jayhawk Area Agency on Aging that expired September 30, 2013, as recommended by the Mayor.
6. Bid and purchase items:
 - a) Rejected the bid from CAS Constructors, LLC for Bid Number B1302 Projects UT1201 – 2012 to 2015 Electrical Improvements Program and UT1202 - 2012 Mechanical Improvements Program Contract 1. Authorized the City Manager to execute a contract with Siemens Water Products in the amount of \$32,798 and approved a purchase order with CAS Constructors in the amount of \$19,756 for Emergency Traveling

Sand Screen Rehabilitation. Authorized an increase to the existing Engineering Services Agreement with Black & Veatch in the amount of \$4,492 for inspection services related to the Traveling Sand Screen Rehabilitation.

7. Adopted the following ordinances on second and final reading:
 - a) Ordinance No. 8836, rezoned (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) Ordinance No. 8837, rezoned (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) Ordinance No. 8838, rezoned (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) Ordinance No. 8839, rezoned (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)
8. Approved Preliminary Development Plan, PDP-12-00283, for The Links at Lawrence, a 630 unit multi-dwelling residential planned development with 9-hole golf course on approximately 81 acres located at 251 Queens Road and associated modification from the height limitation in the RM12 Base District. Submitted by Holloway Engineering, Surveying & Civil Design, PLLC., for Links at Lawrence, property owner of record. (PC Item 9; approved 9-0 on 1/30/13)
9. Initiated rezoning of 306 Elm Street from CS (Commercial Strip) District to RS5 (Single-Dwelling Residential) District.
10. Received a memo regarding 30-day public comment/review period for the draft Metropolitan Transportation Plan (MTP) Transportation 2040.
11. Authorized a Request for Proposals to contract daily operations of the batting cages located at Clinton Lake Adult Softball Complex, 5100 Speicher Road.
12. Adopted Resolution No. 7011 and Resolution No. 7012, establishing a public hearing on the establishment of a benefit district for street and water main improvements and sanitary sewer improvements for the former Farmland property for March 5, 2013.

Mayor Schumm said regarding the removal of Shots from the license approval memo, he asked if the license approval was for their liquor license.

Jonathan Douglass, Assistant to the City Manager/City Clerk, said the approval was for their sidewalk dining license.

Schumm said he would like to remove this item until next week so that he could visit with staff to see if allegations made were worthy of some kind of action by the City Commission.

Moved by Carter, seconded by Amyx, to delay consideration of Shots' sidewalk dining license for one week. Motion carried unanimously.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the staff report.

Amyx asked if the numbers on the Eagle Bend included the principal and interest payments.

Corliss said it did not.

Amyx said the revenue over expenditures was still a lot better than several years ago.

Corliss said yes, staff did a great job of managing the revenue and expenditures while making improvements to the facility.

D. REGULAR AGENDA ITEMS:

1. **PUBLIC HEARING REGARDING FARMLAND INFRASTRUCTURE DEFERRED TO MARCH 5, 2013. NEW PUBLIC HEARING DATE ESTABLISHED BY CONSENT AGENDA ITEM NO. 12.**
2. **Considered approving the Rock Chalk Park Development agreement and associated ordinances and resolutions.**

David Corliss, City Manager, presented the staff report.

Gary Anderson, Gilmore and Bell, presented the development agreement.

John Wilkins, Gould Evans Architects, presented the plans for the project. He said they were currently working on a schedule to have review documents and specs to the quality control team around March 19. He presented a video of the interior of the project.

Ernie Shaw, Interim Director of Parks and Recreation, presented the history of recreation center needs in Lawrence, and the standards/guidelines for gym space in a community.

Schumm said he had read the letter from NRPA which said that cities that host a major university were more athletically inclined and tended to need more recreation space.

Shaw said that was correct, and part of the reasons the guidelines were no longer called “standards” was because they varied greatly from community to community and their particular interests.

Carter said he read a lot of comments asking what would happen if we didn’t get a lot of tournaments, and asked if this park would be a money pit. He said if we only get half the number of projected tournaments and their associated revenues, that cuts \$80,000 in revenue. There would also be some reduced expenses. The net impact of doing half of what we projected was perhaps \$50,000.

Shaw said we adjusted expenditures to revenues all the time and did it pretty well.

Schumm asked about the aquatics operations and revenues.

Shaw said the budget was \$1.3 million and this year we brought in about \$700,000 in revenue.

Schumm said this was about the same as that.

Shaw said yes. Overall they recovered about 55% of the budget through revenues.

Dever asked what portion of revenues was derived specifically from swim meets and what were we expecting initially.

Shaw said our projections were very, very low initially. The primary purpose then was to have a year round facility where people could swim and learn to swim.

Amyx said he had questions about various sections of the agreement. He said Ordinance 7009 and 7010 were on the agenda. He asked if we would be issuing GO bonds for the infrastructure.

Corliss said yes.

Amyx asked if that was in addition to the \$25 million.

Corliss said no. He said it was a recognition that we have to use separate authorities under state law for funding various types of infrastructure. We were not issuing more than 25 million in debt.

Amyx said in the Development Agreement, Section 11.01 – Payment of the Infrastructure Payment, the second paragraph indicated the following:

“The Infrastructure Payment shall not exceed the sum of (a) all of the hard costs and soft out of pocket costs incurred by Bliss Sports II in connection with development and construction of the Infrastructure Improvements plus (b) construction management fee to be mutually agreed upon by the parties, but not to exceed ten (10%) of the amount described in (a) (the **“Infrastructure Improvements Cost”**).”

He asked if that was in addition to the \$25 million.

Corliss said that was not in addition to the 25 million. The infrastructure was shared infrastructure. RCP was the lead entity, and they were taking the lead in regards to the infrastructure. The issue was how to determine the right dollar amount to pay. RCP would be looking at all of the costs for that work. We could compare it to reasonable costs we had seen. The management fee was not to exceed 10%.

Amyx said the 10% was in the 25 million.

Corliss said yes.

Amyx said in Section 11.01 Payment of the Infrastructure Payment, it stated:

“Without limitation, soft costs included in the Infrastructure Improvements Cost include interest carry costs incurred in financing such costs, compliance costs, engineering and architectural fees, legal fees and other professional services costs attributable to the zoning, platting, plan approval and permitting of the Infrastructure Site and the Infrastructure Improvements and to the negotiation of this Agreement, the Purchase Agreement and the Infrastructure Improvements Construction Contract.”

He asked if the words, “Without limitation” were legal jargon that he shouldn’t be concerned about.

Corliss said it was a legal phrase, but it was meant to indicate that it was not an exhaustive list and did not include everything that would be included in the “soft costs” as far as

coming up with the different infrastructure costs associated in that sentence. All of those numbers would be audited and were all within the \$25 million dollar cap.

Amyx said in Section 5.05, Project Coordination, where it stated:

“The Parties will cause their respective Contractors to reasonably coordinate construction of the Stadium Facilities, the Recreation Center and the Infrastructure Improvements. Unless the Recreation Center Contractor is Bliss Sports II, access to the Recreation Center Site will be established by temporary easement from George Williams Way right of way and, until completion of the Infrastructure Improvements, RCP and its Contractor for construction of the Infrastructure Improvements will have the sole right to occupy the Infrastructure Site.”

Amyx asked if George Williams Way was a public right-of-way.

Corliss said that was correct. He displayed a map and explained where George Williams Way right-of-way would be dedicated. He said if the non-Bliss entity was selected as the general contractor, they would need access to the site. We would provide an access easement to get the contractor to the site.

Mayor Schumm called for public comment.

Ed Manda said he represented a number of people who played racquetball and handball. He asked that maybe two courts be provided in the plans. There was only one city court in the community. There were courts at KU and a couple at a private athletic club. In a community our size, we think it ought to be considered to have a couple courts included in this project.

Frank Jansen said he wanted to bring to the City Commission’s attention, the historical aspects of the ballot item from November 1994. The one percent sales tax was on the ballot. Sales taxes were generally considered regressive. This ballot item had no sunset clause. If we should do anything, we should pass a bill to add a sunset clause to that sales tax. On the ballot issue, part of the portion was that it would reduce ad valorem tax levies in the city and county. He said a second point was that LAN would basically consider all the neighborhoods in Lawrence. He said from far East Lawrence to this rec center was probably closer to Lecompton. The third point was the Fritzell issue. A year ago he laid down a bunch of astroturf, then he

appealed to the commission to let him have the astroturf. A few months ago at the Varsity House he dismantled the house and when he put it back it wasn't the same. Then with the news item about Junction City, it was hard to trust Fritzel.

Schumm asked staff to talk about the amount of money that did go to reduce the ad valorem tax levy.

Corliss said the city been following through on the ballot language for two decades. We reduced the tax levy with the proceeds from the sales tax every year – we had 5 mills of reduction every year. We kept the equivalent of 5 mills of the sales tax in the general fund. If we didn't, we would have the option to raise the levy or cut services.

Kevin Loos, Parks and Rec Advisory Board member, said all five members of the board were present tonight. This issue continued to be the number one priority of the board and had been for years. In six years on the board, he had been impressed by the department's ability to manage their budget. He said from a fiduciary standpoint they had done a tremendous job. This was a unique total package of partnership with KU, indoor and outdoor facilities, and the 5 mile outdoor trail system. This was a tremendous, one of a kind facility in the region.

He also wanted to discuss the indoor aquatic center. It was built for \$10 million and people probably thought that was oversized. Today, it was undersized. As you consider this facility, don't sell short what it had to offer 10-20 years out. He said regarding the gyms and the standards, as our population had risen, the number of gyms had actually gone down. It was more difficult to find gyms today.

Stanley Rasmussen said we really need gym space in the community. The current rec centers carry the weight of the whole community and they should really be neighborhood facilities. It had gotten harder and harder to find gym space every year. We were always jumping around. The western and northwestern parts of Lawrence were totally underserved. He said from his home on Turnberry, he had to drive to the East Lawrence Center to allow his kids to play basketball. This would free up the neighborhood centers and allow the City to do neater

things in the future. He said he wanted to comment on the partnership with KU. It would benefit the City of Lawrence and KU and get more for less by leveraging their funds together. It would be bigger and better than what either entity could do on its own. This would provide a long term benefit for years to come. He commended staff for their work and encouraged commissioners to approve the agreement tonight.

Melinda Henderson, League of Women Voters, said she might be back later tonight as a private citizen, but now was speaking on behalf of the League. The League values transparency in government and they had some concerns about the process. She said the way she read the agreement was that the city would own it, it would be leased to RCP, and Bliss would sublease it. Who really owned it? That made a difference on who would do the maintenance on the infrastructure. Mr. Corliss showed George Williams Way and some access easements. She asked if the city portion of the property would have a public street or just the access easements. In November, they asked the Planning Commission to consider the Baldwin Creek drainage issues. They had never seen the stormwater plan with the agenda packet materials. She said she came down one day and was told she would have to see the stormwater manager to see it. She said the Kaw Valley Drainage District sent a letter and the League supported their concerns and hoped they would be addressed. David Reynolds also submitted correspondence about transparency and hoped the City Commission would take his comments into consideration.

Corliss said the landlocked issue was that we had a platted access easement to the public right-of-way, so by definition it was not landlocked. There were public access easements meaning it was not landlocked. The property would follow the City's stormwater management criteria. They were reviewing the project by those criteria. There were a number of ponds and detention areas on site that would respond to the stormwater issues. Staff thought they were adequately responding to the issues of Mr. Reynolds, but could respond to specific questions.

Schumm asked about the land ownership issues.

Corliss said the City would own the 26 acres, the other property would be owned by RCP, but then as part of the collateral for the IRB's, that land was held nominally by the City, which was the current law, but under that there were extensive provisions that indicated that the City had no liability and no responsibility for the maintenance that the actual holder of the property could not waste the property and other things.

Gary Anderson said that was correct. In connection with an IRB, fee title to the property was granted to the governing entity that issues the bonds. At the end of the bond period, the title was transferred back. The city had no liability for the maintenance under the arrangement. The IRB structure for Berry Plastics was similar.

Corliss said the city had no maintenance responsibilities for the property. He said one of the City's existing IRB's was Amarr Garage Door Group, out at East Hills Business Park.

Carter said nothing was unusual about this arrangement and it was just how the City did IRB's.

Anderson said yes.

Michael Rost said one of the things we have heard was the discussion being pro-recreation. What we should avoid was the false argument of being pro-recreation vs anti-recreation. The question was whether this project was a good deal for the community. He asked if the Rock Chalk Park project was contingent on the city built rec center? If not, what if the city approved all the agreements and then didn't build the city facility? Is the city protected from paying the costs of the infrastructure in that case? It was unfortunate that the agreements approved last week were not made available to the commission until today. In that vein, he said he would ask that the final concept should be put to a public vote in the community. He thought it could be voted on the April 2 election without added expense to the community.

Corliss said he could respond to the non-public policy items in Rost's comments. He said Section 4.02 from the Development Agreement stated:

“Notwithstanding the aforesaid, if the City elects to terminate this Agreement in accordance with the preceding paragraph, the City will: (a) reimburse RCP for RCP’s actual costs incurred to prepare the Pad Site to Pad-Ready Condition (which shall include the actual costs of Bliss Sports II plus a reasonable construction management fee to be mutually agreed upon by the Parties, but not to exceed ten (10%) prior to the bidding process as is provided for in the Purchase Agreement), (b) pay the Recreation Center Architect’s Fees and (c) the City’s monetary contribution to the cost of Infrastructure Improvements, as the same may be modified, will be negotiated in good faith by the Parties, and is subject to approval by the governing body of the City.”

He said that meant if the City bid it and the bid exceeded or the City did not want to proceed, then the City was still responsible for the cost of getting it pad ready and responsible for the architect plans, but not responsible for any further payments.

Anderson nodded his head yes.

Schumm said the other question raised was what happens to Rock Chalk Park if we don’t build our portion, and that would be a question for KU Athletics and others.

Corliss said that it had been represented that they would move forward anyway.

Dan Simon said he was a youth basketball coach, of one of the 150 youth teams in Lawrence. His story was that last weekend he wanted to get gym space for one of his teams to practice before a tournament. He said he couldn’t find it anywhere in Lawrence. They did not enter the tournament because they couldn’t get ready. His other son was practicing in Tonganoxie today because they couldn’t get gym space in Lawrence. He said they played tournaments in other cities and took their money with them and spent it in those towns. He said his questions were whether the commissioners trusted the staff and volunteers who worked hard on the due diligence for this project. Do you trust them to write into the contracts protections for the city? Everything he had seen was that we employ great people and had great volunteers. We trust that the Commission did what was right for Lawrence. We trust the City Commission to show leadership and asked if the Commission had courage to move the project forward.

Laura Routh said she had 4 concerns and reasons not to proceed. The project as proposed failed a crucial test of equity. She displayed a poster showing the relative space of the

project versus centers in other parts of the community. The Knox Natatorium was a great example. It hadn't been maintained. If we build this project on the west side, she feared that we would neglect facilities on the east side. She wanted to submit two documents for the public records. There were 21 letters to the editor against the project, and 95 comments on an online petition. The supporter's reasons for signing it were reasonable. People were asking the City Commission to slow down and take a look. We didn't have full information yet. There were some gaps in the record still. She said she had serious concerns about the questions raised by the Drainage District.

Heidi Simon said she consistently heard from both sides that it's not an issue of whether we need recreation. The question that the opposition couldn't answer was that if this facility didn't overall cost more than a smaller one, and the smaller one might not bring in the revenue, then why not do this? The equity issue went both ways. There was nothing in West Lawrence. The project would also open up space in the other centers in town. The advisory board was very aware of maintenance needs. We didn't even have seventh grade basketball at our schools. If we could get that going, we would have an even bigger issue with space. She asked if we could have good spectator areas at the facility also. She thanked Fritzel for investing in the community.

Marcus Dudley, Kaw Valley Soccer, said as a father of young children, they had interest in soccer and many other sports that required gym space. He said the reality was that he didn't have time to engage as much in the debate as he would like. The need for indoor practice space was increasing. The popularity of soccer was growing and more and more kids wanted to play it year round. A sense of urgency was something he wanted to communicate. We probably needed this type of facility 14 years ago. We had families driving to Kansas City every weekend for 5 months of the year because the City didn't have those types of facilities here. As a parent and as an executive director of KVSA, he wasn't concerned whether the space was justified, but was concerned that we had already outgrown the space that hadn't even been built yet. It looks

like we are getting a good deal. As a community, we needed to meet the needs of the community members. We needed more indoor practice space. The longer it took to approve this project the more expensive it might become. He urged the Commission to act tonight. He feared they were letting the “how” get in the way of the “why.”

Melinda Henderson said she representing herself and not the League of Women Voters, and her questions now had to do with the figures presented in some of the spreadsheets. She said one of the documents was a spreadsheet from Parks and Rec. She started adding everything up and the numbers didn't add up. She said the spreadsheet about the location, funding source, status, etc. of the different projects Parks and Rec had funded, showed the estimated cost and she had a difference of \$400,000. She trusted her numbers and she was concerned about that. The second one she looked at was the operational cost spreadsheet. She had talked to Shaw about calculating staff. What she came up with was that the number in the spreadsheet for hours was much lower than what she calculated, more than \$3,000 different.

Dever asked if her point was to question the veracity of the numbers of Parks and Recreation. He asked how long Henderson knew this.

Henderson said a few hours. She said she had a couple more questions.

Schumm said she could have until the clock reached 6 minutes.

Henderson asked how many acres the City owned near the high school, how much the City paid for that, and what would happen to that property if they ended up not building a rec center.

Corliss said it was 29 acres. He didn't recall the amount. It was bought before Wakarusa was extended. The City Commission would decide what to do with that property if it was not developed for Parks purposes.

The City Commission recessed for a short break at 9:08 p.m.

The City Commission resumed the regular session at 9:17 p.m.

Mayor Schumm called for public comment.

Patty Johnston said one thing that wasn't discussed a lot, was that this was an intergenerational project. The walking track and trail would address that. We hoped to grow our retiree population and this served them. It was for everyone in the community, to provide a safe, nice place for retiree's. All of that played into this design, not just for the children.

Schumm said we recognized that and had taken care to broaden that out.

Jana Dawson, Parks and Rec Advisory Board, said she kept hearing how we were rushing into this project. She displayed a stack of papers from all of her research on this over the years. We had been working on this particular location for 5 months. Another question that recently came up was whether we needed gym space. You didn't need a hard and fast statistic to know that gym space was needed. The question was raised of whether we could afford this. The Parks and Rec Department did a great job managing their finances. There was a question of putting it to a public vote. There were 400 people on the online petition. We had 3 times that many saying we needed it in our surveys. We were continuing to do our due diligence. If you don't think this issue was transparent, then go to the city website and see all of the documents on-line. Some folks had talked about guarantees. There were no guarantees in life. You make the best decision and manage it going forward. You miss 100% of the shots you didn't take, so I am asking you to take a shot.

Ted Boyle, North Lawrence Improvement Association, said the main concern he heard in North Lawrence was if you were so sure people wanted this, put it on the ballot. If the citizens wanted this project, then they would vote for it. If not, maybe you'll need to start over and it would end up near Free State where it was supposed to be.

Joe Patterson said his concern was not whether we needed additional space. Everyone went back to the 90s, but back then they weren't thinking a \$25 million project, they were thinking of adding one space here and there. He said project needed to be put to a public vote. They were going to be paying for it and it won't be self-supported. If we were going to add rec space, just put it at Free State. It was probably a good location. He didn't think they would have

as much local use, due to the location. Another thing to think about was if it would harm existing exercise facilities and would be put those facilities out of business. Another concern was that the paper reported that everyone was surprised by the Fritzel situation in Junction City. There were other things to think about such as building a police facility and the school district was having a bond issue. The taxpayers needed to vote on it and we need to reconsider the location.

Leslie Soden said a public vote would be important for buy in. Some people say this hasn't moved fast because it had been in the works for a while. What people were saying was that it changed every week and that was what people were really trying to say. She said she thought we needed a public vote.

Shannon Jones said she recently spent time with some of the opposition to the project to try to understand what their concerns. She said she would go from the dance floor to the balcony. We've been on the dance floor for too long and we needed to get on the balcony to get a global perspective. The city's job was to collaborate with KU. Let's let them do what they had always done – deal with their donors. We didn't need details from their donors. This gift was between him and KU. What's important was that you had to put your feelings about the individual away. Next, was the \$350,000 operating budget. Clearly, you had staff that had proven their capable of managing a project. Finally, the size was a concern. This wouldn't work behind Walmart because there were features like ponds and trails that couldn't be done at the Walmart location. Nature deficit was an issue for kids today. As far as hosting tournaments, that was icing on the cake. It stimulated the economy. These were all global community benefits.

Schumm said there was a challenge to the commission over the last few days, cloaked under the terms of missing or lacking information, and it had to do with our development agreement and that some of the exhibits were not filled in. Some of those things were minor, like legal descriptions. Other things were more important, and some of them were missing because we were working to get a development agreement structured to work from. Parallel to

that were agreements between Bliss Sports and RCP. We had agreed earlier that those would be made public once they were signed and they weren't until today. If we move forward tonight on approving these ordinances on first reading, I would suggest that we wait two weeks before considering them on second reading, in the spirit of giving people enough time to be comfortable with the information.

Carter said he hadn't been aware that the documents between the other entities were pledged to be made available, and if he had he would have made sure they would have been made available before today. He said he thought that was a failure of communication. Someone had commented about the project changing. Changes had made the project better. If we had been afraid of change we wouldn't have had as good a project. Change doesn't mean lack of transparency. The biggest risk that kept getting touted by some was whether we could attract the tournaments. Conservative estimates showed that even if we get half the projected tournaments, it wasn't a material impact. If that was the biggest risk, it would be disappointing, but the actual cost to taxpayers would be \$50,000. This was first and foremost a rec center. He said he could see a concern being that we didn't attract too many tournaments to displace residents. He said a blog by a KU professor asserted that this wasn't a partnership that benefitted the KU/City relationship. He said he had asked directly to the chancellor and the provost whether this was just an athletic thing, or was it a town gown initiative. They were adamant that it was important to the university and the town/gown relationship. It wasn't just athletics. There was an assertion that it was customary to have an independent auditor to check on the expenses and profits of the vendor and he asked if that was the case.

Corliss said no. We have staff look at certain aspects, but we didn't hire a third party auditor to do that. In this case, we were talking about hiring a third party quality control manager.

Carter said in this case we were going to the extent of looking at invoices paid to subcontractors for infrastructure. That control was in place. Since 2007 we had several financial

crises and he said the macro effect was that speculative and not so speculative projects fell by the wayside. LLC's all over the world had multiple projects that had failed. Things had happened to all kinds of big national companies. Would it be part of our due diligence to look at past projects of all contractors from 2007 and on?

Corliss said no. Standard practice would be to require a performance bond. We could look at references also.

Carter said his point was that that was not something that was depicted fairly. It was not something we were going to send staff out to investigate every company. He said with staff we trust, but verify. He said he trusts staff, but we were not doing this just on trust. He said he had read the documents and asked the questions. We had tried to minimize risk as we had been elected to do. He said as far as location, this was a 5-10 minute drive from anywhere in town. For most of Lawrence that was better than the 45 minutes to an hour that many people were driving. This was awfully close, it's in Lawrence.

Dever said he was humbled and appreciative of all the comments, both pro and con. This was an opportunity to plan ahead, remedy the backlog of space, embrace a partner with the University, and take advantage of donations. There had been questions about the other parties involved. He had been involved in countless meetings and had worked harder on this project than any other in the city during his time on the commission. He said that was what he was elected to do. One important thing was the agreements between the Endowment and the contractor. In their opinion they were receiving a \$10 million dollar from this partnership. Their agreements were not necessarily our business except the parts we were a party to. The private negotiations are important. He said he wasn't certain they had promised to provide the documents immediately upon signature, but they did provide them immediately upon request. He was okay with putting off second reading to give people time to review the documents. He had already done so. Regarding infrastructure improvements, we spent a lot of money every year and we didn't get nearly enough comments. The improvements funded through general

obligation debt would not require any tax increase. That was a clear fact. We were not raising taxes for this project. All of the great stuff Parks and Rec does was not going to be impacted either. To me, that was what we get paid to decide. Although Henderson questioned the numbers, we spent over a million dollars on other projects. This was not the only thing we'll be working on over the next 20 years. The Parks Board had said this was the most important thing. We could solve in one fell swoop inequity in our community with this project. All of us were using those centers and we didn't have enough of them. This project would turn the neighborhood centers back to the neighborhoods. We should have done this a long time ago. He said he was offended that some people think this was too far out of town. People said the same thing about Centennial years ago. It was far, relatively speaking, from the far east side of town. Investments in infrastructure including the SLT would help and this would take pressure off those other centers. Building this facility here lets people know what we were doing and then the community could grow around it. This would benefit all generations in our community. For me this was about a good project for the whole community. We haven't ironed out all the details, but had negotiated in the best interest of the community. We were elected to make decisions for the community. He said that he and the mayor had attended so many meetings in good faith and there were no back room deals. We had two public votes on things that raised taxes, and we made many more decisions on behalf of the community without a public vote. The changes in the project had come forth from suggestions from the community. The changes were not sneaky, but were about adapting and negotiating. We had been in great hands in this project. The process took a lot of time and effort. The Commissioners were present and were transparent, we could make this decision in the best interest of the community and he was excited about it.

Cromwell thanked Dever and Schumm for all of their work, as well as staff, advisory board, and community members. The process was something that to be honest, was very difficult, to listen to comments that it was not transparent. People say they hear something

different every week. If it was not transparent, how could you hear something about it every week? It had been incredibly transparent. Yes, it was complicated. We had protections in these documents that we felt were rock solid for our community. That's our main job, to be good shepherds of the community's money. We had a public vote to decide how much money to spend on parks and rec, and we had an advisory board saying this was how we should spend that money. It was not that complicated when you look at it that way. If we spent this money differently people would complain that we were not true to the intent of the sales tax money. We wanted to focus on who we were as a community. We think of ourselves as a young, vibrant community and having a university in our town helped that. The town/gown relationship between the business community, the university and the city was so important, it couldn't be overstated. This was another example of how we did that cooperation. We had some smaller projects, but nothing of this scale. People were going to see KU and the City together when they visited this project. This would be phenomenal for the community. I couldn't believe the basketball season my son had because of the shortage of gym space. Not everyone in town would use this project for one reason or another, but we didn't try to design projects that 100% of people used, but hopefully, as many as possible would. We had looked at it from the balcony, and thought this was a great decision for many reasons. This was good for the City of Lawrence and was in favor of moving forward.

Amyx said when he looked at this entire process he thought it had been a very open process. We might disagree on the size or location. One of the jobs we had, as we looked down from the balcony, was to look at everything. He said we still needed to be very careful about what we were doing. He asked what would be wrong with looking at everything carefully. He said he trusted staff to look at all the documents, but we really needed to be sure. He asked if there were three financial things in this document that weren't part of this agreement.

Corliss said correct, the quality control manager would come from existing fund balance, furnishings would come from other recreation accounts, and the building permit fees would be

paid then rebated back, so it won't be a net expenditure. We had a precedent for doing economic development grants to rebate these back rather than waive them. He said he didn't count that as a net cost.

Amyx said there would be an effect on the department though.

Corliss said there wouldn't be that revenue.

Amyx asked where we would get money for other governmental uses if we needed it if we dedicated all of this money to this project. Did we need all of this space? Personally, he didn't think so. He was happy we were going to receive funds from the Assists Foundation. He just wanted us to be very careful. The mayor suggested holding the second reading off for two weeks. He said he was involved in a process right now and he thought we had all had an opportunity to be out in the public quite a bit and had received a lot of comments. He appreciated Dever's comments on elections, but he thought the public wanted to chime in on this process at the ballot box. We might not agree with that, but he had become more convinced that that possibility existed. Some of the sentiment might have changed since the original ballot. He did believe that the public had a right to participate in this. If we were going to look at a facility he would consider it, but if we were going to look at a bigger facility he wanted it to go to public referendum.

Schumm said the only thing he would add was that he had been to a lot of meetings and it had been a real evolutionary process. It's a much better project because of that. As far as transparency, he had thrown out information as fast as he got it. There was a demonstrated need from our advisory board, from speakers, and from athletes. He had gone out and seen all of the current facilities and they were all full and they were all well cared for. This was a great opportunity to work with KU and we had a couple projects working very well with KU now. This could be another tremendous success. This park would be a great recruiting tool for KU in the future. This was a beautiful site. It looked and felt like a park. There were opportunities for space that you didn't have anywhere else. Where else could you put 50-100 acres in the middle of the

city with lighted facilities? We hadn't even been able to find that for 8 tennis courts. This worked for KU, it worked for us. It made a statement to the region that we could put this online and be successful. He was supportive of the project.

Moved by Dever, seconded by Carter, to adopt on first reading Ordinance No. 8842, authorizing the development agreement and authorizing the reimbursement of city fees for the project; authorize the City Manager to Execute an Agreement with CPSports/KBS Contractors, for quality control services for the City's recreation center project; authorize the City Manager to Execute an Agreement to acquire plans and specifications and construction administration services from Gould Evans and Paul Werner Architects; adopt Resolution No. 7008, authorizing the financing of the recreation center; adopt on first reading Ordinance No. 8844, a Main Trafficway Ordinance designating streets to be improved/constructed as main trafficways as part of the project; adopt Resolution No. 7009, authorizing main trafficway improvements for streets to be improved as part of the project (NOTE: Resolution No. 7009 was re-adopted on March 12, 2013); and adopt Resolution No. 7010, authorizing water and sewer mains; and direct staff to put second readings of Ordinances 8842 and 8844 on the March 5 regular agenda for consideration. Motion carried 4-1 with Amyx in the negative.

E. PUBLIC COMMENT: None

F. FUTURE AGENDA ITEMS:

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

G. COMMISSION ITEMS: None

H. CALENDAR:

David Corliss, City Manager, reviewed calendar items.

I. CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Amyx, seconded by Carter, to recess the meeting until Monday, February 25, 2013 at 3:00 p.m. At that time the meeting would be reconvened and the City Commission would recess into executive session for the purpose of discussing non-elected personnel matters. Motion carried unanimously, at 10:25 p.m.

At 3:00 p.m. on Monday, February 25, 2013, Mayor Schumm reconvened the meeting which had been recessed on February 19, 2013. Commissioners Schumm, Dever, Amyx, Carter and Cromwell were present.

Moved by Amyx, seconded by Cromwell, to recess into executive session in the City Manager's Office conference room for approximately 1.5 hours to discuss personnel matters of non-elected personnel. The justification for closing the meeting is to keep the personnel matters confidential at this time, and to protect the privacy of non-elected personnel. The public meeting will resume in the City Commission room at approximately 4:30 p.m. Motion carried unanimously.


The Mayor reconvened the regular session of the meeting at 4:30 p.m. in the City Commission room with Commissioners Schumm, Amyx, and Carter present.

Moved by Amyx, seconded by Carter, to extend the executive session by approximately 45 minutes, or until approximately 5:15 p.m. Motion carried 3-0.

The Mayor reconvened the regular session of the meeting at 5:07 p.m. in the City Commission room with Commissioners Schumm, Amyx, Cromwell, and Dever present. He stated there was nothing to report and no action to take at this time.

Moved by Amyx, seconded by Cromwell, to adjourn the February 19, 2013, City Commission meeting, at 5:07 p.m. on February 25, 2013. Motion carried 4-0.

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



Jonathan M. Douglass, City Clerk