



City of Lawrence

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CITY COMMISSION

MAYOR
MICHAEL DEVER

COMMISSIONERS
MIKE AMYX
JEREMY FARMER
DR. TERRY RIORDAN
ROBERT J. SCHUMM

April 23, 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 Dever presiding and members Amyx, Farmer, Riordan and Schumm present.

A. RECOGNITION/PROCLAMATION/PRESENTATION

1. Recognized Bob Newton, Gary Fish, Theresa Gordzica, and Stanley Sneegas for service on Aviation Advisory Board.
2. Proclaimed the week of April 22 – 26, 2013 as Tree City USA Week and Friday, April 26, 2013 as Arbor Day.

B. CONSENT AGENDA

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

1. Received minutes from the Aviation Advisory Board meeting of 02/13/13, the Community Development Advisory Committee meetings of 03/14/13 and 03/28/13 and the Parks and Recreation Advisory Board meeting of 04/09/13.
2. Approved claims to 288 vendors in the amount of \$4,972,378.14, and payroll from April 7, 2013 –April 20, 2013, in the amount of \$1,891,499.34
3. Approved Retail Liquor License for Sawyers Wine & Spirits, 4811 Bob Billings Pkwy Suite D.
4. Approved appointments as recommended by the Mayor. Reappointed Brandon Molton to the Plumbing Code Board of Appeals for an additional term that expires 04/30/16 and appointed Daniel Poull to a position that expires 04/30/16. Reappointed Ryan Devlin and Stuart Boley to additional Traffic Safety Commission terms that expire 04/30/16.
5. Bid and purchase items:
 - a) Set a bid date of May 21, 2013, for City Bid No. B1329, Project No. PW1304, Airport Pavement Maintenance & Repair.



- b) Set a bid date of Tuesday, May 28, 2013 for the Comprehensive Rehabilitation Projects at 1607 Wedgewood Drive and 2728 Fenwick Road.
 - c) Awarded City Bid No. B1318, Project No. PW1202, Wakarusa Drive, Research Parkway to Oread West, to R.D. Johnson Excavating Company, Inc., in the amount of \$1,021,161.05 provided the contractor can meet the terms established in the contract documents.
 - d) Awarded City Bid No. B1321, PW1225, Bob Billing's Parkway, Kasold Drive to Crestline Drive (Eastbound Lanes); UT1105DS, 2013 Watermain Relocation Program to R.D. Johnson Excavating Company, Inc., in the amount of \$1,604,267.52 provided the contractor can meet the terms established in the contract documents.
 - e) Waived bidding requirements and authorized the purchase one Mechanical Street Sweeper for the Public Works Department in the amount of \$221,800, utilizing a quote from the Elgin Company through Key Equipment & Supply Co.
 - f) Approved the bid from T & J Holdings, Inc., for the Comprehensive Rehabilitation Project located at 1406 New Jersey St. in the amount of \$22,725 for the base bid only, and waived staff's estimate and approved the bid from T & J Holdings, Inc., for the Comprehensive Rehabilitation Project located at 1614 Powers Street in the amount of \$23,805 for the base bid only.
6. Adopted on first reading, Ordinance No. 8855, amending the Standard Traffic Ordinance for Kansas Cities pertaining to stall parking.
 7. Approved Special Event, SE-13-00105, for a Country Produce tent sale at the Discovery Furniture parking lot, 2525 Iowa Street, from July 13 through August 9, 2013. Submitted by Julie Galemore, Country Produce, with permission of Discovery Furniture, property owner of record.
 8. Initiated a text amendment to the Land Development Code to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District, for consideration at a future public hearing at Planning Commission.
 9. Authorized the City Manager to execute the Professional Services Agreement with Dale Nimz for Historic Preservation Fund Grant #20-12-41924-005, National Register of Historic Places Multiple Property Documentation Form for Historic Resources of Lawrence, Douglas County, Kansas 1945-1975.
 10. Authorized staff to submit FY 2016 Geometric Improvement Application for reconstruction of the 23rd & Haskell intersection including geometric improvements.
 11. Authorized staff to submit application for KLINK funding (state fiscal year 2015) for W. 23rd Street (K-10), Iowa Street to Ousdahl Road, and 6th Street (Folks Road to K-10), resurfacing project.

12. Authorized the City Manager to sign an agreement with Wilson & Company for \$24,970 for Professional Services for wetland mitigation for 31st Street from Haskell Avenue to O'Connell Road.
13. Authorized the City Manager to execute a License Agreement permitting Downtown Lawrence, Inc., to use a certain portion of the Massachusetts Street Right of Way for the location of a Business Directory Kiosk in accordance with the terms of that agreement.
14. Authorized the Lawrence Cultural Arts Commission Community Arts Grants as recommended by the Lawrence Cultural Arts Commission.

C. CITY MANAGER'S REPORT:

David Corliss, City Manager, presented the report.

Amyx said there was a lot of great work done for snow removal.

D. REGULAR AGENDA ITEMS:

1. **Conduct a public hearing and consider authorizing the issuance of Health Care Facilities Revenue Bonds by the City of Wichita on behalf of Presbyterian Manors, Inc., and consider authorizing an amendment to the existing Interlocal Cooperation Agreement between the City of Wichita, Kansas and the City of Lawrence regarding these bonds.**

David Corliss, City Manager, introduced the item.

Gary Anderson, Gilmore and Bell, presented the item.

Moved by Schumm, seconded by Riordan to open the public hearing. Motion carried unanimously.

No public comment was received.

Moved by Farmer, seconded by Amyx, to close the public hearing. Motion carried unanimously.

Moved by Schumm, seconded by Amyx, to adopt Resolution No. 7020, authorizing the execution of an amendment to the Interlocal Cooperation Agreement between the City of Lawrence and the City of Wichita. Motion carried unanimously.

2. **Consider approving a street vendor license for Simply Franks Co. at the southwest corner of 10th Street and Massachusetts Street.**

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

Jordan Kivett said he originally wanted to be a student at KU but needed financing, which is why he has started his business. He had applied for a license, and received an objection from Encore Café who didn't want him at that location during certain hours.

Schumm asked what Kivett would sell.

Kivett said hot dogs, chips and drinks.

Schumm asked what his hours of operation would be.

Kivett said his preference would be from noon to 9:00 p.m. on certain days through the week and on weekends, noon to midnight.

Dever asked if those times were consistent with the times allowed by code.

Douglass said yes. The City Code allowed street vendors to sell until 2:30 a.m., which was an amendment made with the last vendor that was at that location.

Riordan said regarding food safety, he asked if the vendor had to be certified through the Health Department.

Kivett said yes. He said he had all of the necessary cleaning supplies. He said he had done events in the past and had a temporary event at the Sprint Center for the Final Four. He said the cart was only 3 feet wide, 4 feet long and 5 feet high and was easy to keep clean. He said the Kansas Health Department gave their stamp of approval.

Mayor Dever called for public comment. None was received.

Amyx said he never really heard anything about the last business at the location. Everything he heard was that the activity was something people enjoyed.

Farmer said he thought it was neat having someone with that type of entrepreneurial spirit trying to pay for school and as a community they needed to support that type of activity.

Riordan said he always told his patients nothing good happens after midnight, but now he could tell his patients that they could get a hot dog downtown.

Moved by Farmer, seconded by Amyx, to approve a street vendor license for Simply Franks Co. at the southwest corner of 10th Street and Massachusetts Street. Motion carried unanimously.

3. **Consider Text Amendments, TA-12-00206, to the City of Lawrence Land Development Code, Chapter 20, various articles, to change the requirement that development projects be required to comply with Horizon 2020. Initiated by City Commission on 8/21/12. (PC Item 7; denied 8-0 on 3/25/13)**

Scott McCullough, Planning and Development Services Director, presented the staff report.

Schumm said if there was a new project requested that was not in the plan, he asked about the time frame for rezoning and amending the plan.

McCullough said before staff was able to do all their sector planning, it was a more complex system because the code and policy would require staff to do a plan first and then accept rezoning applications. Now that the majority of the sector planning was completed, it was really the same time period. An application was made and scheduled per the published Planning Commission schedule for their next regular meeting and staff would work on those parallel so there was no additional time. Where he thought the development community saw some additional time, was in the effort to analyze the comprehensive plan which was a wider scope of things and sometimes in the past, caused deferrals at the Planning Commission to study those issues and then have it brought back to the Planning Commission and ultimately reach the City Commission with a Planning Commission recommendation. The applicant had the choice to go for the Comprehensive Plan Amendment first, to get an indication of whether there was support for the project and then follow that up with a rezoning request.

Schumm said if this text amendment were approved, and then simply rely on rezoning, when would the rezonings catch up with the plan? He asked if that was annual situation.

McCullough said other cities practiced annual review of their plans. State law required annual reviews and those amendments and modifications to the plan were performed at that time.

Riordan said he realized this was not mandatory if passed, but asked how time was saved unless they choose not to abide by or look at the plan.

McCullough said the time situation was very nominal. One of the issues that he heard from representatives of the development community was that looking at those wider range of issues created a small process burden on the development community because there was the potential to get hung up on some of those issues which was collateral issues related to a specific zoning case. There was the time and money it took to prepare a plan amendment because often times they were preparing it with consultants, attorneys and architects who were preparing language for staff to review. Most of the time staff was building the planning packet once there was an idea of what their amendment desired to do, to the plan.

Schumm said in his professional opinion, would McCullough think that the plan would be less important and more incidental, where now it was strong and had to be reckoned with every time. He asked if that was a possibility.

McCullough said because of the way the city's sector planning was performed, that process often came with extremely detailed and negotiated deals about what the land use pattern and policy should be in any one of those areas. He said he was basing a lot of his response on the fact that they went through a lot of effort in this community to establish those plans and because of that effort and time involved by the stakeholders, the Planning Commission felt that should be given high weight and shouldn't be easy to not comply, once that effort was adopted.

Dever asked if McCullough could repeat that last sentence.

McCullough said the Planning Commission believed that it shouldn't necessarily be an easy process to go through when there wasn't compliance with a plan that had been processed so heavily and sometimes come to good compromises.

Riordan said one of the comments was that the current process created disparities between the large developers and small builders. He asked if McCullough saw that the plan might somewhat discriminate against the small builder and made it harder because those builders had fewer resources.

McCullough said none with the current system.

Farmer asked if the city had ever rezoned before amending the plan.

McCullough said there was a major revision to the code in 2006 which was considered a new code, prior to that there was no requirement to comply. For some commercial developments, establishing a plan first had been the practice, but it wasn't until 2006 that it had been made local law.

Farmer asked how many text amendments were currently in process.

McCullough said there were 5-7 to the development code and none to the comprehensive plan.

Amyx said regarding the 2006 code, he asked if the language required a development to comply with the plan and was that part of that vote or was it an amendment since then.

McCullough said it was part of that code.

Amyx said he wanted to make sure that was part of the original adoption and not an amendment since that time.

McCullough said it had not been since he came to the city in 2007.

Amyx said there were a number of amendments brought forward since then, but he wanted to make sure it was part of the original adoption.

McCullough said that was his understanding.

Amyx said some people had suggested it was but that wasn't his recollection. He asked if the city had anyone not go through the process when they were told they would have to go through this amendment process.

McCullough said there had been companies and projects where staff outlined the process to accommodate those companies, but could not say for certain what part of that process or issues might have led those companies not to make an application. He said some of those projects had been multi-dwelling and commercial projects.

Farmer asked how many projects had approached the Planning Office and when they found out the process, they said "no thanks."

McCullough said it would be hard to say. Staff met with people on a weekly basis and some never come forward with an application.

Schumm said the only shortcut in time would come if an item was deferred for more study at the Planning Commission level.

McCullough said that was one of the main issues.

Schumm said, for instance, the Planning Commission deferred Menards for thirty days for additional input.

McCullough said correct.

Schumm said if that was an example of a rezoning, then Menards wouldn't have to wait for the plan to change in order to have their rezoning considered.

McCullough said correct. In Kansas most communities adopt "golden factors" which were factors based on case law, Golden versus the City of Overland Park, and out of that case, the court stated since they were quasi-judicial, they needed to review rezoning request per a series of factors. One of the factors was whether it complied with the Comprehensive Plan which was one of several factors a city might adopt in their code. In a case like Menards or any other rezoning request, the case would go to the Planning Commission. The Comprehensive Plan and whatever that was adopted at that time would be a factor in reviewing that rezoning

case. The community could look at that and say they understood that was what the plan stated, but there were other factors that out-weigh that Comprehensive Plan designation and then that recommendation would be made and submitted to the City Commission. As it was done now, they could still choose to accommodate the project, but still look at the City's Comprehensive Plan and specific sector plans if that was appropriate and make that change, at that point, to try to look at those circumstantial issues and a wider range of issues.

Farmer said in going back to the previous question, if talking about a 6 year period, 5 businesses said once they had learned the rules, they were going to go play in another sand box, or if they were talking about 200 projects, that made a difference on how this was weighted. He asked if it was McCullough's impression that it was in the single, double, or triple digits.

McCullough said he didn't think it was the triple digits in that sense, but note that development had been fairly slow in the last 5 years. He said it had been only a handful that had even gone through the process. Every rezoning request was analyzed based on the comprehensive plan. A lot of times it was debatable whether it met the comprehensive plan. He said it was the Planning and City Commission's ultimate decision makers. He said for example, Langston Height's development was one where there was a healthy discussion about what the planning documents stated. He said that development made changes to comply with the plan. Had they not made some changes, staff might have talked to the development about amending the plan to meet their request.

Amyx asked if the Commission were to consider making a change in the process, what else did you say would need to be changed.

McCullough said many sections in the development code. Many of them link directly to what the comprehensive plan stated.

Amyx said on one hand, they might save someone a little bit of time, but they might create a big monster somewhere else.

McCullough said it was possible.

Amyx said this might be the biggest decision this City Commission would make. They obviously didn't want to make a mistake on something that might be bigger than they realized. The Commission might want to be careful in understanding what they were really doing and its effect on someone with this change.

Schumm said he agreed it was a big decision, and it was a two-way street. It might be beneficial to the development community, but detrimental to the community or the citizens.

Amyx said he agreed.

Mayor Dever called for public comment.

Laura Routh said LAN had submitted comments. It seemed that if they adopted the text amendment as proposed, they would be deferring all plan amendments to the end of the year, making those plan amendments retroactive. What was holding up the process was the deferral and study at the Planning Commission level, but that was where project could improve by having developers and neighborhoods work together. She heard discussion of the process burden. With all due respect as a resident volunteer, there was a huge process burden to them too. They didn't have consultant, engineers, and lawyers who were paid by the hour. This would discourage participation and buy in. She heard McCullough say there were sector plans for protection, and she understood that those were part of the comprehensive plan. She asked if they were saying that developments didn't need to adhere to sector plans. A single golden factor in lieu of the current code would not protect neighborhoods.

Gwen Klingenberg said she had concerns because in her research she had found that the US Department of Commerce created the Enabling Acts which were passed down for each state to be able to police their zoning which were all the same. The golden factors were actually found in the Standard City Planning Enabling Acts. Section 3 of the Standard State Zoning Enabling Act stated that "Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets etc..." Section 4 stated, "However, no

such regulation, restriction, or boundary shall become effective until after a public hearing. Etc...” She said American Law Institute, Chapter 11 discussed some of the laws that cities were allowed to use for administrative enforcement which dealt with comprehensive planning. She said regarding the concern about Lawrence being “business unfriendly”, based on a 2010 document from the Society for Industrial Office Realtors (SIOR), Lawrence was the second cheapest and second fastest city to run businesses through their development process. She said she did not see why there was such concern in the Planning Department. She said she had also looked at court cases and in every case regarding zoning, the judges all looked at the comprehensive plan, a protection for cities. She said the city couldn’t build public buildings or infrastructure without a comprehensive plan which was a state statute.

Dever said he had received an email from Klingenberg and he was willing to give her some more time.

Klingenberg said the City’s comprehensive plan was protecting the City because it set expectations. If they made changes at the end of the year that was an entire year that no one in the community knew what was going on or what they could rely on, not even the development community. She said as for the sector plans, if they allowed a development and then determined the development was inappropriate, she asked what could be done.

Farmer asked about the SIOR. He said from site plan approval to building permit, the process took 7 weeks. His observation was that it took a little longer than that.

McCullough said the general concept was that each city was given a certain scenario, and from a certain point in the process, they had a parallel process and that was an average. It could take significantly longer.

Farmer said it didn’t take into account an amendment to the comprehensive plan.

McCullough said it assumed that the application met the comprehensive plan.

Lucille King, League of Women Voters, said they had submitted letters to the Planning and City Commission on this issue. She said much of their information covered what Routh and

Klingenberg already stated in that there was an absence of need and there would be no time gained and Lawrence was already rated 2nd in the area for speed of development. She said there would be a loss of transparency if the plan was changed and possible damage to the community in not knowing what was happening. She said compliance with the plan was not a mirror proof form of procedure matter and it had important implications for community well-being and aggregate will. In particular, it prevented arbitrary decision making thereby allowing predictability. It also promoted connectivity in structure and function, compatibility in land uses, efficiency in function, economy, fairness between users of land, preservation of the environment and history, and public confidence in the future. She said the League asked for the City Commission to direct staff to not spend any more time on this issue.

Ted Boyle, North Lawrence Improvement Association, said the association would like to see this request denied. He was on the original committee for the development of Horizon 2020. A lot of work went into that plan over a few years and had worked pretty well. A good example was the North Mass project. It was kind of controversial, but it worked out well because there was a lot of public involvement. The plan had to be amended and that allowed for more public input. It seemed like they were getting away from that practice. There were 2 current projects in North Lawrence, close to 20 houses, which showed the plan was working well. The Northeast Sector Plan took nearly 5 years to get adopted because it was important. Again, they would like to see the request denied.

Jeannie Pees, Sunset Hills Neighborhood Association, said their association was started in the early 1990's. They were asking that the City Commission deny this request because what Horizon 2020 brought to their neighborhoods was predictability. When buying their homes, they knew what would happen in their neighborhood. There was a large apartment complex in their neighborhood and they were good neighbors, but early in the 1990's they wanted to change the plan. Horizon 2020 stated that there would be no more retail along Bob Billings Parkway from Iowa to Kasold. At that time, at the corner of Bob Billings and Crestline, they wanted retail. The

neighbors gathered and opposed the request. The plan protected them and they were glad it was upheld. She asked that the Commission deny this request.

Dan Dannenberg said he would like to urge the commission to uphold the decision of the Planning Commission to deny the request. The comprehensive plan provided predictability. Their neighborhoods were under attack by rentals and did not need any other assaults. They had already been assaulted by a spot zoning that dropped in a 6-plex. They had vacant property at Bob Billings and Crestline and the Comprehensive Plan kept that area from becoming blighted. The owner, he was sure, would like to have a combination hydraulic fracturing micro steel mill and strip club operation at that location. The argument that the City's process was detrimental to development didn't seem sound. The City had predictability with a comprehensive plan that was the controlling document. To put that by the wayside was not a good idea. He urged the City Commission to deny the request.

Schumm said Klingenberg hit it on the head when she said the courts looked at the planning documents. He looked at the court cases from the mall and the City won because there were planning documents that supported their decision. He couldn't get to where this was going when saying this was a plan, but they did it in reverse order by approving rezonings and then amending the plan looking backwards. They should only change the plan in extraordinary circumstances. He said he would be opposed to making a change. He didn't see a huge time efficiency to be gained. He was very convinced with the legal situation of defending a plan they amended in reverse.

Amyx said they had the 6 projects that would require text amendment. As those projects went through the text amendment process, if having all those text amendments, the plan was changing in some respects. He asked at what point would you start thinking it was time to look at the plan again and whether there was a need to look at it comprehensively.

Corliss said McCullough had already begun looking at that process. Later tonight they would look at a memo from McCullough about a refreshing of the document. They were

probably at a point where they needed to look at refreshing the comprehensive plan. He said it was time to get at that issue and look at some of its structure and language, but not trying to dramatically change it.

McCullough said now was the time to start looking at that process. The plan itself was very active. Major significant amendments such as the industrial chapter were very recent.

Amyx said they received a very strong message from the Planning Commission about whether they were actually going to be saving time. They needed to be very careful with where they were treading. He said concurring with the Planning Commission or some other action might need to be looked at. He said he didn't want to make a mistake.

Dever said this decision was huge. People say they would be degrading the efficacy of H2020, but that was not what they wanted to do. They wanted to look at a process of constant improvement. This decision was about making the community better and he was not prepared to make the decision right now because he was not sure of ramifications. This didn't come out of left field though. He suggested putting together a task force to see what this really meant. There was a variation of opinions on the amount of time that could be saved. One of the things he wanted to discuss this year was a future plan, looking at the impacts of the SLT, Farmland, and other potential developments. Unless the City Commission was all prepared to vote this down, they needed to spend more time studying this issue before moving forward. He said he wasn't convinced of the positive or the negative impacts yet.

Farmer said he didn't think it would be wise to ramrod this issue through without understanding the ramifications. When he first came to Just Food, they had a brochure with lots of information. They had 10,000 brochures, but they choose to change their hours and other things, so they placed labels of those changes on the brochures. He got the feeling that they were treating Horizon 2020 the way they treated the City's streets with patches and patches. If they were going to have wholesale plans for streets and other infrastructure, they needed to make sure they did the same. He suggested being business friendly to small businesses and

entrepreneurs. He understood that they wanted people to take time and expend resources, and they needed to make that an even tradeoff, rather than patching, he would like to look at a new plan.

Riordan said in 2006 he was on the Planning Commission. He had two situations where he was personally involved. One was historic aspects that turned from a bad project to a much better one. Another project was whether the city should allow another hospital. Those parts of the comprehensive plan were important and were near and dear to his heart. He did not hear enough to want to vote on this issue. This was the most important issue the City Commission might be involved with over the next two years. His initial thought was that this would be a high bar to get him to vote for this. One of the things he learned in the campaign was that the more information he had the better decision he made. He had no problem delaying this. He couldn't vote for it tonight.

Dever said there wasn't a compelling reason to vote on this issue now. As a courtesy, he wanted to form a task force and get more educated. He said he wanted to pursue careful refurbishment of the City's plan so that they could agree as a community.

Amyx asked if it would be a citizen task force.

Dever said yes, maybe with Amyx leading it. This was something he'd like to set a tight timeframe on.

Amyx said he would be happy to chair this task force, but wanted to know what they would be looking at and what kind of timeframe. He asked if the Commission was going to defer this item tonight.

Dever said he wanted to make sure Horizon 2020 was relevant now and in the future. Maybe create another task force to update and create a new comprehensive plan.

Amyx said the process for Horizon 2020 involved hundreds of stakeholders.

Schumm said he was hearing that it was time to start planning for the next planning document because things have changed. He said when writing a 20 to 25 year plan, there was

fresh information from everyone in the community and it was at the state of the art technology, but after the 5th or 10th year, things change because of innovation or technological changes. To establish a patch-less H2020, at this point, would be hard to do and was kind of late in its life. He said there were two issues. One issue was if they wanted to change the methodology of how they applied the plan and two, was it time for an update to the plan due to its age and changes in the community. Through the planning process you predict population, where roads go and other things. He said he would like to work toward a new plan that was up to date. He said for example when the library moved from the Carnegie to the new location the population was 45,000 and you couldn't imagine how much was changed since then.

Dever said to separate the issues, the answers he needed were to understand the impact on the project, understand the time savings, study the negative impact on neighborhoods and the community, and to evaluate the value to businesses. Those were the things they were constantly trying to improve in the planning department.

Schumm said if Horizon 2020 could be updated to get rid of the patches, you wouldn't have to worry about changing the plan because they all agreed on it. That changed this issue because they all agreed on the plan. He asked how that worked when they had a major change. He said one example was Rock Chalk Park and there would be issues that came along. That wasn't foreseen.

Riordan said he thought they could look at the future plan and he'd rather not have this hanging over their heads. He suggested tabling this item and have discussions about updating or creating a new plan.

Schumm said this question could be asked again – which way was the best way for the community. He suggested asking the community for their input about the plan.

Dever said the City Commission needed a motion to deny or approve. If the Commission was comfortable making a decision someone needs to make a motion.

Amyx said he would be happy to chair a task force. After the comments he heard tonight they needed a clean slate, concur with the Planning Commission, and then look at the task force. He suggested bringing this item back in 90 days with action items from a task force.

Dever said when in doubt his opinion was not to make changes. He said this item needed discussion to understand what it really meant and what the value to the community was.

Amyx said then we concur with the Planning Commission, and form a task force.

Schumm asked if there was representation from the development community on this item at the Planning Commission meeting.

McCullough said no.

Schumm said there wasn't any tonight either. If this issue was very important to them, it could be a sign this wasn't as big a deal.

Dever said this process might seem more onerous to outsiders than to the local developers that understood the City's process. He said he hadn't had any feedback from developers.

Farmer asked why in 1992, the City started planning for Horizon 2020 and if that was a normal timeframe.

McCullough said long range planning was needed, but new things make the plan outdated almost immediately. Amendments were intended not to be a patchwork but to make it as seamless as possible.

Moved by Farmer, seconded by Riordan to deny Text Amendments, TA-12-00206, to the City of Lawrence Land Development Code, Chapter 20, various articles, to change the requirement that development projects be required to comply with Horizon 2020, and to establish a task force to look at revising Horizon 2020 and reporting to the City Commission in 90 days. Motion carried unanimously.

Amyx asked how much involvement the county would have.

McCullough said a lot.

Dever said he would get with Commissioner Amyx to discuss some ideas to come back with another night.

4. **City Auditor will present the audit recommendation follow-up memo.**

Michael Eglinski, City Auditor, presented the staff report.

Schumm asked if the City was concerned with the cost being charged for electricity with the street lights.

Eglinski said there was a rate case that proposed a little bit better rate. The lights were not metered and were estimated on a formula. The issue in the audit was being addressed to some extent by the Corporation Commission. The recommendation about purchasing the lights was a little different.

Schumm said the cost of owning the street lights would be the electricity plus the maintenance costs.

Eglinski said the current model had the City paying a per pole service charge.

Schumm asked if the City was being overcharged.

Eglinski said when he first addressed this issue there were maybe 7% of the lights that were not working, but Westar had made some improvements.

Corliss said Westar, at one time, hired a company to do that maintenance but they had now taken that maintenance in-house. He said one of the issues when staff did the analysis was that if the City were to acquire the poles, the City still had to buy the electricity, and Westar would require the City to meter each pole or set of poles and that was cost prohibitive. Staff came to the conclusion that given the rules right now, it wasn't something the City wanted to pursue, but would continue to look at it.

Eglinski said KCPL, which sold their lights to Lenexa, had a tariff for unmetered, customer owned lights, which was an advantage for cities.

Corliss said Westar did not have a tariff and did not want one.

Schumm asked if that was a state issue.

Corliss said yes.

Eglinski said it was within the tariffs, the KCC could look at.

Schumm asked if one tariff would apply in the State of Kansas.

Eglinski said no, the tariffs were by company and the City didn't have service from KCPL available in Lawrence.

Riordan said we know why no one had bought the poles, because they were too expensive. He asked if Lawrence paid the same as other communities.

Eglinski said the charges were the same as any other customer of Westar. Lenexa saved \$100,000 a year by purchasing their lights.

Corliss said the City had \$800,000 budgeted for street light expense this year which was quite a bit of money.

Schumm said this seems like something we should follow up on. What's the possibility of getting a tariff from KCC? What's the process?

Corliss said staff could try to pursue that idea, but staff would have to weigh the costs and benefits. He said it didn't look like it would easily change.

Schumm said it certainly would if needing to place a meter on every pole because there was a per meter charge at approximately \$20.00 per month. He said to him that seemed as though Westar was saying they got the City and it was too bad.

Corliss said it would not be per pole, but enough that it would not be economical. He said it was something that staff should continue to look at.

Schumm said he was in favor of looking at an alternative and then decide whether to move forward or not. He said when talking about nearly a million dollars a year that was a lot of money. He said it seemed there was no way you could save any money if you had to meter every pole.

Corliss said he hoped he didn't misspeak; Westar wasn't talking about having the City meter every pole, but there were enough meters and not enough expenses to have that. He

said staff suggested that they come up with a rational basis for calculating the charges and that did not meet a favorable response.

Eglinski said when he did the work he talked to other communities around the country and this process of negotiating was drawn out. He said some of the lessons those communities talked about were that you would have a stronger voice if you have several municipalities working together and that the issue of the metering of the lights was a standard difficulty to have to work through. Lenexa ended up purchasing their system for 20% of what the initial asking price was. It was kind of normal that there were big differences that they work through and it took them years to get to that stage

Amyx asked about the costs of electricity for the lights downtown that the City owned compared to the Westar poles.

Corliss said those poles were metered, but staff could look into that.

Eglinski said most of what you paid for was the pole and the fixture.

Dever said the Commission understood where this recommendation stood, but the question was how to lean on the regulatory commission.

Eglinski suggested keeping the recommendation open. He said he could look back at his work on this issue and provide a short summary of what that work found.

Corliss said staff could also look at whether the tariff could be altered.

Dever said it might be advantageous to own those poles in the future to alleviate some of the issues in serving this community in other ways.

Schumm said he didn't want to keep it open for six more months just to close it then. He would like a report on the feasibility of getting an FCC tariff and the cost of some analysis on whether it was a good idea to pursue in great depth.

Eglinski said he could look back at the other communities and write up an information memo.

Schumm said if the key was strength in numbers to address a tariff regulation, it could be that some other communities would be interested in it now.

Eglinski said in Colorado the municipal league drove that process.

Amyx said the City Commission would want to know those entire costs.

Corliss said Brian Watson, Assistant Director of Finance, drafted that analysis six months ago and the costs outweighed the benefit. Staff could bring that information back but also look at the regulatory environment.

Schumm asked if every municipality that had Westar paid the same rate.

Eglinski said there were two Westar zones and the zones weren't necessarily the same. Everyone within the zone paid the same rates.

Dever suggested leaving the street light recommendation open and close the other recommendations.

Amyx asked when Eglinski's new work plan would be discussed

Eglinski said May or June.

Amyx said he wanted sidewalks looked at.

Mayor Dever called for public comment. None was received.

Moved by Farmer, seconded by Schumm, to direct the City Auditor to close five of the six audit recommendations categorized as implemented (keeping A open and closing B through F). Motion carried unanimously.

5. Receive City project update report from the City Manager.

David Corliss, City Manager, presented the staff report.

Amyx said during the election there were questions about capital improvement planning and whether it was being done, and one of the things you'll see was that this city was a planning machine. He said he appreciated staff's expertise.

Riordan said he thought that was a nice presentation of the capital budget.

Corliss said Casey Toomay, Budget Manager, and others really did a lot of work on these plans.

Mayor Dever called for public comment.

Ted Boyle said the Maple Street Pump Station was to be constructed out of the 2008 sales tax. When the storm water study was done that pump was supposed to cost something like 3.9 million dollars. Now it was 5 or 6 million and they were looking at ways to cut back. Hopefully this fall or winter they could start construction and get it built in 2014. One of the housing developments underway could not be done without the pump. The other thing he wanted to talk about was Fire Station 1. There had been some consideration of a fire station in North Lawrence. He said a fire station was needed in North Lawrence. A good example was the bridge construction under way. North Lawrence residents did not have fire and medical protection when projects like that were underway. That was second class services that they were getting and they didn't like it. He said he didn't care if it took 3 minutes to get from Fire Station 1 on a good day. He said there was a fire in the 400 block of Elm which he had called in. It took ten minutes for an ambulance to arrive. Then the fire truck arrived and the excuse was that the fire trucks were out checking fire hydrants or something.

Dever said there should be a separate discussion about the fire service and North Lawrence.

Gwen Klingenberg said having lived in North Lawrence she concurred. She had once called an ambulance and the ambulance showed up, but it was 30 minutes for a police officer to show up. This was a real issue.

E. PUBLIC COMMENT:

None.

F. FUTURE AGENDA ITEMS:

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

G: COMMISSION ITEMS:

None.

H: CALENDAR:

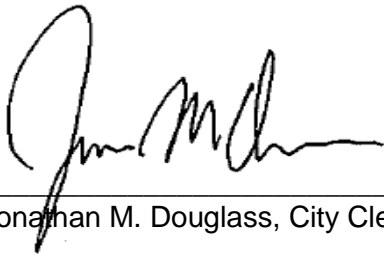
David Corliss, City Manager, reviewed calendar items.

I: CURRENT VACANCIES – BOARDS/COMMISSIONS:

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

Moved by Schumm, seconded by Amyx, to adjourn at 9:30 p.m. Motion carried unanimously.

MINUTES APPROVED BY THE CITY COMMISSION ON MAY 7, 2013.

A handwritten signature in black ink, appearing to read 'Jonathan M. Douglass', is written over a horizontal line.

Jonathan M. Douglass, City Clerk