

The following memorandum responds to questions raised by Donna Giesler and Sarah Merriman during the [City Manager's Report portion](#) of the August 21, 2018 City Commission meeting.

Q1. The statement was made that curb and street maintenance are not mentioned in the 1996 Stormwater Masterplan. A request was made for the City Commission to look into the intent of the 1996 Stormwater Master Plan.

A1. The following background information provides context for the formation of the Stormwater Utility and the corresponding 1996 Stormwater Master Plan. The history also addresses and clarifies questions brought forth during previous public comment periods regarding the Stormwater Utility as well as the 1996 Master Plan.

On September 7 1993, the City Commission adopted Charter Ordinance No. 28, which established the Stormwater Utility and exempted the City from K.S.A. statutes 12-3101 through 12-3107. The charter ordinance took effect on the 21<sup>st</sup> day of November 1993. A copy of Charter Ordinance No. 28 and the referenced Kansas Statutes are included in Appendix A. The ordinance provided the City of Lawrence the power to improve, operate and maintain a storm sewer system. Section 2 of the authorizing ordinance explains that the maintenance and operation of the storm sewer system shall include: "*pumping stations, main sewer, intercepting sewers, outfall sewers, **street, curb,** and alley improvements associated with storm sewer improvements, surface drains, channels, drainage way or easements, levees, detention and retention facilities, streams and other flood control facilities and works for the collection, transportation, quality treatment, pumping, treating and disposing of storm water or surface waters*". This definition also addresses the transfer of funding to the general fund for the construction of streets as well as curb and gutter.

Charter Ordinance No. 28 also provided the legal authority to impose service charges on property served by the City's storm sewer system. Furthermore, the ordinance authorized the collected revenue to be used to improve, operate and maintain a storm sewer system including the payment of principal and interest on bonds. In addition, the ordinance also prohibits or regulates the discharge of deleterious mater into the storm sewer system. Street sweepers play an integral role in keeping deleterious mater out of the storm sewer system.

Q2. The statement was made that the main focus of the 1996 Stormwater Master Plan was capital improvements, so why haven't more projects in the master plan been completed?

A2. The city must balance expenditures to revenues. The City Commission received the Stormwater Master Plan at its May 7, 1996 meeting. The complete meeting minutes can be found on the City's website [here](#) with an abbreviated version of the minutes pertaining to just the master plan located in Appendix B of this report. It was presented during the meeting that the average cost to a residential homeowner would be approximately \$4.00 per month. The City Commission was informed that the Priority One (Group I) projects could be addressed in approximately five years if the City Commission used General Obligation Bonds to finance the project. If the City Commission operated on a purely cash basis, the Group I project could take up to twenty years. If the rates were less, it would take a longer time period for implementation. Ultimately, the City Commission approved the implementation of the \$2.00 fee during its February 25, 1997 meeting with the adoption of Ordinance No. 6895. This adopted fee amount was obviously half of the amount that was recommended by the design consultant.

Q3. What does it mean when city staff says that “double bond payments” were made on debt issued for stormwater capital improvements?

A3. Early efforts to implement the stormwater master plan projects included significant debt issuance. For a period of time, the city was repaying two bonds from stormwater fees. While this enabled the completion of more projects through early efforts, it limited the amount of cash available for projects during the period in which double bond payments were made.

Q4. The statement was made that the city issued \$134 million in general obligation bonds from 1999 to 2007 and some of the proceeds were eligible for stormwater projects. What portion of those proceeds funded stormwater projects?

A4. Staff is still compiling data in response to this question. The response will be posted to this memo as an agenda update as soon as it is available.

# **APPENDIX A**

## **Charter Ordinance No. 28**

**(Exempt from K.S.A. Statutes – Established Stormwater Utility)**

**K.S.A Statutes 12-3101 through 12-3107**

## **Ordinance No. 6895**

**(Established Administration of Stormwater Utility)**

2nd  
Publication  
9-21  
Effective date  
11-21

CHARTER ORDINANCE NO. 28

A CHARTER ORDINANCE EXEMPTING THE CITY OF LAWRENCE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-3101 THROUGH K.S.A. 12-3107, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO STORM SEWER SYSTEMS, THE ISSUANCE OF BONDS FOR NECESSARY IMPROVEMENTS, AND THE ESTABLISHMENT OF A STORM SEWER SYSTEM UTILITY.

WHEREAS, K.S.A. 12-856 et seq. provides for the combined operation of the City waterworks and sewage disposal system, including the issuance of bonds for improvements to such system; and

WHEREAS, the improvement, operation, and maintenance of a storm sewer system require a comprehensive effort separate and distinct from a water and sanitary sewer system and facilities, including all necessary and appropriate legal authority to **improve, operate and maintain a storm sewer system;**

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

Section 1. The City of Lawrence, Kansas, by virtue of the powers vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and hereby makes inapplicable to it Section 12-3101, 12-3102, 12-3103, 12-3104, 12-3105, 12-3106 and 12-3107, Kansas Statutes Annotated, which apply to the City of Lawrence, Kansas, but do not apply uniformly to all Kansas cities, and the City provides further substitute and additional provisions as set forth herein.

Section 2. Definitions. For the purpose of this Charter Ordinance, the words and phrases:

(a) "Improve" shall mean to plan, map, engineer, design, alter, enlarge, extend, construct, reconstruct, develop, and redevelop a storm sewer system, and all things appurtenant thereto.

(b) "**Storm Sewer**" or "**Storm Sewer System**" shall mean storm sewers that exist at the time this Charter Ordinance is adopted or that are hereafter established and all appurtenances necessary in the maintenance and operation of the same, including, **but not limited to**, pumping stations, main sewers, intercepting sewers, outfall sewers, **street, curb**, and alley improvements associated with storm sewer improvements, surface drains, channels, drainage ways or easements, levees, detention and retention facilities, streams and other flood control facilities and works for the collection, transportation, quality treatment, pumping, treating, and disposing of storm water or surface waters.

Section 3. Storm Sewer Systems; Powers of City. The City of Lawrence, Kansas shall have all the powers necessary or convenient to improve and operate a storm sewer system, including such powers as the City of Lawrence may, from time to time, establish by way of ordinances adopted by the governing body of the City and including, but not by way of limitation, the following powers:

(a) To impose service charges on property served by the City's storm sewer system. The method of calculating and fixing such service charges, and the method of billing and collecting such charges, shall be established by rules and regulations heretofore or hereafter adopted. In the event any person, firm, corporation, political unit or organization living or operating on property served by the City's storm sewer system shall neglect, fail or refuse to pay the service charges fixed by the governing body of the City, the City may, as authorized by rules and regulations adopted under the authority of this section, refuse the delivery of water through the pipes and mains of its publicly owned waterworks until such time as such charges are fully paid.

(b) To provide that storm sewer service charges authorized in subparagraph (a) above shall, when delinquent, be certified by the Clerk of the City to the County Clerk of Douglas County to be placed on the tax roll for collection, subject to the same penalties and to be collected in like manner as other taxes, and such charges shall, thereafter, constitute a lien upon the real estate served by the storm sewer system and against which such charges are made;

(c) To use the proceeds of storm sewer service charges authorized in subparagraph (a) and such other lawful available revenue sources, to improve, operate and maintain a storm sewer system pursuant to an adopted comprehensive storm water management plan and adopted policies implementing such plan, including policies regarding the financing of storm sewer improvements;

(d) To use the proceeds of the storm sewer service charges authorized in subparagraph (a) and such other lawful available revenue sources to pay the principal and interest on bonds heretofore or hereafter issued for the improvement of a storm sewer system and to pay principal of and interest on bonds issued under the authority of this ordinance;

(e) To issue general obligation bonds of the City or revenue bonds payable from the revenues of a storm sewer system, and to use the proceeds of such bonds to improve a storm sewer system;

(f) To improve a storm sewer system pursuant to K.S.A. 12-6a01 et seq., the General Improvement and Assessment Law or other applicable statutes;

(g) To contract with agencies of the federal government, the State of Kansas, the county, the drainage district, other public bodies of this state, or with any private person or body for jointly improving, operating and maintaining a storm sewer system, provided that such agreements may include commitments regarding the financing of such improvements;

(h) To borrow money and to apply for and accept advances, loans, grants, contributions or any other form of financial assistance from the federal government, the State of Kansas, the county, the drainage district, other public bodies of this state, or with any private person or body for improving, operating and maintaining a storm sewer system;

(i) To acquire property, right-of-way, or easements, within or outside the city limits of the City; by purchase, gift, transfer, or eminent domain for the purposes set forth in this Charter Ordinance;

(j) To improve, maintain and operate a storm sewer system outside the city limits of the City pursuant to approval of the county;

(k) To establish a storm sewer utility, a storm sewer utility fund, and such other administrative conveniences as may be deemed necessary;

(l) To prohibit or regulate the discharge into the storm sewer system of matter deleterious to the proper operation of the storm sewer system and the general health, safety and welfare of the community, and to establish such other regulations regarding the use of the storm sewer system as are beneficial.

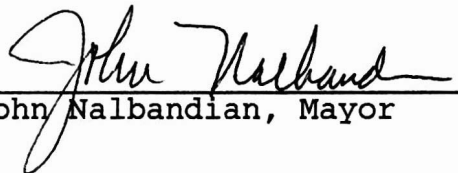
Section 4. Powers herein supplemental and additional. The powers herein granted to improve, operate and maintain a storm sewer system and to issue bonds shall be supplemental to and not amendatory of the provisions of all other laws and shall not be construed to limit the City's authority under the provisions of other laws.

Section 5. This Charter Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

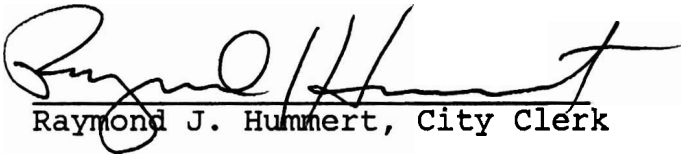
Section 6. This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed requiring a referendum to be held on this ordinance as provided in Article 12, Section 5, Subdivision (c) (3) of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

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PASSED by the governing body, not less than two-thirds of the members elect voting in favor thereof, the 7th day of September, 1993.

  
John Nalbandian, Mayor

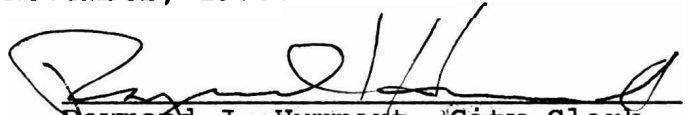
ATTEST:

  
Raymond J. Hummert, City Clerk

Approved as to form and legality:



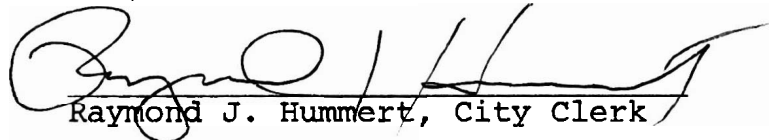
The foregoing Charter Ordinance No. 28 was passed on the 7th day of September, 1993, as shown by the Journal Of Proceedings No. V, Page 342, by a vote of: Aye - Nalbandian, Andersen, Compton, Moody and Schulte; Nay - None; being not less than two-thirds of the members-elect of the Governing Body, published in the Lawrence Daily Journal-World, the official City newspaper, on the 14th day of September, 1993, and the 21st day of September, 1993, being once each week for two consecutive weeks, and there being no petition demanding a referendum filed with the City Clerk within sixty days after the final publication, said Charter Ordinance took effect on the 21st day of November, 1993.

  
Raymond J. Hummert, City Clerk

CERTIFICATE

CITY OF LAWRENCE  
COUNTY OF DOUGLAS                      SS  
STATE OF KANSAS

I, Raymond J. Hummert, City Clerk of the City of Lawrence, the County of Douglas, the State of Kansas, do hereby certify that the above and foregoing is a full, true and correct copy of Charter Ordinance No. 28 of the said City of Lawrence, and that all acts and items required by Article 12, Section 5, of the Constitution of the State of Kansas were done and performed in the manner and within the time prescribed and that said Ordinance became effective on the 21st day of November, 1993.

  
Raymond J. Hummert, City Clerk



**STATUTE**  
**K.S.A. 12-3101 through K.S.A 12-3107**

**Chapter 12. – CITIES AND MUNICIPALITIES**  
**Article 31. – WATER POLLUTION ACT**

**12-3101. Name of act.** This act shall be known as the water pollution act.

**History:** L. 1959, ch. 87, § 1; June 30.

**12-3102. Definitions.** For the purpose of this act, the following words and phrases shall have the meaning ascribed to them in this section:

(a) "Sewer" or "sewer system" shall mean sanitary and storm sewers, pumping stations, sewage treatment plants, main sewers, intercepting sewers, outfall sewers, surface drains and works for the collection, transportation, pumping, treating, and disposing of water carried wastes or storm or surface waters, and all appurtenances necessary in the maintenance and operation of the same.

(b) "Municipality" shall mean any city, county, township, township sewer district, or other political subdivision of the state authorized to levy taxes or empowered to cause taxes to be levied.

**History:** L. 1959, ch. 87, § 2; June 30.

**12-3103. Adoption of resolution by municipality and secretary of health and environment; contents.** No municipality shall exercise any of the powers hereafter conferred by this act until its local governing body and the secretary of health and environment shall have adopted a resolution finding that: (1) The sewer system of such municipality is inadequate to meet the standards of the secretary of health and environment; and (2) the construction, reconstruction, development, or redevelopment of a sewer system of such municipality is necessary in the interest of public health and welfare of the residents of the state.

**History:** L. 1959, ch. 87, § 3; L. 1975, ch. 462, § 3; July 1.

**12-3104. Sewer systems; powers of municipality.** Every municipality shall have all the powers necessary or convenient to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a sewer system of such municipality, including the following powers:

(a) To adopt by ordinance or resolution sewer service charges based on a per unit volume of water used and based on the strength and volume of sewage contributed;

(b) To use the proceeds of the sewer service charges to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain sewer systems;

(c) To issue revenue bonds and use the proceeds of said revenue bonds to plan, alter, enlarge, extend, improve, construct, reconstruct, develop and redevelop sewer systems;

(d) To use the proceeds of the sewer service charges to pay the principal and interest on revenue bonds for the planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping, operating and maintaining sewer systems;

(e) To contract with agencies of the federal government, public bodies of this state or other states, or with any private person or body for jointly planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping and maintaining sewer systems;

(f) To contract with agencies of the federal government, public bodies of this state or other states or with any private person or body for receiving and treating sewage from outside of the limits of the municipality;

(g) To plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a sewer or sewer system outside the boundaries of the municipality and to have the right of eminent domain outside of the limits of the municipality in order to acquire right of way for a sewer or sewer systems; and

(h) To borrow money and to apply for and accept advances, loans, grants, contributions or any other form of financial assistance from the federal government, the state, county or other public body for the purposes of this act.

A municipality may include in any contract for financial assistance with the federal government such conditions imposed pursuant to federal law as the municipality may deem reasonable and appropriate.

**History:** L. 1959, ch. 87, § 4; June 30.

**12-3105. Same; rules and regulations authorized; billing and collection of sewer service charges; discontinuance of water service, when.** The governing body of a municipality shall have the power by ordinance or resolution to adopt rules and regulations providing for the management and operation of its sewer system, prohibiting the discharge of matter deleterious to the proper operation of the treatment plant into the sewer system, establishing the types and characteristics of sewage that may be discharged into the sewer system, fixing the service charges, requiring security for the payment thereof, and providing methods and rules of collection, and providing for the disposition of the revenue therefrom. In the event any person, firm, corporation, political unit or organization living or operating on premises connected to a sanitary sewer shall neglect, fail or refuse to pay the service charges fixed by the governing body of said municipality, the governing body is hereby authorized to refuse the delivery of water through the pipes and mains of a publicly owned waterworks until such time as such charges are fully paid: Provided, however, That any city of the first class now owning or hereafter acquiring a municipal water plant and a municipal light plant, which plants are now or hereafter operated, managed and controlled by a board of public utilities, as provided by K.S.A. 13-1220 to 13-1234a, inclusive, and all acts and parts of acts amendatory thereof or supplemental thereto, may with the consent of the board of public utilities bill and collect the sewer service charges through the administrative departments of the board of public utilities and the board of public utilities may discontinue water services to premises owned, managed or occupied by consumers who have delinquent sewer service charges.

**History:** L. 1959, ch. 87, § 5; June 30.

**12-3106. Issuance of sewer system revenue bonds; requirements; election.**

(a) A municipality shall have power to issue revenue bonds from time to time in its discretion to finance the planning, altering, enlarging, extending, improving, developing, and redeveloping, construction and reconstruction of sewer systems under this act. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its sewer systems: Provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government.

(b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of this act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this section shall be authorized by ordinance or resolution of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding the maximum rate of interest

prescribed by K.S.A. 10-1009, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such ordinance or resolution issued pursuant thereto: Provided, That no bonds shall be issued under this act until the same have been authorized by a majority of the vote of the electors of such municipality in the manner prescribed by K.S.A. 10- 120 or any amendments thereto.

**History:** L. 1959, ch. 87, § 6; L. 1970, ch. 64, § 23; March 21.

**12-3107. Same; power to issue bonds supplemental and additional.** The power herein granted to issue bonds shall be supplemental to and not amendatory of the provisions of all other laws, and shall be in addition to and independent of the authority granted to certain municipalities by K.S.A. 10-1201 to 10-1212, inclusive, 13- 1238 to 13-1245, inclusive, and 13-1252 to 13-1264, inclusive, and acts amendatory thereof or supplemental thereto.

**History:** L. 1959, ch. 87, § 7; June 30.

**ORDINANCE NO. 6895**

**AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS  
IMPOSING SERVICE CHARGES ON PROPERTY SERVED  
BY THE CITY'S STORMWATER SYSTEM; ESTABLISHING  
THE ADMINISTRATION OF THE STORMWATER SYSTEM;  
ESTABLISHING RULES AND REGULATIONS FOR THE BILLING  
AND COLLECTING OF SERVICE CHARGES; AND ESTABLISHING  
ADMINISTRATIVE PROVISIONS OF THE CITY STORMWATER  
SYSTEM UTILITY AS PROVIDED BY CHARTER ORDINANCE NO. 28.**

*Whereas,* the governing body of the City of Lawrence, Kansas adopted Charter Ordinance No. 28, on September 7, 1993, exempting the City from the provisions of K.S.A. 12-3101 through K.S.A. 12-3107, and providing substitute and additional provisions relating to storm sewer systems, the issuance of bonds for necessary improvements, and the establishment of a storm sewer utility; and

*Whereas,* pursuant to the authority of Charter Ordinance No. 28, the City did cause general obligation bonds to be issued to finance the comprehensive study of the City's storm sewer and stormwater system; and

*Whereas,* on May 7, 1996, the governing body of the City received the final version of the comprehensive stormwater system study prepared by Burns & McDonnell and authorized the preparation of an administrative implementation ordinance for the stormwater utility; and

*Whereas,* the study contained recommendations for the administration, method of charging, and other related items concerning the City's stormwater utility; and

*Whereas,* the governing body has received public comment on the proposed charges and the administration of the City's stormwater utility; and

*Whereas,* the governing body is desirous of adopting an ordinance determining certain administrative matters concerning the storm water system, the system's charges and other related matters;

**NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:**

Section 1. **Recitals.** The above recitals are incorporated by reference as if fully set forth herein.

**Section 2. Findings of the Governing Body.** The governing body of the City of Lawrence, Kansas, hereby finds the following:

(A) That all Developed Property within the corporate limits of the City contributes generally to the displacement of stormwater in rough proportion to the amount of impervious surface developed on that property, and to the extent financially and technically appropriate, the stormwater should be managed in the public's interest in the City's stormwater system and other related public and private facilities;

(B) That the public benefits and the general health, safety and welfare of the community is enhanced by the maintenance, operation, rehabilitation, construction and other improvement of the City's stormwater system;

(C) That it is reasonable and proportionate to impose a charge on Developed Property, generally in proportion to the amount of impervious surface on the property, to finance the City's Stormwater Utility to manage and improve the City's stormwater system.

**Section 3. Definitions.** Unless the context clearly requires a different definition, the terms and words in this ordinance shall have the following meanings:

"Developed Property" means real property other than Undisturbed Property.

"Equivalent Residential Unit" or "ERU" means the average Impervious Area of Residential Developed Property as determined by the City's stormwater management master plan, and amendments thereto. The ERU shall serve as the basis for determining the Stormwater Drainage Charge for Developed Property.

"Impervious Area" means that portion of Developed Property which contains hard surface areas which either prevent or retard the entry of water into soil mantle.

"Master Water Meter Residential" means Developed Property which contains both 1) a master water meter pursuant to Chapter 19 of the City Code; and 2) residential property.

"Multiple Water Meter Residential" means Developed Property which contains both

1) multiple water meters pursuant to Chapter 19 of the City Code; and 2) residential property.

"Non-Residential" means Developed Property which does not contain Residential Property, and includes governmental, not-for-profit, commercial, industrial and other property.

"Residential" means Developed Property which includes one or more habitable dwelling units.

"Sewer System" means the terms stormwater and stormwater system.

"Single-Family Residential" means Developed Property which has one (1) dwelling unit and one (1) water meter which is not a master water meter.

"Storm Sewer" shall include the terms stormwater and stormwater system.

"Stormwater System" shall include all terms and definitions as defined as "storm sewer" or "storm sewer system" in Charter Ordinance No. 28, including all facilities and improvements related to the disposing of stormwater or surface waters.

"Undisturbed Property" means real property which has not been altered from its natural condition in a manner which disturbed or altered the topography or soils on the property to the degree that the entrance of water into the soil mantle is prevented or retarded.

**Section 4. Storm Water Utility; Administration Provisions; Storm Water Utility Fund.** Pursuant to Charter Ordinance No. 28, there is hereby created the Storm Water Utility. The Utility shall be a division of the Department of Public Works, and shall have such responsibilities for the City's stormwater system as the governing body may determine from time to time appropriate and prudent given the resources generated by the Storm Water System Drainage Charge.

**Section 5. ERU Rate; Administration .** The Equivalent Residential Unit (ERU) rate shall be Two Dollars (\$2.00) per month. Pursuant to the authority of this Ordinance, the City Manager shall have the authority to promulgate rules and regulations for the determination of Stormwater Drainage Charges to ensure their equitable and consistent application.

**Section 6. Storm Water System Drainage Charge.** (A) Pursuant to the authority of Charter Ordinance No. 28, there is hereby imposed on each and every Single-Family Residential Developed Property, Master Water Meter Residential Property, Multiple Water Meter Residential Property, and Non-Residential Developed Property, a Storm Water System Drainage Charge. Such charge shall be based on the following property categories and Equivalent Residential Rate (ERU) charge as follows:

**A) Single Family Residential.** For property in the single-family residential category the charge shall be based on the building footprint category and the amount billed category as follows:

<u>Building Footprint Area(s)</u>	<u>Amount Billed</u>
Less than or equal to 1,000 square feet	0.67 times ERU rate
1,001 to 1,800 square feet	1.0 times ERU rate
1,801 to 3,000 square feet	1.25 times ERU rate
3,001 to 4,800 square feet	1.80 times ERU rate
4,801 square feet or greater	2.50 times ERU rate

For purposes of determining the Stormwater Drainage Charge, the building footprint for the single family residential category shall include any permanent structures required by the City Code to obtain a building permit for construction or modification. Non-covered wood decks shall not be included in the single family residential building footprint.

**B) Multiple Water Meter Residential.** For the multiple water meter residential property, the charge for each water customer shall be determined pursuant to the provisions below. For purposes of this subsection, "Unit Size" shall mean the total building footprint size divided by the total number of living units in the building:

<u>Unit Size</u>	<u>ERU Multiplier</u>
less than or equal to 750 square feet	0.37
751 square feet or greater	0.66

The charge for each water customer shall be the ERU Multiplier times the ERU rate.

C) **Master Water Meter Residential.** For the master water meter residential property, the charge for the single water customer shall be determined pursuant to the provisions below. For purposes of this subsection, "Unit Size" shall mean the total building footprint size divided by the total number of living units in the building.

Unit Size	ERU Multiplier
less than or equal to 750 square feet	0.37
751 square feet or greater	0.66

The charge for each water customer shall be the ERU Multiplier times the ERU rate multiplied by the number of units.

D) **Non-Residential Property.** For the non-residential property, the charge shall be the ERU rate times the square footage of all impervious area of the property divided by 2366 square feet. Non-residential properties with shared impervious area shall be charged on a proportionate amount as determined by the Director.

Section 7. **Billing and Collection Administration.** (A) The Stormwater Drainage Charge levied pursuant to this Ordinance shall be billed and collected by the Utility Billing Division of the Department of Finance. The Charge shall be billed on the monthly water, sewer, and/or sanitation bill for customers within the City of Lawrence receiving City water, sewer, and/or sanitation services. For those properties within the City of Lawrence not receiving City water, sewer, or sanitation service, the Department of Finance shall bill, on a monthly basis, the property owner of record for the Developed Property.

(B) In the event any person, firm, corporation, political unit or organization living or operating on property served by the City's storm sewer system shall neglect, fail, or refuse to pay the Stormwater Drainage Charge imposed by Section 5, the City shall have the authority, after lawful notice, to refuse delivery of City water service to the property, pursuant to the regulations governing the City water system and Charter Ordinance No. 28.

C) In addition to the discontinuation of water service pursuant to subsection (B), the City Clerk shall have the authority to certify to the Douglas County Clerk unpaid Stormwater Drainage Charges to be placed on the tax roll for collection, pursuant to applicable laws for the collection of the same.



D) A late fee shall be assessed on late Stormwater Drainage Charges pursuant to Section 19-308 of the City Code.

**Section 8. Adjustment to Stormwater System Drainage Charge.**

(A) An adjustment to the stormwater system drainage charge shall be made pursuant to the provisions of this Section for properties qualifying pursuant to the requirements of this Section.

(B) The governing body finds that a limited adjustment to the stormwater system drainage charge for properties which meet certain drainage standards and requirements serves the public interest in promoting compliance with drainage standards and investment in constructing and maintaining drainage facilities.

(C) All applications for an adjustment to the stormwater system drainage charge shall be accompanied by a topographical survey and a drainage study prepared by a licensed engineer which satisfactorily documents the required information for the adjustment. The City may request additional information from the applicant to document topographical and drainage concerns for the property.

D) The governing body finds that based on a five (5) year projected average of the stormwater utility budget, approximately 42% of the utility budget will be expended upon the operations and maintenance function of the utility and approximately 58% of the utility budget will be expended upon capital improvements for the stormwater system. The governing body further finds that an adjustment shall be limited to the capital improvement portion of the stormwater utility budget, because properties meeting enhanced drainage standards reduce the need for capital improvements while still requiring the need for continuing maintenance and regulation activities of the stormwater utility.

E) Upon administrative approval of an application for an adjustment, an adjustment shall be made equaling 58% of the stormwater system drainage charge made pursuant to this ordinance for properties which provide on-site detention or off site improvements, or both, and which comply, on a continuing basis, with the stormwater management criteria adopted by Ordinance No. 6778. The adjustment shall only apply to stormwater system drainage charges made after the application for an adjustment has been approved, and shall only continue provided the property remains in compliance with the stormwater management criteria. The City may enter into agreements with property owners to ensure the continued compliance with required drainage facilities and improvements.

F) Upon administrative approval of an application for an adjustment, an adjustment shall be made for properties not claiming compliance with the

requirements set forth in subsection E), pursuant to the following formula:

Fee Adjustment = 0.58 times stormwater system drainage charge times  $Q_r/Q_p$

$Q_r$  = 1.8 times acreage of property = release rate required by current criteria (cfs)

$Q_p$  = actual peak discharge (cfs) from property during a one hundred (100) year storm event

G) No adjustment to the stormwater system drainage charge shall be made unless the applicant demonstrates that at least a ten percent (10%) or greater adjustment is warranted to the stormwater system drainage charge pursuant to the provisions of this ordinance.

H) The City Manager shall have the authority to promulgate rules and regulations for the administration of adjustments to stormwater system drainage charges.

**Section 9. Appeal of Administrative Determination of Storm Water System Drainage Charge.** (A) Any person seeking to appeal the administrative determination of the storm water system drainage charge imposed pursuant to this ordinance on property or an account held by such person may seek an appeal of such administrative determination pursuant to the provisions of this Section.

(B) Such an appeal must be in writing on a form prescribed by the Director of Finance and presented to the Director of Finance within thirty (30) days of the City's mailing of the storm water system drainage charge bill. The appeal must provide the following information: the location of the property subject to the Charge, the name, address, and other contact information of the appellant.

C) The Director of Finance shall transmit the written appeal to the Director of Public Works who shall schedule a hearing on the appeal within thirty (30) days of the Director of Finance's receipt of the written appeal.

D) The Director of Public Works, or such qualified hearing officer as the Director may designate, shall conduct a hearing on the appeal. The appellant may waive the right for a hearing on the appeal. The appellant shall be provided the opportunity to present written information and make a verbal presentation at the hearing. The Director of Public Works shall make a written finding on the appeal within forty five (45) days of the hearing.

E) The failure to appeal a Stormwater Drainage Charge within six (6) months of

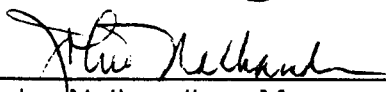
the mailing of the stormwater drainage charge bill shall foreclose 1) any and all rights to appeal the determination of such individual charge or charges for the property; and 2) the authority of the City to provide a complete or partial refund for inappropriately determined stormwater drainage charges. The failure to timely appeal a specific stormwater drainage charge bill shall not foreclose the right to appeal stormwater drainage charges which may be charged in the future on the property.

**Section 10 Administration of Stormwater System Drainage Charges.** The City Treasurer shall place all stormwater system drainage charges in the Storm Water Utility Fund. The fund shall be solely used to finance the operations of the Stormwater Utility, including the payment of principal and interest for debt issued pursuant to Charter Ordinance No. 28.

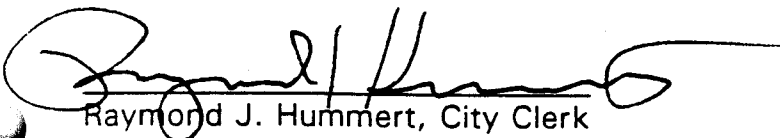
**Section 11. Rule and Regulation Administrative Authority.** The City Manager shall have the authority to promulgate necessary rules and regulations for the administration of the Stormwater Utility, the billing and collection of the Stormwater System Drainage Charge, and such other necessary matters for the purpose of enforcing the intent of this ordinance and Charter Ordinance No. 28.

**Section 12. Effective Date.** This ordinance shall be effective upon publication as provided by law.

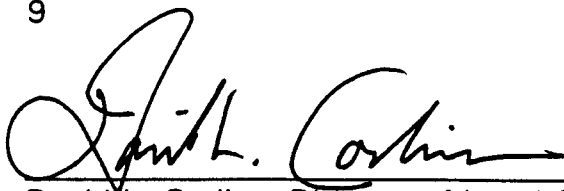
Adopted this 25<sup>th</sup> day of February, 1997.

  
\_\_\_\_\_  
John Nalbandian, Mayor

ATTEST:

  
\_\_\_\_\_  
Raymond J. Hummert, City Clerk

Approved as to form and legality:

A handwritten signature in cursive script, reading "David L. Corliss". The signature is written in black ink and is positioned above a horizontal line.

David L. Corliss, Director of Legal Services

# **APPENDIX B**

## **City Commission Meeting Minutes (May 7, 1996)**

May 7, 1996

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 Nalbandian presiding and members Andersen, Augustine, Levine and Moody present. Michael Young, student representative, was present.

**Item (27)**

George Williams, Public Works Director, presented the process by which the Stormwater Master Plan was developed. Public hearings were held to solicit information about storm drainage problems and a survey was published in the newspaper to assist in development of the Plan. Several months ago, the City Commission approved criteria for stormwater management and that criteria was being developed into an ordinance.

Dena Metzger, Burns and McDonald, reviewed the Master Plan with the City Commission. The plan identified forty-one different projects and they were divided into three groups. The highest priority were those which impacted a building structure or home by flooding. The second priority would be those flooding major streets or thoroughfares. The remainder were projects needing to be addressed, but not having a significant impact on property or streets. It was estimated that Phase I, the highest priority, would cost approximately \$14,000,000.00. Based upon an average cost to a residential home of approximately \$4.00 per month, Priority One could be addressed in approximately a five year period, if the City Commission used General Obligation Bonds to finance the project. In addition, money would be allocated to improving maintenance of the entire stormwater system. The entire Master Plan could be implemented within fifteen to twenty years. If the City Commission operated on a

purely cash basis, the first priority group may take up to twenty years. If the rate were less, it would take a longer time period for implementation . Metzger said it was a balancing act between the needs and the ability to finance the projects.

Nalbandian asked if the \$14,000,000.00 estimate was accurate.

Metzger thought the estimate was conservative. She said no design engineering data, such as utility location or geological information, has been gathered. In other communities where they have worked, their estimates have been within the ball park. She said none of their projects have doubled in size with some estimates being over and some under.

Augustine asked how the estimate for fees were determined.

Metzger said this information was taken from actual data in the appraisers office which outline the footprint of improvements by parcel.

Nalbandian asked if it was possible to develop an implementation schedule based upon a \$2.00 fee.

Metzger said it would not be very difficult because the basic data has been entered into a computer program.

Moody asked why the Union Pacific Underpass was not included in the projects.

George Williams, Public Works Director, hoped the problems experienced by the City in the past have been resolved. The pumps have been reworked and a second electrical supply has been provided.

Moody asked if the plan would be reviewed on a regular basis.

Metzger said the plan recommended hiring a stormwater engineer. This person would be responsible for reviewing the impact of improvements, maintenance and assist in setting

priorities. By entering into a formal maintenance program, some of the lower priority items could be positively affected. In addition, the City would have someone reviewing the system on a day to day basis. That in itself could develop new concerns which would change priorities.

James Dunn, 936 Kentucky, had a concern about the fee structure. He suggested the tax should not be regressive as the existing sink tax for multiple dwelling units.

Jeanne Kleni, Centennial Neighborhood Association, commended the City Commission for addressing stormwater concerns. There were three projects on the number one priority list in their neighborhood. She supported paying the utility fee. Everyone should have to pay the price for this problem because the water was generated within the entire City.

Rosalie McMaster, 214 Michigan, said her home was in a priority area. On the side of her house was a three foot high water mark. She appreciated the efforts of staff and the consultant in developing this program. This has been a problem for thirty years. McMaster encouraged the City Commission to take action because there was a concern that nothing was going to happen. She was willing to pay \$5.00 a sink which would be \$10.00 per month to resolve the issue.

John Rogers, West 2nd Street, said he did not have a problem but understood the problems facing the people living on Michigan. He supported the Stormwater Utility.

Brad Schaffer, Centennial Neighborhood, supported the fee. He did not support buying-out entire neighborhoods as a viable option to resolve the problem.

Mike Wildgen, City Manager, said the concept was not to “buy out” entire neighborhoods but individual lots that could affect the stormwater system.

Tolly Wildcat, Coordinator, Pickney Neighborhood, supported the Stormwater Utility and



the recommended fee.

Lyn Hedges, 218 Michigan, asked for support of the City Commission in solving stormwater problems in Lawrence. She presented packets of information to the City Commission on problems experienced in her neighborhood.

Eleta Wells, 445 California, supported the Stormwater Utility. She said the City Commission needed to address stormwater problems now.

Mike Wildgen, City Manager, recommended the City Commission direct staff to prepare a time table to implement the program. Soon, staff would bring back the ordinance for implementation of the stormwater criteria.

Nalbandian asked when did the City Commission have to decide on a fee.

Wildgen said it would be identified in the implementation schedule. The City Commission would need to decide the level of capital improvement and then develop the fee structure to meet that level.

The City Commission concurred to direct staff to review the impact of implementation of a \$2.00 fee.

**Moved by Moody, seconded by Augustine**, to direct staff to prepare an implementation time table for development of a Stormwater Utility and review the impact a \$2.00 average residential fee. Motion carried unanimously.

**APPROVED:**

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**John Nalbandian, Mayor**

**ATTEST:**

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**Raymond J. Hummert, City Clerk**

**COMMISSION MEETING, MAY 7, 1996**

1. Ordinance No. 6771, street name change from Crossgate Rd. to Crossgate Dr.
2. Ordinance No. 6772, annexation, 33.422 acres, southwest of Peterson Rd. and Monterey Way.
3. Ordinance No. 6773, rezoning, 19.012 acres, located in the southwest corner of Monterey Way and Peterson Rd.
4. Ordinance No. 6774, stop signs, Fall Creek Rd. at Peterson Rd., Goldfield St. at Harvard Rd., on Mulberry Dr. at Harvard Rd., and on Turnberry Dr. at Wakarusa Dr.
5. Ordinance No. 6775, prohibiting parking on the east side of Eldridge St., Overland Dr. to Seele Way, and north side of 5th St. from west curbline of Maine St., east 50 feet.
6. Resolution No. 5785, \$800,000.00, general obligation bond authority, Centennial Park Recreational Center construction management services.
7. North Second St. landscaping plans, George Butler Assoc., \$18,000.00.
8. Vacation request, Ridgeview Development Co., replat of the Country View Estates.
9. Site plan, Courtside Townhomes, 4000 block of Clinton Pkwy.
10. Site plan, Lawrence Athletic Club, 3201 Mesa Way.
11. Site plan, Free State Business Center, west side of Wakarusa Dr., north of Legends Dr.

12. Site plan, Credit Bureau/Law Office, 303 W. 11th.
13. Site plan, Tolar Cabinets, 2332 Haskell Ave.
14. Site plan, Marks Veterinary Hospital, 1800 block of Wakarusa Dr.
15. Site plan, Java Dive, 10 East 9th St.
16. Final plat, Briarwood Addition, 20.22 acres, 400 ft. North of West 6th St., east side Folks Road.
17. Final plat, Oread West No. 14, 6.128 acres, southwest corner of West 18th St. and Wakarusa Dr.
18. Final plat, Brae Burn Addition, 6.218 acres, 800 ft. east of Wakarusa Dr. on the north side of Clinton Pkwy.
19. Final plat, Dunnigan Subdivision, 8.004 acres, south of West 33rd St. on the west side of South Iowa St.
20. Preliminary Plat, Northfield Addition, May 14, 1996 public hearing date.
21. Sanitary sewer improvements, Four Seasons holding basin, 28 acres, \$29,500.
22. Vacation request, drainage easement, Pioneer Ridge Center, Lawrence Athletic Club, 3201 Mesa Way.
23. Ordinance No. 6776, emergency adoption, General Obligation Bonds, \$9,270,000.00.
24. Resolution No. 5793, outlining form and details for the bond sale, \$9,270,000.00
25. Resolution No. 5794, General Obligation Temporary Notes, \$2,020,000.00.
26. Resolution No. 5795, General Obligation Sales Tax Temporary Notes, \$1,500,000.00.
27. Stormwater Master Plan, Burns & McDonald, discussion
28. Benefit District, Folks Rd., Overland Dr., and Wakarusa Dr.

29. Graffiti, discussion graffiti removal.